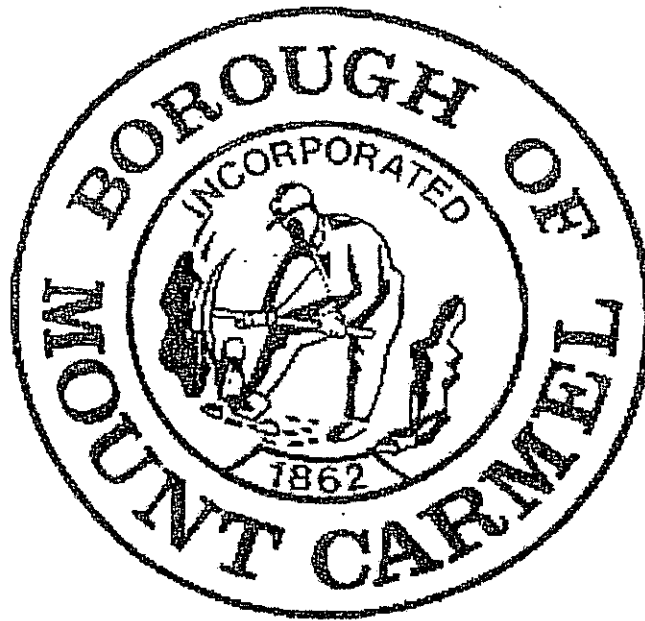




# ZONING REGULATIONS

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## **CHAPTER 27**

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**PART 1**

**TITLE, PURPOSE AND COMMUNITY DEVELOPMENT OBJECTIVES**

**§101. SHORT TITLE.**

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

(Ord. 3-96, 10/18/1996)

**§102. PURPOSE.**

1. This Chapter is designed:

- A. To promote, protect and facilitate one (1) or more of the following: the public health, safety, general welfare, coordinated and practical community development, proper density of population, civil defense, disaster evacuation, the provision of adequate light and air, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, public grounds and other public requirements.
- B. To prevent one (1) or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers.

2. This Chapter has been prepared with consideration for the character of the Borough, its various parts and the suitability of various parts for particular uses and structures.

(Ord. 3-96, 10/18/1996)

**§103. COMMUNITY DEVELOPMENT OBJECTIVES.**

This Chapter has been adopted to assist in achieving the Borough's "community development goals and objectives" as set forth in the various ordinances and by the Planning Commission listed as follows:

- A. Improve and diversify the Borough's economic base.
- B. Encourage the best practical utilization of land.
- C. Insure that the land uses of the Borough are logically situated in relation to one another and provide for the separation of incompatible uses.
- D. Provide adequate open space and recreation facilities.

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- E. Facilitate the efficient movement of people and goods.
- F. Provide adequate police and fire protection.
- G. Provide adequate utility services including water, sewer and solid waste.
- H. Provide adequate education facilities.
- I. Strive to achieve a variety of housing types to accommodate varied needs, preferences and incomes.
- J. Strive to minimize pollution of the air, water and land resources.
- K. Strive to eliminate public health and safety hazards.
- L. Provide for equal opportunities in all facets of community living.
- M. Provide for the most efficient methods for administering public services and facilities.
- N. Provide for the coordination of Borough policies, plans and programs through cooperation between and among governing officials, the Planning Commission, community interest groups and the general populace.
- O. Provide opportunities for community participation in the Borough's planning process.
- P. Encourage and promote intergovernmental cooperation with neighboring municipalities.

(Ord. 3-96, 10/18/1996)

## PART 2

### ESTABLISHMENT OF DISTRICTS AND DISTRICT PURPOSES

#### §201. ESTABLISHMENT OF ZONING DISTRICTS.

1. In order to implement the Mount Carmel Borough Plan and achieve the purposes of this Chapter, the Borough of Mount Carmel is hereby divided into six (6) zoning districts with the designations and purposes listed in this Part and the specifically permitted and prohibited uses tabulated in Part 5:
  - A. Residential R-1 District (R-1).
  - B. Residential R-2 District (R-2).
  - C. Commercial C-1 District (C-1).
  - D. Central Commercial C-2 District (C-2).
  - E. Industrial I-1 District to (I)
  - F. Special Use S-1 District (S)
  - G. Floodway Conservation District (F)
2. The boundaries of these districts are as shown on the Official Zoning Map or as may be as interpreted by the Zoning Hearing Board.

(Ord. 3-96, 10/18/1996)

#### §202. GENERAL PURPOSES OF DISTRICTS.

The general purposes of the zoning districts established by §201 of this Part are as follows:

- A. The Residential "R-1" Districts are primarily comprised of low density residential areas of the community, plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to protect the essential character of the district; to protect the amenities of certain areas of the community where the primary pattern has already been established with single-family development on relatively large lots; to promote and encourage a suitable living environment and to prohibit activities of a commercial nature which are not generally compatible with residential uses. To these ends, development is limited to a relatively low density and permitted uses are limited to basically single-family dwellings, schools, parks, churches, public facilities, which serve the residents of the district, and home occupations.

- B. The Residential "R-2" District is comprised of medium to relatively high density residential areas of the community. The regulations for this district are designed to protect the essential character of the district; to promote and encourage a suitable living environment and to prohibit all activities of a commercial nature which are not generally compatible with residential uses. To these ends, development is limited basically to medium to high density residential uses, schools, parks, churches, certain public facilities, which serve the residents of the district, and home occupations.
- C. "C-1" District.
  - (1) The Commercial "C-1" District is to designed to encourage the construction of new shopping facilities and continued use of land for neighborhood commercial service purposes; to prohibit residential, heavy commercial and industrial use of land; to prohibit any other use which would substantially interfere with the development or continuation of the neighborhood commercial uses and structures in the district; and to discourage any use which because of its character and size would interfere with the use of land in the district as a shopping and service center for the surrounding residential district(s).
  - (2) This district classification is intended to be applied to areas surrounded by or adjacent to residential classification. Because of the locations of the "C-2" Districts and the arrangement of the uses within them are expected to have a close relationship to the Comprehensive Plan of the Borough, the exercise of planning judgment on location and site planning is essential.
- D. The Commercial C-2 District is intended for the conduct of general business to which the public require direct and frequent access, but which is not characterized either by constant heavy trucking other than stocking and delivery of light retail goods, and durable goods, or by any nuisance factors other than occasioned by incidental light and noises or the congregation of people and passenger vehicles. This includes such uses as retail stores, theaters and other amusement enterprises, business offices, newspaper offices and printing presses, restaurants, bars and community garages or community parking areas subject to special regulations. Residential and industrial use of land is prohibited, as well as any other use which would substantially interfere with the development or continuation of the commercial structures and uses in the district. In creating this district, the need is recognized to provide for the permitted types of uses along certain principal highways and streets; it is the intention in so doing to regulate their location and design with a view to safety and convenience of traffic movement, both within the site covered and in relation to access streets, and to secure harmonious and beneficial relationship of structures and uses on the site, as well as contiguous properties.
- E. The Industrial "I" District is intended to permit and encourage industrial uses that will be located and developed as harmonious and appropriate parts of the Borough, contributing to the soundness of its economic base, providing local

employment opportunities convenient to residence - thus reducing traffic and travel to and from work - and otherwise to further the purposes of this Chapter. The limitations on use, height and lot coverage are intended to encourage modern industrial development. Residential and the more general commercial uses are considered incompatible and are prohibited, as is any use which would substantially interfere with the development or continuation of industrial uses and structures in the district.

- F. The Special Use (S) District is intended to permit and encourage uses which may be necessary to a community but do not comfortably fall into any of the other districts under this Chapter. Such uses would include mobile home courts, areas for the staging of circuses, carnivals and fairs, cemeteries, schools, nursing homes, hospitals and recreation areas. In creating this district it is the intention that such areas, while being accessible to the community, would not interfere with the normal living and activities of the community.
- G. The Floodway Conservation (F) District has been established to regulate the use of watercourses and other bodies of water within the Borough and also to regulate the uses of land in areas, adjacent to watercourses, needed to carry and discharge the waters of a one hundred (100) year flood. The regulations for this district are intended to assist in minimizing or preventing future loss of life or property from floods or flooding conditions. It should be noted that if flood risks are eliminated in any of these areas they may be rezoned.

(Ord. 3-96, 10/18/1996)

### §203. ZONING MAP.

1. The boundaries of each of the districts listed in §201 of this Part are hereby established as shown on the Official Zoning Map, which is hereby made a part of this Chapter.
2. The authenticity of the Official Zoning Map shall be indicated by the signature of the Mayor, the president of the Borough Council and the Chairman of the Planning Commission, and attested by the Borough Secretary.
3. If changes are made in district boundaries, or other matters portrayed on the Zoning Map are amended, such changes shall be made on the Official Zoning Map promptly after the amendment has been approved by Council, together with the date of amendment, a reference to the amending ordinance number, and the signatures of the Mayor and the Borough Secretary. All changes to the boundaries of the Floodway Conservation District (F) shall be subject to prior review and approval of the Federal Insurance Administration.
4. No change of any nature shall be made in the matters portrayed on the Official Zoning Map except in conformance with procedures set forth in Parts 10 and 11; any unauthorized change by any person shall be considered a violation of this Chapter.
5. Regardless of the existence of copies of the Zoning Map which may from time to time

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be made or published, the most currently dated Official Zoning Map, which shall be located in the Borough Office, shall be the final authority as to the current status of the zoning districts in the Borough.

(Ord. 3-96, 10/18/1996)

### §204. INTERPRETATION OF DISTRICT BOUNDARIES.

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

- A. Boundaries indicated as approximately following the center lines of streets shall be construed to follow such center lines.
- B. Boundaries indicated as approximately following property lines or platted lot lines shall be construed as following such property or lot lines.
- C. Boundaries indicated as approximately following Borough limits shall be construed as following Borough limits.
- D. Boundaries indicated as approximately following the center lines of streams or other bodies of water shall be construed as following such center lines.
- E. Boundaries indicated as approximately following street right-of-way lines shall be construed as following such lines.
- F. Boundaries indicated as parallel to or extensions of features indicated in subsections (A) through (E), above, shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- G. In the case of the boundaries of the Floodway Conservation District, the boundaries shown in the Flood Insurance Study Documents shall be used as the basis for interpretation by the Zoning Hearing Board. In making such interpretation, the Zoning Hearing Board shall consult the Floodway Data of the Flood Insurance Study.
- H. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances involving interpretation not covered in this Section, the Zoning Hearing Board shall interpret the district boundaries and shall communicate such interpretation to the Borough Secretary and Zoning Officer in writing within ten (10) days following the interpretation.

(Ord. 3-96, 10/18/1996)

### §205. CLASSIFICATION OF ANNEXED LANDS.

1. Any land annexed to or consolidated with the Borough shall be temporarily classified "Special Use District" until reclassified by an amendment to this Chapter.
2. The Planning Commission shall, within three (3) months after annexation or consolidation, recommend appropriate zoning for such land and communicate the recommendation to the Borough Council in writing.

(Ord. 3-96, 10/18/1996)



### PART 3

#### GENERAL PROVISIONS, SPECIAL PROVISIONS AND EXCEPTIONS

##### §301. APPLICATION OF REGULATIONS.

Except as provided in this Chapter, no structure shall be erected, altered or enlarged, nor shall any land, building or premises be employed for uses other than those permitted in the district where such building, land or premises is located or proposed to be located.

(Ord. 3-96, 10/18/1996)

##### §302. EXCEPTIONS AND MODIFICATIONS.

The standards of this Chapter shall be complied with in all respects, except that under specified conditions the requirements may be modified as stated in this Part; and, in addition, the development criteria and standards may be modified by the Zoning Hearing Board, as provided in Part 10, related to variances.

(Ord. 3-96, 10/18/1996)

##### §303. EXISTING USES PERMITTED AS A CONDITIONAL USE.

Any use permitted as a conditional use as provided in Part 10 shall, without further action, be deemed a conforming use in such district; provided, that any conditions on that use stated in Part 5 are met.

(Ord. 3-96, 10/18/1996)

##### §304. RELATIONSHIP OF BUILDING TO LOT.

Every building erected hereafter shall be located on a lot as defined. There shall be not more than one (1) principal residential building and its accessory structures on one (1) lot, except unit group buildings as defined herein.

(Ord. 3-96, 10/18/1996)

##### §305. STREET ACCESS.

No building shall be erected upon a lot which does not abut a street with a right-of-way width of at least twenty (20) feet.

(Ord. 3-96, 10/18/1996)

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### §306. REDUCING LOT SIZE.

No lot existing at the time of adoption of this Chapter shall be reduced so as to create yards, lot widths or areas below the minimum required in this Chapter.

(Ord. 3-96, 10/18/1996)

### §307. REQUIRED OPEN SPACES CANNOT BE USED BY ANOTHER BUILDING.

No part of a yard or other open space required for any principal building to comply with the standards of this Chapter shall be included as a part of a yard or other open space required for another building.

(Ord. 3-96, 10/18/1996)

### §308. MIXED USES.

When two (2) or more uses occupy the same building, sufficient parking spaces, lot area, yard widths, and open spaces shall be provided so that the standards pertaining to each will be met in full.

(Ord. 3-96, 10/18/1996)

### §309. MODIFICATION TO FRONT YARDS.

Where a lot devoted to a use permitted in an R-2 District is situated between two (2) adjoining lots each of which has a principal building located within twenty-five (25) feet of the common side lot line and located at least five (5) feet closer to the street than the required front yard depth would permit, the required front yard depth for that lot may be reduced to a depth equal to that of the greater front yard of the two (2) adjoining lots, but not less than five (5) feet.

(Ord. 3-96, 10/18/1996)

### §310. PROJECTIONS INTO YARDS.

1. Cornices, eaves and similar nonsupporting architectural features may project not more than twenty-four (24) inches into any required yard.
2. Chimneys, buttresses, pilasters, bay windows and uncovered stairs, landings and balconies not part of a fire escape may project not more than twenty-four (24) inches into any required yard; provided, that taken together they do not constitute more than one-third (1/3) the length of the building wall in question. Fire escapes and balconies to fire exits shall not project into any yard facing a street.

(Ord. 3-96, 10/18/1996)

**§311. PORCHES AND PATIOS.**

Porches and covered patios may project not more than twelve (12) feet into a required rear yard.

(Ord. 3-96, 10/18/1996)

**§312. PORCHES, PATIOS AND DECKS.**

1. Patios, decks and open porches may be located in rear yards as long as they are attached to the existing residential dwelling and as long as they do not cover more than fifty (50) percent of the open space of the rear yard. Said patios, decks and open porches may extend to the adjoining property lines on each side.
2. Patios, decks and open porches may be located in side yards provided they are attached to the existing residential dwelling. Said patios, decks and open porches must not be closer than one and one-half (1½) feet to the adjacent property line. In the case of a corner lot said patios, decks and open porches must not be closer than three (3) feet to the property line on the adjoining side street.
3. All patios, decks and open porches may be ground level or raised. All raised patios, decks and open porches must have ground access in the form of steps or a ramp.

(Ord. 3-96, 10/18/1996)

**§313. FENCES, WALLS AND VEGETATIVE MATERIAL.**

1. Fences and walls may be erected, altered and maintained within the yards of any residential district; provided, that such fence or wall in the front yard shall not exceed three and one-half (3½) feet in height, and any fence or wall in the side or rear yard may not exceed six (6) feet in height.
2. All yards used for the storage of any material needed for the operation or conduct of a manufacturing or commercial enterprise shall be enclosed by a solid wall, uniformly painted wood or metal fence, screen planting or a combination of materials, on all sides which face upon a street or face a lot in a more restricted zone.
3. Yards used for the storage of material when in compliance with all other regulations of this Chapter shall be enclosed, fenced or screened.
4. Fences, walls and vegetative material shall comply with §317 of this Part.
5. Walls, fences, signs, or other structures shall not be erected or altered and hedges, trees or other vegetative material shall not be planted or maintained in such a way that it

projects or may project onto an adjacent property in different ownership.

(Ord. 3-96, 10/18/1996)

**§314. NUMBER OF ACCESSORY STRUCTURES LIMITED.**

No more than two (2) accessory structures, including a private garage, are permitted on each lot in an R-1 or R-2 District.

(Ord. 3-96, 10/18/1996)

**§315. ATTACHED ACCESSORY STRUCTURES.**

Accessory structures attached to a principal building shall comply with all yard requirements for the principal building.

(Ord. 3-96, 10/18/1996)

**§316. DETACHED ACCESSORY STRUCTURE.**

In residential districts, no permitted accessory building may be erected in any required front yard, or within three (3) feet of any lot line in any required side or rear yard; or within five (5) feet of any principal building; nor occupy more than forty (40) percent of the required rear yard; nor exceed fifteen (15) feet in height except:

- A. Accessory storage structure(s) may be erected in rear yards provided such structure(s) are set back at least three (3) feet from the rear lot line or an easement. Such accessory storage structure(s) need not be separated from the principal structure or use.

(Ord. 3-96, 10/18/1996)

**§317. EXCEPTIONS TO HEIGHT LIMITS.**

1. Necessary appurtenant structures such as penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, firewalls, sky-lights, towers, steeples, flagpoles, parapets, chimneys, wireless masts or similar structures may be erected above the height limits specified in Part 6; but no penthouse or roof structure or any space above height limit shall be allowed for the purpose of providing additional floor space for residential use.
2. Special agricultural or industrial structures such as a barn, silo, grain elevator, gas holder or other similar structure where the function or process requires a greater height may be erected above the height limits specified in Part 6; provided, that any such structure shall not occupy more than fifteen (15) percent of the lot area, and shall

be set back a distance of at least ten (10) feet from any lot line.

3. The location and height of all structures shall be in accordance with all applicable rules, regulations, standards and criteria of the U.S. Department of Transportation, Federal Aviation Administration.

(Ord. 3-96, 10/18/1996)

### **§318. OBSTRUCTIONS TO VISION.**

Walls, fences, signs or other structures shall not be erected or altered, and hedges, trees or other vegetative material shall not be planted or maintained in such a way as to cause danger to traffic on a street or intersection by obstructing the view.

(Ord. 3-96, 10/18/1996)

### **§319. OUTDOOR LIGHTING ON PRIVATE PREMISES.**

All outdoor flood or spot lighting, including utility night lights or area lights, on private premises shall be mounted and shielded to effectively eliminate direct glare on adjacent properties or upon public streets.

(Ord. 3-96, 10/18/1996)

### **§320. SWIMMING POOLS.**

All private swimming pools, permanent and portable, which shall be accessory to a principal noncommercial dwelling use shall be regulated as follows:

- A. The pool is to be used solely by the occupants of the principal use of the lot on which it is located, and their guests.
- B. The pool must be erected within the property lines of the owner of the principal structure, such property to consist of the same or an adjoining lot or lots owned by the owner of the principal structure.
- C. Swimming pools must have a two and one-half (2½) foot access way on the side of the pool between the pool and the adjoining property line.
- D. The property on which the pool is located must be enclosed by a fence having a minimum height of four (4) feet or the pool must be subject to the following safety features:
  - (1) An in-ground pool shall have a safety fence with minimum height of four (4) feet from the surface of the pool.

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- (2) An above ground pool having a minimum height of four (4) feet shall not be required to have a safety fence provided that the pool is secured by a locked gate, a detachable ladder or other device designed to prevent uncontrolled access by children.
- (3) These regulations shall not apply to portable swimming pools which are not more than three (3) feet in height and not more than fifteen (15) feet in length.

(Ord. 3-96, 10/18/1996)

### §321. WASTEWATER DISPOSAL FACILITY.

Every use permitted by this Chapter shall provide a waste water disposal facility consistent with existing physical, geographic and geologic conditions and in compliance with the rules, regulations, standards and criteria of the Pennsylvania Department of Environmental Resources.

(Ord. 3-96, 10/18/1996)

### §322. HABITABLE FLOOR AREA.

No dwelling unit or other structure shall be constructed or converted to provide living accommodations unless each unit contains a minimum of seven hundred fifty (750) square feet of habitable floor area and conforms to the lot size required in Part 6 for the proposed use and other applicable provisions of this Chapter.

(Ord. 3-96, 10/18/1996)

### §323. SIDE YARDS ABUTTING STREETS.

All side yards that abut a primary street shall have a set back no less than the required front yard set back for that particular district; those that abut secondary streets shall have a set back no less than one-half ( $\frac{1}{2}$ ) of that required for front yards in that particular district.

(Ord. 3-96, 10/18/1996)

### §324. HOME OCCUPATIONS.

Home occupations operated in a dwelling unit are permitted only if they comply with all of the following requirements:

- A. Where Permitted. Within a single dwelling unit, or in a building or other structure which is accessory to the dwelling unit, and when operated only by the person or persons maintaining the dwelling unit and not more than two (2)

additional persons are employed in the home occupation.

- B. Evidence of Use. The use does not display or create, outside of the building any evidence of the home occupation, except that one (1) unanimated, nonilluminated flat or window sign having a total area of not more than two (2) square feet shall be permitted on each street front of the lot on which the building is located.
- C. Extent of Use. The use does not utilize more than twenty-five (25) percent of the gross floor area of the dwelling unit.
- D. Nature of Use. The use does not produce noise, vibration, odor, heat, dust or other objectionable conditions, and no outside storage is required.
- E. Permitted Uses. No more than one (1) of the following uses:
  - (1) Professional offices.
  - (2) Shop for barber, beautician, milliner, seamstress, tailor, interior decorator; studio for fine arts and crafts, tutoring, teaching music, teaching dancing, office for secretarial services, insurance agent, real estate agent or manufacturer's representative.
  - (3) Rooming and/or boarding for not more than four (4) persons simultaneously, and foster home care for not more than four (4) children simultaneously.

(Ord. 3-96, 10/18/1996)

#### **§325. AUTOMOTIVE SERVICE STATIONS AND SELF-SERVICE MOTOR FUEL SALES FACILITIES.**

All automotive service stations and self-service motor fuel sales facilities shall comply with all applicable provisions, rules, regulations, standards and criteria of the following:

- A. The "Flammable and Combustible Liquids Code" of the National Fire Protection Association.
- B. The "Regulations Governing the Having, Using, Storage, Sale and Keeping of Gasoline, Naphtha, Kerosene, Fuel Oil or other Substances of Like Character" of the Pennsylvania State Police, Fire Marshall Division.
- C. The provisions of Act 299 of April 27, 1927, as amended, under which the Pennsylvania Department of Labor and Industry has jurisdiction over "installation of flammable liquid equipment within or beneath most buildings, except private residences and parcels thereof."

(Ord. 3-96, 10/18/1996)

**§326. EFFECT ON WATER CARRYING CAPACITIES.**

Under no circumstances shall any structure, use, encroachment or activity adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch or any other drainage facility or system of the Borough. In addition, no encroachments, including fill, construction of any type or other development shall be permitted within the Floodway Conservation District (F) that would result in an increase in the one hundred (100) year flood level.

(Ord. 3-96, 10/18/1996)

## PART 4

### NONCONFORMING USES AND BUILDINGS

#### §401. NONCONFORMING USES.

Any nonconforming use legally existing at the time of adoption of this Chapter, or whenever a district is changed by amendment thereafter, may be continued, but such nonconforming use may be changed to any other nonconforming use only as provided in §1007(6). No change of title or possession, or right to possession of property involved shall be construed to prevent the continuance of such nonconforming use.

(Ord. 3-96, 10/18/1996)

#### §402. NONCONFORMING BUILDINGS OR STRUCTURES.

Any lawful building or structure existing at the time of adoption of this Chapter which does not conform to the standards of this Chapter for the district in which it is located may be continued so long as it remains otherwise lawful.

(Ord. 3-96, 10/18/1996)

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#### §403. NONCONFORMING LOTS.

A one (1) family detached dwelling may be constructed on any vacant nonconforming lot located in an R-1 or R-2 District provided that said lot was in existence at the time of adoption of this Chapter, the owner of the lot does not own an adjoining lot, the lot area and lot width are not more than twenty (20) percent below the minimum specified in Part 6, each side yard is not less than three (3) feet, the rear yard is not less than ten (10) feet, and the front yard conforms to the average front yard depth on the street on which the dwelling fronts.

(Ord. 3-96, 10/18/1996)

#### §404. TEMPORARY NONCONFORMANCE.

The Zoning Hearing Board may authorize a permit for a temporary nonconforming use or building for a period of not more than two (2) years where the building or use is necessary to the permanent development of the premises for a conforming use.

(Ord. 3-96, 10/18/1996)

#### §405. EXTENSIONS.

## ZONING

No building or land containing a nonconforming use shall hereinafter be extended, expanded or enlarged unless such extension or enlargement shall conform with the standards and parking and loading regulations for the district in which it is located; provided, however, that a nonconforming use may be extended throughout those parts of a building which were manifestly arranged or designed for such use prior to the advent of the nonconforming use status. No buildings or structures, regardless of conformity or ownership, shall be combined for the purpose of extending an existing nonconforming use, or for creating a different nonconforming use.

(Ord. 3-96, 10/18/1996)

### §406. NECESSARY REPAIRS PERMITTED.

Nothing in this Chapter shall be construed to prevent the maintaining, strengthening or restoring to a safe or lawful condition any part of any building or structure declared unsafe or unlawful by any duly authorized official.

(Ord. 3-96, 10/18/1996)

### §407. ALTERATIONS TO DWELLINGS.

Any building or lot which contains a nonconforming residential use may be altered to improve interior or exterior livability or safety; provided, no structural alterations shall be made which would increase either the number of dwelling units or the habitable floor area of the building.

(Ord. 3-96, 10/18/1996)

### §408. RESTORATION OF DAMAGE.

A nonconforming structure that is damaged or destroyed by fire, explosion or act of nature, including flooding, may be rebuilt and used for the same purposes; provided, that:

- A. The reconstruction of the structure is commenced within one (1) year from the date of the damaging or destroying of the structure and is carried to completion within two (2) years of the damage or destruction.
- B. The reconstructed structure does not exceed in height, area and habitable floor area the structure damaged or destroyed.
- C. The reconstruction complies with the provisions of the Borough's Building Code [Chapter 5] including any provisions for construction in the flood zone.

(Ord. 3-96, 10/18/1996)

**§409. ABANDONMENT.**

1. If the nonconforming use of a building or land is abandoned for a continuous period of one (1) year, the subsequent use of such building or land shall be in conformance with the provisions of this Chapter. Once changed to a use permitted in the district in which it is located, such use shall not be changed back to its prior nonconforming use.
2. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

(Ord. 3-96, 10/18/1996)

**§410. PREVIOUSLY PERMITTED, CONSTRUCTED OR DESIGNED USES.**

Any use or structure permitted, constructed or designed in compliance with laws existing prior to the time of adoption of this Chapter but which is made nonconforming by adoption of this Chapter, shall be deemed a legal nonconforming use; provided, that the use or construction was begun prior to the enactment of this Chapter, and the entire use or structure is completed or installed and ready for occupancy or operation within one (1) year from the time of adoption.

(Ord. 3-96, 10/18/1996)

**§411. REGISTRATION.**

The Zoning Officer shall identify and register all nonconforming uses and nonconforming structures. Evidence of such registration shall be provided to the owner of record of any nonconforming use or nonconforming structure in the form of a certificate of nonconformance issued by the Zoning Officer in accordance with §1005. The nature of the nonconformity shall be described and made a matter of public record.

(Ord. 3-96, 10/18/1996)



**PART 5**  
**USE REGULATIONS**

**§501. PERMITTED AND CONDITIONAL USES.**

In §502, "Table of Use Regulations," those uses permitted by right are designated by the symbol "X." Those uses that may be permitted as a conditional use, in accordance with Part 10, are designated by the symbol "C". Where neither symbol occurs in a district column, such use is not permitted in that district.

(Ord. 3-96, 10/18/1996)

**§502. TABLE OF USE REGULATIONS.**

| TABLE OF USE REGULATIONS                                                                                                      |     |     |     |     |   |   |   |
|-------------------------------------------------------------------------------------------------------------------------------|-----|-----|-----|-----|---|---|---|
|                                                                                                                               | R-1 | R-2 | C-1 | C-2 | I | S | F |
| <b>1. Residential Uses</b>                                                                                                    |     |     |     |     |   |   |   |
| A. One-family detached dwelling                                                                                               | X   | X   |     |     |   |   |   |
| B. Two family dwelling, either double or duplex                                                                               | C   | X   |     |     |   |   |   |
| C. Multifamily dwelling, or residential unit group building                                                                   | C   | X   | C   | C   |   |   |   |
| D. Dwelling in a building also used for commercial purposes other than a home occupation                                      |     |     | C   | C   |   |   |   |
| E. Rooming or boarding house                                                                                                  | C   | C   | C   | C   |   |   |   |
| F. Conversion of dwelling structures                                                                                          |     | C   | C   | C   | C |   |   |
| G. Mobile home or mobile home parks, if permitted under other regulations of the Borough, and in conformity thereto           |     | C   | C   | C   |   |   |   |
| <b>2. Educational, Institutional and Governmental Uses</b>                                                                    |     |     |     |     |   |   |   |
| A. Churches, and other places of worship, including parish houses, Sunday school buildings and residence(s) for clergy        | X   | X   | C   | C   |   |   |   |
| B. Schools, elementary or secondary; public or private or parochial                                                           | X   | X   | C   | C   |   |   |   |
| C. Libraries, museums and art galleries                                                                                       |     | C   | X   | X   |   |   |   |
| D. Hospitals and sanitariums; and nursing and convalescent homes, and orphanages or institutions not of a correctional nature | C   | C   | C   | C   |   | X |   |

| TABLE OF USE REGULATIONS                                                                                                                                                                                                                                                                                                                                   |     |     |     |     |   |   |   |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|-----|-----|-----|---|---|---|
|                                                                                                                                                                                                                                                                                                                                                            | R-1 | R-2 | C-1 | C-2 | I | S | F |
| E. Jails and correctional institutions                                                                                                                                                                                                                                                                                                                     |     |     |     |     | X |   |   |
| F. Lodges, fraternal and social organizations; provided such facilities are operated by nonprofit organizations                                                                                                                                                                                                                                            |     | C   | X   | X   |   |   |   |
| G. Government buildings or facilities used exclusively by Federal, State, County or municipal governments for public purposes:                                                                                                                                                                                                                             |     |     |     |     |   |   |   |
| (1) Excluding garages, repair or storage yards and warehouses                                                                                                                                                                                                                                                                                              | C   | C   | X   | X   | X | X | C |
| (2) Without the restrictions of (1)                                                                                                                                                                                                                                                                                                                        |     |     |     |     | X | X | C |
| H. Police and fire stations                                                                                                                                                                                                                                                                                                                                | X   | X   | X   | X   | X | X | C |
| I. Day nurseries, play schools and kindergarten with an outdoor play area of at least 100 sq. ft. per child                                                                                                                                                                                                                                                | X   | X   | X   | X   |   |   |   |
| 3. <u>Recreational Uses.</u>                                                                                                                                                                                                                                                                                                                               |     |     |     |     |   |   |   |
| A. Private noncommercial recreation facilities, as defined; provided all such facilities are set back at least fifty (50) feet from any side or rear lot line of adjoining properties used or intended to be used for residential purposes                                                                                                                 | C   | C   | X   | C   | X | X | X |
| B. Public recreation facilities, as defined, and subject to provisions of subsection (3)(A), above.                                                                                                                                                                                                                                                        | C   | C   | X   | C   | X | X | X |
| C. Commercial recreation facilities, as defined, subject to provisions of subsection (3)(A) and provided that within 300 ft. of an R-1 or R-2 District such activities are housed in a permanent building                                                                                                                                                  |     |     | X   | C   |   | X | X |
| D. Marina, boat dock, or boat launching ramp                                                                                                                                                                                                                                                                                                               |     |     |     |     |   |   | X |
| 4. <u>Retail and Service Uses.</u>                                                                                                                                                                                                                                                                                                                         |     |     |     |     |   |   |   |
| A. Retail establishments serving general convenience goods needs including, but not limited to: mortuaries, dressmaking; repairing clocks, guns, home appliances and office equipment; vending machine supply and servicing; sign painting; barber, beauty and shoe repair shops; and, laundromats, and laundry or dry-cleaning shops and pick-up stations |     |     | X   | X   |   |   |   |

| TABLE OF USE REGULATIONS                                                                                                                                                                                     |     |     |     |     |   |   |   |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|-----|-----|-----|---|---|---|
|                                                                                                                                                                                                              | R-1 | R-2 | C-1 | C-2 | I | S | F |
| B. Eating and drinking establishments, including restaurants, taverns and night clubs including food processing or preparation for on-premise retail sales                                                   |     |     | X   | X   |   | X |   |
| C. Offices and agencies of a general, professional or governmental nature                                                                                                                                    |     | C1  | X   | X   |   | X |   |
| D. Motels                                                                                                                                                                                                    |     |     | C   | C   |   | X |   |
| E. Motion picture theaters, or other theaters                                                                                                                                                                |     |     | X   | X   |   | X |   |
| F. Kennel, commercial on a lot of not less than two acres; provided the kennel area is completely enclosed with a woven wire or other suitable fence or wall, and is not less than 300 ft. from any dwelling |     |     |     |     | C | X |   |
| G. Veterinary hospitals                                                                                                                                                                                      |     |     | C   | C   | X | X |   |
| 5. <u>Automotive Uses.</u>                                                                                                                                                                                   |     |     |     |     |   |   |   |
| A. Automotive service station with a minimum lot width of 150 ft.; provided no fuel pump islands or other service equipment are located within 12 ft. of any street right-of-way line                        |     |     | C   | C   |   |   |   |
| B. Self-service gasoline sales, etc.                                                                                                                                                                         |     |     | C   | C   |   |   |   |
| C. Automatic car wash                                                                                                                                                                                        |     |     | C   | C   |   |   |   |
| D. Automobile and motorcycle sales and rental, automotive parts, sales, and accessory facilities for servicing and minor repairs                                                                             |     |     | C   | C   |   |   |   |
| E. Sales and rental of trucks, truck trailers and auto trailers, including accessory facilities for servicing and minor repairs                                                                              |     |     | C   | C   | X |   |   |
| F. Automobile and truck repair garage, but excluding repair of heavy motorized equipment                                                                                                                     |     |     | C   | C   | X |   |   |
| G. Tire recapping establishment                                                                                                                                                                              |     |     |     |     | X |   |   |
| 6. <u>Industrial Sales.</u>                                                                                                                                                                                  |     |     |     |     |   |   |   |

| TABLE OF USE REGULATIONS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |     |     |     |     |   |   |   |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|-----|-----|-----|---|---|---|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | R-1 | R-2 | C-1 | C-2 | I | S | F |
| A. Manufacturing plants, and research and testing laboratories, including food processing, fabrication, welding, assembly, processing and reprocessing of materials, provided that all resulting cinders, dust, flashing, fumes, gases, odors, refuse matter, smoke, vapor, glare, electromagnetic radiation or radioactive emission shall be effectively confined within the building, or so regulated as to prevent any nuisance or hazard to public health or safety; and further provided that no noise, vibration, or other disturbance be perceptible without the use of instruments at the boundary of the district in which the use is located; all in accordance with appropriate standards and tests |     |     | C   | C   | X |   |   |
| B. Building, excavating, plumbing, electrical, heating, ventilating, or air conditioning contractor's shops and yards; subject to provisions of subsection (6)(A)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |     |     | C   | C   | X |   |   |
| C. Servicing and repair of heavy motorized equipment or self-propelled machinery such as earth-moving apparatus                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |     |     |     |     | X | X |   |
| D. Scrap processing, auto wrecking and junkyards, as defined in Part 12; on a lot of not less than 10 acres and within an enclosure at least 6 but not more than 10 ft. in height                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |     |     |     |     | C |   |   |
| E. Bakeries and confectioneries:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |     |     |     |     |   |   |   |
| (1) Limited to 5,000 sq. ft. of gross floor area and to the use of non-smoke producing ovens                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |     |     | X   | X   | X | X |   |
| (2) Without the restrictions of subsection (6)(E)(1)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |     |     |     |     | X | X |   |
| F. Slaughterhouses                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |     |     |     |     | C | C |   |
| G. Wholesale establishments, including incidental retail outlets for only such merchandise as is handled at wholesale, subject to provisions of subsection (6)(A)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |     |     | C   | C   | X | X |   |
| H. Warehousing and storage establishments within an enclosed building; subject to provisions of subsection (6)(A) and excluding truck terminals                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |     |     | C   | C   | X | X |   |

| TABLE OF USE REGULATIONS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |     |     |     |     |   |   |   |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|-----|-----|-----|---|---|---|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | R-1 | R-2 | C-1 | C-2 | I | S | F |
| I. Open or outdoor storage, including lumber and building materials, coal and the like, but excluding scrap and junked autos; subject to provisions of subsection (6)(A)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |     |     |     |     | X | X |   |
| J. Wholesale or bulk laundries, dry-cleaners, dryers and similar use; subject to provisions of subsection (6)(A)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |     |     | C   | C   | X | X |   |
| <u>7. High Hazard Uses.</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |     |     |     |     |   |   |   |
| A. Any high hazard use; subject to provisions of subsection (6)(A); provided, the Zoning Hearing Board determines in each case that the use shall be essential to the general welfare of the Borough; the proposed location shall be such as to offer reasonable protection to the immediate environment against possible detrimental effects of such use, taking into consideration the physical relationship to surrounding properties and access to the site; it shall not be in conflict with any other law or ordinance of any governmental agency having pertinent jurisdiction; further, provided, the building coverage shall not exceed 50 percent; it shall not be located closer than 300 ft. to an R-1 or R-2 District; and it shall be demonstrated to the Board by competent technical experts that such high hazard use can and will make use of such equipment and processes as shall no longer justify prohibition of such use. (See Part 12 for definition of "high hazard use"). |     |     |     |     | C |   |   |
| <u>8. Communications, Transportation and Public Utility Uses</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |     |     |     |     |   |   |   |
| A. Airport for fixed or rotary-wing aircraft, provided the site and uses are appropriate according to applicable criteria established by the Federal Aviation Administration                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |     |     |     |     | X | X | C |
| B. Truck terminal; provided, no portion of a lot so used shall be within 300 ft of an R-1 or R-2 District; access for motor trucks shall not require traveling on local streets in R-1 and R-2 Districts; and waiting berths shall be provided at the rate of one (1) for every four loading berths                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |     |     | C   |     | X | X |   |

| TABLE OF USE REGULATIONS                                                                                                                                                                                                                                                                                                                                                  |     |     |     |     |   |   |   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|-----|-----|-----|---|---|---|
|                                                                                                                                                                                                                                                                                                                                                                           | R-1 | R-2 | C-1 | C-2 | I | S | F |
| C. Public utility distribution lines and TV cables (need not be on a zoning lot); and transformer stations and telephone exchanges conforming to the height limits of the district in which it is located; but excluding service or storage yards                                                                                                                         | X   | X   | X   | X   | X | X | X |
| (1) Public utility service or storage yards                                                                                                                                                                                                                                                                                                                               |     |     |     |     | X | C | C |
| D. Radio, telephone and television receiving and broadcasting towers, and electric transmission towers; provided, no portion of the tower shall be less than 200 ft. from any dwelling or residential district boundary (need not be on a zoning lot)                                                                                                                     |     |     |     |     |   | X |   |
| E. Railroad rights-of-way (need not be on a zoning lot) and accessory uses                                                                                                                                                                                                                                                                                                |     |     |     |     | X | X | X |
| 9. <u>Open Space Uses.</u>                                                                                                                                                                                                                                                                                                                                                |     |     |     |     |   |   |   |
| A. Crop or tree farming, greenhouses and truck gardening, including the sale of products raised on the premises                                                                                                                                                                                                                                                           |     |     |     |     | X | X | C |
| B. Horses, cows and other livestock, as incidental and accessory use on a lot of not less than 20,000 sq. ft.; provided, not more than one (1) such animal over six (6) months of age is permitted for every 5,000 sq. ft. of fenced lot area not covered by the principal structure; and, provided further, that no barn or stable is less than 40 ft. from any lot line |     |     |     |     |   |   | X |
| C. Horses, cows, sheep, goats and other livestock on a lot of at least 5 acres; provided, that no barn or stable is less than 40 ft. from any property line                                                                                                                                                                                                               |     |     |     |     |   | X |   |
| D. Poultry (including hatcheries), fowl, rodents, apiaries, and fish hatcheries on a lot of at least 5 acres, when housed and/or fenced not less than forty (40) feet from any lot line                                                                                                                                                                                   |     |     |     |     |   | C |   |
| E. Private or public watersheds, forest lands and natural resources conservation and reservation areas                                                                                                                                                                                                                                                                    |     |     |     |     |   | X | X |
| 10. <u>Miscellaneous Uses.</u>                                                                                                                                                                                                                                                                                                                                            |     |     |     |     |   |   |   |
| A. Cemeteries                                                                                                                                                                                                                                                                                                                                                             |     |     |     |     |   | X |   |

| TABLE OF USE REGULATIONS                                                                                                                                                                                                                                  |     |     |     |     |   |   |   |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|-----|-----|-----|---|---|---|
|                                                                                                                                                                                                                                                           | R-1 | R-2 | C-1 | C-2 | I | S | F |
| B. Circuses, carnivals and occasional open-air sporting events and cultural gatherings, all of a temporary nature                                                                                                                                         |     |     |     |     |   | X |   |
| C. Quarrying and sanitary landfills                                                                                                                                                                                                                       |     |     |     |     | C | C | C |
| D. Solid and liquid waste incinerators and wastewater treatment plants                                                                                                                                                                                    |     |     |     |     | C | C | C |
| E. Signs conforming to the provisions of Part 9 and other applicable provision of this Part                                                                                                                                                               | X   | X   | X   | X   | X | X | X |
| 11. <u>Accessory Uses.</u>                                                                                                                                                                                                                                |     |     |     |     |   |   |   |
| A. Accessory use or structure incidental to any permitted use, such as a garage, tool shed, greenhouse, barn or storehouse                                                                                                                                | X   | X   | X   | X   | X | X |   |
| B. Accessory off-street parking and/or loading incidental to any permitted use and in accordance with the provisions of Part 7                                                                                                                            | X   | X   | X   | X   | X | X |   |
| C. Accessory private parking for not more than four automobiles for the first dwelling unit and two automobiles for each additional dwelling unit provided for on the lot, including one commercial vehicle per dwelling unit if operated by the occupant | X   | X   | X   | X   |   |   |   |
| D. Accessory storage of a trailer or boat; provided it shall be kept at least 50 ft. from a street line; and it shall not be used as a dwelling                                                                                                           | X   | X   | X   | X   |   |   |   |
| E. Accessory retail uses, such as cafeterias, gift or variety shops, newsstands and soda bars, conducted solely for the convenience of employees, patients, patrons or visitors on the premises                                                           |     |     | X   | X   | X | X |   |
| F. Accessory repair and storage facilities incidental to any permitted retail sales or consumer service establishment; provided, it shall not occupy more than 25 percent of the gross floor space                                                        |     |     | X   | X   |   | X |   |
| G. Accessory outside storage incidental to a permitted institution, industrial or commercial use; provided it does not constitute a nuisance and it complies with the provisions of §312                                                                  |     |     | X   |     | X | X |   |

| TABLE OF USE REGULATIONS                                                                                                                                                                                                                                                                                                                                           |     |     |     |     |   |   |   |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|-----|-----|-----|---|---|---|
|                                                                                                                                                                                                                                                                                                                                                                    | R-1 | R-2 | C-1 | C-2 | I | S | F |
| H. Accessory manufacturing and repair incidental to a permitted retail establishment; provided it shall not occupy more than 25 percent of the gross floor area, nor employ any automatic machinery, nor be within 100 ft. of an R-1 or R-2 District; and, further provided, that at least 50 percent of the manufactured product is old at retail on the premises |     |     | X   |     | X | X |   |
| I. Incidental home occupations, as defined, and in accordance with the provisions of §324                                                                                                                                                                                                                                                                          | X   | X   | X   | X   | X |   |   |
| J. Incidental keeping of not more than two nontransient boarders or lodgers by a resident family in a one or two family dwelling                                                                                                                                                                                                                                   | X   | X   | X   | X   |   |   |   |
| K. Incidental professional offices, as defined, and in accordance with the provisions of §324                                                                                                                                                                                                                                                                      | X   | X   | X   | X   |   |   |   |
| L. Foster homes caring for not more than five persons conducted as an incidental home occupation; provided not more than 40 percent of the gross floor area in any dwelling unit is devoted to such use                                                                                                                                                            | C   | C   | C   | X   |   |   |   |
| M. Day nurseries, play schools and kindergartens operated as an incidental home occupation within an outdoor play area of at least 100 square feet per child                                                                                                                                                                                                       | C   | C   | X   | X   |   |   |   |
| N. Auxiliary residential structures, conforming to the total floor area ratio for the district, as provided for in Part 6, and also conforming to the applicable provisions of Part 3                                                                                                                                                                              | X   | X   | X   | X   |   |   |   |

(Ord. 3-96, 10/18/1996)

## §503. OTHER USE REGULATIONS.

1. If structures or uses are proposed in the Floodway Conservation District (F), such structures or uses shall not be permitted unless it can be clearly demonstrated that such structures or uses will not increase the one hundred (100) year flood level. In addition, such structures or uses shall comply with all other applicable provisions of this Chapter, the Borough Building Code [Chapter 5] and other applicable codes and ordinances.

2. Mobile homes proposed for residential or nonresidential use shall not be permitted in the Floodway Conservation District (F).

(Ord. 3-96, 10/18/1996)

