**ARTICLE VI**

**C-2 General Commercial District**

**§ 163-23. Permitted uses.**

In the C-2 General Commercial District, the land and structures may be used, and structures may be erected, altered, enlarged and maintained, for the following uses only, and each enterprise shall be conducted entirely within the enclosed building unless otherwise specifically stated, and be not objectionable because of odor, smoke, dust, noise, vibration or similar causes:

1. Any use permitted in the C-1 District except a residential use.
2. Retail store, including incidental repair shop.
3. Office.
4. Amusement enterprise.
5. Auditorium.
6. Automobile sales, including incidental and minor service and repair, provided that:

(1) Only service and repair activities need be conducted entirely within an enclosed building.

(2) There shall be no openings toward adjoining R Districts in the walls of the building housing the service and repair areas.

1. Business college, trade or proprietary school.
2. Catering establishment.
3. Cleaning establishment (using nonexplosive and nonflammable cleaning fluids, excluding bag and rug cleaning).
4. Club.
5. Financial institution.
6. Funeral Home
7. General Photography (including blueprinting and photostating.)

N. Hotel.

O. Medical or dental clinic or laboratory.

P. Optician's shop.

Q. Pawnshop

R. Printing plant for local newspaper

S. Printer's shop.

T. Restaurant and bar, with or without dancing and live entertainment.

1. Studio broadcasting or music.
2. Group child-care home.
3. Child day-care center.

**§ 163-24. Special exceptions.**

Special exceptions permitted by the Zoning Hearing Board include the following:

A. A community or major garage and parking area, provided that the Board determines that the proposed location is such that the use will not be detrimental to the general welfare of adjacent businesses and that the addition of the proposed use will not overly congest abutting streets.

**§ 163-25. Bulk regulations.**

Bulk regulations shall be as follows:

1. Height. See Summary Table.

B. Setbacks. See Summary Table.

C. Width. See Summary Table.

D. Area. See Summary Table.

**ARTICLE VII
M General Industrial District**

**§ 163-26. Permitted uses.**

In the M General Industrial District, the land and structures may be used, and structures may be erected, altered, enlarged and maintained, for the following uses only, and such use shall not be objectionable because of odor, smoke, dust, noise, gas, fumes, cinders, vibration, refuse matter or water-carried waste:

A. Any use permitted within the C-2 District.

B. Automobile service, including automobile sales, station for service of fuel, lubricating oil and accessories; major repairs; painting; upholstering; tire retreading or recapping; battery manufacture and the like.

C. Boatbuilding, of only small boats.

D. Building materials sales and storage establishment.

E. Cleaning and dyeing establishment, using nonflammable cleaning fluids.

F. Community or major garage or parking area.

G. Contractor's establishment, including storage of equipment.

H. Distribution plant, including parcel delivery, ice and cold storage plant, bottling plant and food commissary or catering establishment.

I. Feed and fuel sales establishment.

J. Freighting or trucking terminal.

K. Laboratory: experimental, photo or motion-picture, film or testing.

L. Laundry, when no portion thereof is nearer than seventy-five (75) feet to property classified R District.

M. Machine shop.

N. Machinery sales and display.

O. Manufacture, fabrication and maintenance of electric and neon signs; billboards; commercial advertising structures; light sheet metal products, including heating and ventilating ducts and equipment; cornices; eaves; and the like.

P. Manufacturing, fabricating, compounding, assembling or treatment of articles of merchandise from the following previously prepared materials: bone, canvas, cellophane, clay, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, metal, stone, shell, straw, textiles, tobacco, yards, wood and paint not employing a boiling process.

Q. Manufacture, processing, packaging or treatment of such products as beverages, cosmetics, drugs, perfumes, pharmaceuticals, perfumed toilet soap and food products, not including fish smoking, curing or canning, rendering of fats and oils or the slaughter of animals.

R. Plumbing, heating or electrical contracting business.

S. Printing, lithographing, type composition, ruling and binding establishment.

T. Public utility corporation buildings, structures, facilities and installations.

U. Repair shop, other than a railroad major repair shop.

V. Selling of poultry, rabbits and fish, including the cleaning and dressing and the temporary keeping of live poultry on the premises.

W. Stone or monument works.

X. Storage, not including that of gunpowder, fireworks, gases or other explosives.

Y. Veterinary establishment.

Z. Whole sale business.

AA. Accessory uses.

BB. Signs, subject to the sign provisions of this chapter.

**§ 163-27. Conditional uses.**

Conditional uses shall be as follows:

A. Garbage or refuse disposal plant, provided that the proposed location is such as to offer a reasonable protection to the neighborhood against possible detrimental effects of such use, taking into consideration the physical relationship to surrounding properties and access to the site, including any nearby residential streets that must be traversed in bringing the material to the site.

**§ 163-28. Special exceptions.**

Special exceptions permitted by the Zoning Hearing Board include the following:

A. Temporary structure or use in connection with an authorized use for a period not to exceed one (1) year and extensions, and only where such structure and use are purely incidental to the authorized use, provided that it is demonstrated to the Board that such structure and use are reasonably necessary and that safeguards are established to preserve the amenities of surrounding properties.

**§ 163-29. Bulk regulations.**

Bulk regulations shall be as follows:

A. Height. See Summary Table.

B. Setbacks. See Summary Table.

C. Width. See Summary Table.

D. Area. See Summary Table.

**ARTICLE VIII**

**Supplemental Regulations**

**§ 163-30. General use provisions and exceptions.**

A. Any use involving, as a principal part of the conduct of business, the use or servicing of motor vehicles, such as an automobile service station or sales area, community or major garage or parking area, distribution plant or a freighting or trucking terminal shall be so located that no vehicular entrance or exit shall be closer than two hundred (200) feet to an entrance or exit of any elementary or secondary or vocational school, playground, church or public library that is located on the same street or way. Similarly, no entrance or exit to any elementary or secondary or vocational school, playground, church or public library shall be located closer than two hundred feet to a vehicular entrance or exit of such a use as above noted.

B. Unenclosed porches, balconies or other open structures above grade may project a maximum of four (4) feet into the front yard and fifteen feet into the rear yard, provided that no portion of said structure shall be closer to a side lot line than the required width of the side yard.

C. A buttress, chimney, cornice, pier or pilaster, projecting no more than twelve (12) inches from the wall of the building, may project into a required yard.

D. No fences or walls shall be erected within the Borough of South Greensburg except on the following conditions:

(1) No fence or wall can be erected within any right-of-way owned by the Borough of South Greensburg.

(2) No fence or wall may be constructed or altered without having first secured a permit therefore.

(3) A screened wall or fence shall not exceed six and a half (6 1/2) feet in height except a screening wall or fence not exceeding ten (10) feet in height may be built around a school, playground or park; or in the side or rear yard of a business or industry in a commercial or industrial district. The height of such fence or wall shall be the total height measured from the natural ground level to the top of said fence or wall. Any fence erected under this Section shall be erected with the finished or good side facing the street, alley or property adjacent to which it is erected.

(4) Application for such permits shall be made to the Zoning Officer of the Borough of South Greensburg and shall be accompanied by plans and specifications showing the work to be done, such plan to be verified by the signature of either the Owner of the premises or the Contractor in charge of the operation and shall be accompanied by the payment of a fee of $5.00.

(5) Such application with plans shall be examined by the Zoning Officer to determine whether the proposed construction or alteration will comply with the provisions of the Zoning Ordinance of the Borough of South Greensburg and shall issue or reject the permit, in writing, within five working days from receipt of the application. No permit will be issued until after approval of the plans.

(6) It shall be unlawful to vary materially from the submitted plans and specifications unless such variations are submitted in an amended application to the Zoning Officer and approved by him.

(7) The Zoning Officer shall make or cause to be made such inspection as is necessary to see to the enforcement of the provisions of this Chapter.

(8) Any person who shall violate or fail to comply with any of the provisions hereof, or the members of a copartnership or the officers of a corporation responsible for such violation or noncompliance, shall, upon conviction thereof, be punishable by a fine not to exceed $300.00, together with costs of prosecution, for each offense or, in default of payment thereof, by imprisonment for not more than thirty (30) days. **[Amended 11-14-2005 by Ord. No. 2005-12.]**

E. Public service lines for the transportation and distribution and control of water, electricity, gas, oil, steam, telegraph and telephone communications or railroad trackage and supporting members other than buildings shall not be required to be located on an individual zoning lot or be held to reduce the required yard dimensions for other structures on a zoning lot.

F. A building conforming as to use, but not complying with the area regulations of the district in which it is located, may be restored if damaged or destroyed by fire, flood, wind or other calamity or act of God, provided that such restoration is started within one (1) year of the occurrence of the damage and diligently prosecuted to completion. If restoration has not begun or been carried out in a continuous manner within the one-year period, all nonconforming conditions shall be discontinued.

G. Noncommercial swimming pools. **[Added 3-11-1996 by Ord. No. 96-4, amended 9-13-2004 by Ord. No. 2004-10.]**

(1) No swimming pool shall be located in the front yard.

(2) A building permit, in compliance with § 61-2E(1) and (2) of the Building Ordinance, shall be required to locate, construct or maintain a noncommercial swimming pool.

* + - 1. A swimming pool shall be located no closer to a property line than the minimum side or rear yard requirements.
			2. .The pool may be lighted by underwater or exterior lights, or both, provided that all exterior lights are located so that the light is neither directed nor reflected upon adjacent properties in such a manner as to be a nuisance or an annoyance to neighboring properties. Underwater lighting shall be in compliance with the applicable National Electrical Code.

(5) The permanent water inlet to the pool shall be above the overflow level of the pool.

(6) At the time of application for a building permit, it shall be demonstrated that the drainage of a pool is adequate and will not interfere with the water supply system, with existing sewage facilities or with public streets and shall not drain onto a neighboring property.

H. Barrier Requirements.

(1) Definitions.

ABOVE-GROUND/ON-GROUND POOL - See "Swimming pool."

BARRIER - A fence, wall, building wall or combination thereof which completely surrounds the swimming pool and obstructs access to the swimming pool.

HOT TUB - See "Swimming pool."

IN-GROUND POOL - See "Swimming pool."

RESIDENTIAL - That which is situated on the premises of a detached one- or two-family dwelling or a one-family townhouse not more than three stories in height.

SPA, NONPORTABLE - See "Swimming pool."

SPA, PORTABLE - A nonpermanent structure intended for recreational bathing, in which all controls, water-heating and water-circulating equipment are an integral part of the product.

SWIMMING POOL - Any structure intended for swimming or recreational bathing that contains water over 24 inches (610 mm) deep. This includes in-ground, above-ground and on-ground swimming pools, hot tubs and spas.

SWIMMING POOL, INDOOR - A swimming pool which is totally contained within a structure and surrounded on all four sides by walls of said structure.

SWIMMING POOL, OUTDOOR - Any swimming pool which is not an indoor pool

2. Application.

i. The provisions of this section shall control the design of barriers for residential swimming pools, spas and hot tubs. These design controls are intended to provide protection against potential drownings and near-drownings by restricting access to swimming pools, spas and hot tubs.

3. Outdoor swimming pool. An outdoor swimming pool, including an in-ground, above-ground or on-ground pool, hot tub or spa shall be provided with a barrier which shall comply with the following:

i. The top of the barrier shall be at least 48 inches (1219 mm) above grade measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches (51 mm) measured on the side of the barrier which faces away from the swimming pool. Where the top of the pool structure is above grade, such as an above-ground pool, the barrier may be at ground level, such as the pool structure, or mounted on top of the pool structure. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be 4 inches (102 mm).

ii. Openings in the barrier shall not allow passage of a 4-inch diameter (102 mm) sphere.

iii. Solid barriers which do not have openings, such as masonry or stone wall, shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.

iv. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches (1143 mm), the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall not exceed 1.75 inches (44 mm) in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1.75 inches (44 mm) in width.

v. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 45 inches (1143 mm) or more, spacing between vertical members shall not exceed 4 inches (102 mm). Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1.75 inches (44 mm) in width.

vi. Maximum mesh size for chain link fences shall be a 2.25 inch (57 mm) square unless the fence is provided with slats fastened at the top or the bottom which reduce the openings to not more than 1.75 inches (44 mm).

vii. Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall not be more than 1.75 inches (44 mm).

viii. Access gates shall comply with the requirements of Section H, sub-paragraphs 3(i) through 3 (vii), and shall be equipped to accommodate a locking device. Pedestrian access gates shall open outward away from the pool and shall be self-closing and have a self-latching device. Gates other than pedestrian access gates shall have a self-latching device. Where the release mechanism of the self-latching device is located less than 54 inches (1372 mm) from the bottom of the gate, the release mechanism and openings shall comply with the following:

viii.1 The release mechanism shall be located on the pool side of the gate at least 3 inches (76 mm) below the top of the gate, and

viii.2 The gate and barrier shall have no opening greater than 0.5 inch (12.7 mm) within 18 inches (457 mm) of the release mechanism.

ix. Where a wall of a dwelling serves as part of the barrier, one of the following conditions shall be met:

ix.1 The pool shall be equipped with a powered safety cover in compliance with the standards of the American Society for Testing and Materials, ASTM F1346; or

ix.2 All doors with direct access to the pool through that wall shall be equipped with an alarm which produces an audible warning when the door and its screen, if present, are opened. The alarm shall sound continuously for a minimum of 30 seconds immediately after the door is opened and be capable of being heard throughout the house during normal household activities. The alarm shall automatically reset under all conditions. The alarm system shall be equipped with a manual means, such as touchpad or switch, to temporarily deactivate the alarm for a single opening. Such deactivation shall last for not more than 15 seconds. The deactivation switch(es) shall be located at least 54 inches (1372 mm) above the threshold of the door; or

ix.3 Other means of protection, such as self-closing doors with self-latching devices, which are approved by the governing body, shall be acceptable so long as the degree of protection afforded is not less than the protection afforded by sub-paragraphs 3(ix.1) or 3(ix.2) described above.

x. Where an aboveground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps, then:

x.1 The ladder or steps shall be capable of being secured, locked or removed to prevent access, or

x.2 The ladder or steps shall be surrounded by a barrier which meets the requirements of Section H, sub-paragraphs 3(i) through 3(ix). When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a 4-inch diameter (102 mm) sphere.

4. Indoor swimming pool. All walls surrounding an indoor swimming pool shall comply with Section H, sub-paragraph 3(ix).

5. Prohibited locations. Barriers shall be located so as to prohibit permanent structures, equipment or similar objects from being used to climb the barriers.

6. Barrier exceptions.

i. Spas or hot tubs with a safety cover which complies with American Society for Testing and Materials, ASTM F 1346-91 (1996) Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs shall be exempt from the provisions of this Section.

ii. A wake alarm may be installed by property owners or Lessees in lieu of the barrier requirements of this Amended § 163-30 (H) (2) on all residential swimming pools, spas and hot tubs erected prior to the adoption of this Ordinance. **[Amended 9-13-2014 by Ord. No. 2004-10.]**

**§ 163-31. Parking requirements.**

A. Number of spaces.

(1) An adequate number of off-street parking spaces shall be required in all developments to accommodate residents and visitors.

(2) For residential developments, off-street parking shall be provided as set forth in the table entitled, "Off-Street Parking Requirements For Residential Land Uses."

(3) For nonresidential developments, the parking standards shown in the table entitled, "Off-Street Parking Requirements For Nonresidential Land Uses," shall be used as a guideline.

**Off-Street Parking Requirements for**

**Residential Land Uses**

|  |  |
| --- | --- |
| **Type of Use** | **Required Spaces** |
| Residential, multifamily, efficiency/studio | 1.25 per dwelling unit |
| Residential, multifamily, 1-bedroom | 1.50 per dwelling unit |
| Residential, multifamily, 2-bedroom | 2.00 per dwelling unit |
| Residential, multifamily, 3-bedroom | 2.50 per dwelling unit |
| Residential, multifamily, 4 bedrooms or more | 3.00 per dwelling unit |
| Residential, single-family, townhouse | 2.00 per dwelling unit |
| Residential, single-family | 2.00 per dwelling unit |
| Student homes | 1.00 for each student occupying such unit |

**Off-Street Parking** **Requirements for**

**Nonresidential Land Uses**

**Type of Use Required Spaces**

Auto parts store 3.3 for every 1,000 square feet of gross floor area

Automobile sales 1 per 3,000 square feet of development lot area

Bank 1 per 300 square feet

Bank, drive-in Reservoir space equal to 5 times the number of teller windows

Barber shop 2, plus 1 per chair

Beauty parlor 2, plus 1 per chair

Cemetery 1 per employee

Church or synagogue 1 per 6 seats, or 1 per 12 feet of bench length

Club or lodge 1 for each 4 persons allowed by occupancy code

Convenience store 5 per 1,000 square feet of gross floor area

Day-care center 1 for each employee

Funeral home 1 per 4 seats, plus 1 per 2 employees, plus 1 reserved space for each hearse, ambulance or company vehicle

Furniture store 1 per 1,000 square feet of gross floor area

Gas station 3 times service capacity

Golf course Space equivalent to 1% of total land area

Group home 1 per 2 group home residents

Hardware store 1 per 400 square feet of gross leasable area

Health club 1 per 50 square feet of gross floor area

Hotel 0.75 per unit

Junkyard 1 per employee on maximum shift

Laundromat 1 per 2 washing machines

Liquor store 1 per 400 square feet of gross floor area

Manufacturing 1.5 per 1,000 square feet of gross floor area

Nursery/greenhouse 1 per 400 square feet of gross floor area

Office 1 per 300 square feet of gross floor area

Office, dental 2 per examining room, plus 1 per employee

Office, medical 2 per examining room, plus 1 per employee

Park Space equivalent to 1% of total land area

Photography studio 1 for each 300 square feet of gross floor area

Print shop 1 per employee

Produce stand 5 per stand

Repair shop 1 per 400 square feet of gross floor area

Restaurant 1 per 150 square feet of gross floor area

Retail 1 per 300 square feet of gross floor area

School, dance 1 per 200 square feet of gross floor area

School, elementary 1.6 per classroom

School, junior high 2 per classroom

School, high school 0.33 per student

School, trade 1 per 2 students

Stockyard 1 per employee on largest shift

Utility 1 per employee, plus 1 per facility vehicle

Warehouse 1 per 600 square feet of gross floor area

1. Residential parking. A one-car garage and driveway shall count as two and zero-tenths (2.0) off-street  parking spaces, provided that the driveway measures a minimum of eighteen (18) feet in length between the face of the garage door and the sidewalk, or twenty-five (25) feet to the curbline. A two-car garage and driveway combination shall count as four and zero-tenths (4.0) off-street parking spaces, provided that the minimum width of the driveway is twenty (20) feet and its minimum length is as specified above for a one-car garage.
2. One (1) off-street loading berth shall be provided for every new business or industrial use with a floor area of more than two thousand five hundred (2,500) square feet, and one (1) additional berth shall be required for each additional twenty thousand (20,000) square feet of floor area over the first twenty thousand (20,000) square feet of floor area. Access and space to maneuver shall be sufficient so that no truck need back onto any public street nor across any public sidewalk.

D. Phased parking. Where the total number of off-street parking spaces required are not immediately required for a particular use, a staged development plan may be permitted requiring that only a portion of the parking area, but not less than sixty-five percent (65%) of the required spaces, be completed initially, subject to the following regulations:

1. The site plan shall clearly indicate both that portion of the parking area to be paved initially and the total parking needed to provide the number of spaces required.
2. The site plan shall provide for adequate drainage of both the partial and total parking areas.
3. The portion of the parking area not to be paved initially shall be landscaped with a ground cover to prevent erosion. The ground cover shall be appropriate for soil conditions, water availability and the environment.
4. The applicant shall post separate performance guaranties, in addition to the performance guarantees required by this chapter, which shall reflect the cost of installing the additional parking facilities necessary to provide the total number of parking spaces required.
5. In lieu of a permanent certificate of occupancy, a temporary certificate of occupancy shall be issued for a period of two (2) years. Prior to the expiration of the two-year period, the applicant may either install the additional parking shown on the site plan and apply for issuance of a permanent certificate of occupancy, or apply to the Planning Board after the use has been in operation a minimum of eighteen (18) months for a determination as to whether or not the initial parking area provided is adequate. If the Planning Board determines that the parking facility is adequate as originally constructed, the performance guaranties shall be released and a permanent certificate of occupancy issued. If, however, the Planning Board determines the partial off-street parking area is not adequate, the applicant shall be required to install the additional parking facilities in accordance with the terms of the performance guaranties prior to issuance of a permanent certificate of occupancy.

(6) Any change of use on a site for which the Planning Board may have approved a partial paving of off-street parking areas to a use which requires more parking spaces than are provided on the site shall require submission of a new site plan.

1. Size of spaces.
	* 1. Each off-street parking space shall measure nine (9) feet in width by eighteen (18) feet in length. Parking spaces for the physically handicapped shall measure twelve (12) feet in width.
		2. Each off-street loading berth shall measure ten (10) feet in width by fifty (50) feet in length.
2. Parking areas.
	* 1. Off-street parking areas shall be oriented to and within a reasonable walking distance of the buildings they are designed to serve.
		2. Access to parking areas shall be designed so as not to obstruct the free flow of traffic. There shall be adequate provision for ingress to and egress from all parking spaces to ensure ease of mobility, ample clearance and safety of vehicles and pedestrians.
		3. The width of all aisles providing direct access to individual parking stalls shall be in accordance with the requirement specified below. Only one-way traffic shall be permitted in aisles serving single-row parking spaces placed at an angle other than ninety degrees (900).

|  |  |
| --- | --- |
| **Parking Angle** | **Aisle Width** |
| **(degrees)** | **(feet)** |
|  30 | 12 |
|  45 60 90 | 131824 |
| 90 |  |

(4) Where sidewalks occur in parking areas, parked vehicles shall not overhang the sidewalk unless an additional one (1) foot is provided in order to accommodate such overhang.

(5) Parking areas shall be suitably landscaped to minimize noise, glare and other nuisance characteristics as well as to improve the environment of the site and surrounding area. Large parking lots shall be broken down into sections as appropriate for the type and size of the development. Sections shall be separated by landscaped dividing strips, berms and similar elements.

1. Use of transportation and parking alternatives.
	* 1. Upon demonstration to the Zoning Hearing Board that effective alternatives to automobile access are in effect, the Board may reduce, by not more than fifty percent (50%), the parking requirements otherwise prescribed for any use, or combination of uses on the same or adjoining sites, to an extent commensurate with the permanence, effectiveness and demonstrated reduction in off-street parking demand effectuated by such alternative programs.
		2. Alternative programs may be considered by the Board under this provision include but are not limited to the following:
			1. Private van pool operation.
			2. Transit/van pool fare subsidy.
			3. Imposition of a charge for parking.
			4. Provision of subscription bus services.
			5. Flexible work-hour schedule.
			6. Capital improvement for transit services.
			7. Preferential parking for car pools/van pools.
			8. Participation in the ride-matching program.
			9. Reduction of parking fees for car pools and van pools.
			10. Establishment of a transportation coordinator position to implement car pool, van pool and transit programs.
			11. Bicycle parking facilities.

**§ 163-32. Home occupations.**

1. All home occupations will require a home occupation permit.
2. Criteria for minor home occupations. Uses classified as minor shall be permitted as uses within the R-1 and R-2 Districts. The following regulations shall apply to all minor home occupations:
	* 1. The use shall be conducted entirely within a dwelling and carried on by the inhabitant thereof and no others.
		2. The use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes, and the appearance of the structure shall not be altered or the occupation within the residence be conducted in a manner that would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs or the emission of sounds or vibrations that carry beyond the premises.

(3) No more than one (1) room of the dwelling may be used for the home occupation.

(4) There shall be no advertising, display or other indications of a home occupation on the premises.

(5) There shall not be conducted on the premises the business of selling stocks of merchandise, supplies or products, provided that orders previously made by telephone or at a sales party may be filled on the premises. That is, direct sales of products off display shelves or racks are not allowed, but a person may pick up an order placed earlier as described above.

(6) No storage or display of goods shall be visible from outside the structure.

(7) No highly explosive or combustible material shall be used or stored on the premises. No activity shall be allowed that would interfere with radio or television transmission in the area, nor shall there be any offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line.

(8) A home occupation shall not create greater vehicle or pedestrian traffic than normal for the district in which it is located.

(9) Parties for the purpose of selling merchandise or taking orders shall not be held more than four (4) times each month.

(10) A home occupation shall have adequate parking spaces available to compensate for additional parking needs generated.

(11) No use of material or equipment not recognized as being part of the normal practices of owning and maintaining a residence shall be allowed.

(12) Notwithstanding any provision contained herein to the contrary, garage, basement, yard or other similar sales shall not be allowed more than twice each year, and each sale shall not last more than seventy-two (72) consecutive hours.

(13)Deliveries from commercial suppliers may not be made more than once each week, and the deliveries shall not restrict traffic circulation.

(14) Permitted minor home occupations include but are not necessarily limited to the following:

* 1. Artists and sculptors.
	2. Authors and composers.
	3. Home crafts for sale off-site.
	4. Office facility of minister, rabbi or priest.

(e) Office facility of a salesman, sales representative or manufacturer's representative, provided that no transactions are made in person on the premises.

* 1. Individual tutoring.
	2. Preserving and home cooking for sale off site.
	3. Individual musical instrument instruction, provided that no instrument may be amplified.
	4. Telephone solicitation work.
	5. Family day-care home not involving more than three (3) children.
	6. Jewelry and watch repair.
	7. Sporting goods repair.

(15) The following uses, by the nature of the investment or operation, have a pronounced tendency, once started, to rapidly increase beyond the limits permitted for home occupations and thereby impair the use and value of a residentially zoned area for residence purposes. Therefore, the uses specified below shall not be permitted as minor home occupations:

(a) All uses prohibited as major home occupations.

* + 1. Minor or major auto repair.
		2. Barbershop.
		3. Carpentry work.
		4. Dance instruction.
		5. Dental offices.
		6. Medical offices.
		7. Painting of vehicles, trailers or boats.
		8. Photo developing or photo studios.
		9. Private schools with organized classes.
		10. Television repair.
		11. Upholstering.
		12. Beauty parlors.
		13. Massage parlors.
		14. Small engine repairs.
		15. Welding shop.
		16. Other similar uses.

C. Criteria for major home occupations. Uses classified as major shall be considered special exceptions and administered accordingly. Further, major home occupations shall be encouraged in neighborhoods in transition from one land use to another and high-density neighborhoods. Pure single-family neighborhoods should, in general, be protected from major home occupations, unless it can be specifically demonstrated that such a use will have no short- or long-term negative impact on the neighborhood. To this extent, the following regulations shall apply to all major home occupations:

* 1. The use shall be conducted entirely within a dwelling and carried on by the inhabitants thereof and one (1) noninhabitant employee.
	2. The use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes, and the appearance of the structure shall not be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs or the emission or sounds, noises or vibrations.
	3. The total area used for such purposes (including storage) shall not exceed the equivalent of one-half (1/2) of the floor area, in square feet, of the first floor of the user's dwelling unit, if any; otherwise, the main floor of the dwelling unit.
	4. There shall be no signs present on the property except for one (1) wall sign, not to exceed one (1) square foot, indicating the address and the occupant's name; for example, "Joe Doe -Accountant."
	5. There shall not be conducted on the premises the business of selling stocks of merchandise, supplies or products, provided that incidental retail sales may be made in connection with other permitted home occupations. For example, a single-chair beauty parlor would be allowed to sell combs, hair spray and other miscellaneous items to customers; however, a dressmaker would be required to do only custom work for specific clients and would not be allowed to develop stocks of dresses for sale to the general public on-site.
	6. There shall be no exterior storage on the premises of material used in the home occupation, or of any highly explosive or combustible material. No activity shall be allowed which would interfere with radio or television transmission in the area; nor shall there be any offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line.
	7. A home occupation, including studios or rooms for instruction, shall provide additional off-street parking areas reasonably adequate to accommodate needs created by the home occupation, of not less than one (1) parking space for each three hundred (300) square feet of floor area devoted to the home occupation and one (1) space for the noninhabitant employee.
	8. Deliveries from commercial suppliers may not be made more than once each week, and the deliveries shall not restrict traffic circulation.
	9. Parties for the purpose of selling merchandise or taking orders shall not be held more often than four (4) times each month.

(10) Notwithstanding any provision contained herein to the contrary, garage, basement, yard and other similar sales shall be permitted not more than once each month, and each sale shall not last more than seventy-two (72) consecutive hours.

(11) Permitted major home occupations shall include but are not necessarily limited to the following:

* + 1. Any use allowed as a minor home occupation.
		2. Beauty parlors and barbershops.
		3. Photo developing.
		4. Organized classes with up to six (6) students at one (1) time.

(e) Television and other electrical repairs, excluding major appliances such as refrigerators or stoves.

(f) Small engine repairs, excluding major automobiles, motorcycles and snowmobiles.

(g) Upholstering.

(h) Dressmaking.

* + - 1. Woodworking, excluding cabinetmaking.
			2. Family day-care home.

(12) The following uses, by the nature of the investment or operation, have a pronounced tendency, once started, to rapidly increase beyond the limits permitted for home occupations and thereby impair the use and value of a residentially zoned area for residence purposes and are more suited to professional or business districts. Therefore, the uses specified below shall not be permitted as home occupations:

* + - 1. Minor or major auto repair, painting of vehicles, trailers or boats.
			2. Funeral chapel or home.
			3. Gift shops.
			4. Medical or dental clinic.

(e) Rental businesses.

* + - 1. Catering.
			2. Photo studios.
			3. Massage parlors.
			4. Welding or machine shops.

**§ 163-33. Nonconforming uses.**

1. Statement of intent.
	* 1. The zoning districts established by this chapter are designed to guide future use of land in the borough by encouraging the development of desirable residential, commercial and industrial areas, with appropriate grouping of compatible and related uses, to the end of promoting and protecting the public health, safety, comfort, prosperity and other aspects of the general welfare.
		2. To achieve this end, lawful existing uses which would be prohibited or restricted under the terms of this chapter, or future amendments, and which do not conform to the character and regulations of the zoning district in which they are located, shall be subject to certain limitations. The regulations set forth below are intended to provide a gradual remedy for the undesirable conditions resulting from indiscriminate mixing of uses, and to afford a means whereby nonconforming uses can be gradually eliminated and reestablished in more suitable locations within the borough.
		3. Similarly, buildings or other structures will be generally permitted to remain; the purpose of regulating them is to restrict further investment in uses or structures which are inappropriate to their location.
		4. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in plans, construction or intended use of any building on which actual construction was lawfully begun prior to the effective date, or amendment, of this chapter and on which actual building construction has been diligently carried on.
2. Determination of the nonconforming use. All nonconforming uses within the borough after the enactment of this chapter shall be classified according to the following criteria:

(1) Type I: a lawful use of a building or structure or the lawful use of any land as existing and lawful, which is considered nonconforming at the time of the enactment of this chapter, or in the case of an amendment to this chapter, then at the time of such amendment, that may be continued; however, further expansion or alteration of the nonconformity is prohibited until the property and/or structure has been reclassified by Borough Council and the applicant cannot show that the proposed change will be less objectionable than the existing nonconforming use, with respect to:

1. If the nonconforming use is located within a residential district, then the nonconforming use is increasing traffic volume within the neighborhood.
2. The nonconforming use creates a noise louder than fifty (50) decibels whether steady or intermittent along the boundary of the property.
3. The nonconforming use creates smoke density higher than Number 2 on the Ringelmann smoke detection chart measured along property boundaries.
4. The nonconforming use creates glare with an intensity of fifty (50) footcandles from a direct light source measured along property lines or twenty (20) footcandles measured along district boundaries on any surface.

(e) The nonconforming use creates noxious odors that are discernible beyond the property.

1. The nonconforming use creates dust that travels beyond its property boundaries.
2. The nonconforming use causes dangerous levels of radioactivity or electromagnetic radiation.

The nonconforming use creates wastes that are detrimental to surrounding properties and the community.

(i) The appearance of the community is deteriorating due to the presence of the nonconformity and the property owner is not taking steps to remedy the problem.

(2) Type II: a lawful use of a building or structure or the lawful use of any land as existing and lawful, which is considered nonconforming at the time of the enactment of this chapter, or in the case of an amendment this chapter, then at the time of such amendment, that may be continued; however, expansion or continuance of the nonconformity is permitted by special exception, provided that:

1. The proposed extension shall take place only upon the lot or contiguous lots held in the same ownership as that existing at the time the use became nonconforming. A nonconforming use shall be prohibited from encroaching on another parcel of land that has been subsequently added to the original parcel after the use was declared nonconforming.
2. The proposed extension shall conform with the setback, yard, area, dimensional, building height, parking sign, environmental and other requirements of the district in which said extension is located.
3. Continuation. The nonconforming use may be changed to another nonconforming use only under all of the following conditions:
	1. Such change shall be permitted as a conditional use by the Borough Council.
	2. The applicant shall show that a nonconforming use cannot be reasonably changed to a permitted use.

[3] The applicant shall show that the proposed change will be less objectionable in external effects than the existing nonconforming use, with respect to:

[al Traffic generation and congestion, including truck, passenger car and pedestrian traffic.

[b] Noise, smoke, dust, odor, glare and vibration.

[c] Waste disposal.

[d] Appearance.

1. Determination of classes.
	* + 1. All nonconforming uses at the enactment of this chapter or the amendments thereto are considered Type I nonconformities.
			2. Classification of nonconforming uses shall be the responsibility of the Borough Council.
			3. Any alteration of an existing nonconforming use shall initiate procedures to classify a nonconforming use. The Borough Council shall determine the classification of the nonconformity by conditional use.
			4. Citizen and/or business complaints about objectionable manifestations of a nonconforming use will be sufficient cause to trigger an investigation, a potential classification change and/or potential action by the Borough Council. If reclassification occurs as a result of this action, such reclassification shall remain valid for not less than three (3) years unless initiated by the property owner of the nonconforming use.
2. Revision to nonconformance. Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use.
3. Reclassification. Classification is not perpetual. Any future changes to a classified nonconformity initiates the classification process. An applicant can initiate reclassification with new proposals.
4. Restoration. Nothing in this chapter shall prevent the reconstruction, repairing, rebuilding and continued use of any nonconforming building and/or infrastructure
5. Wear and tear. Nothing in this chapter shall prevent the reconstruction, repairing or rebuilding of a nonconforming building, structure or part thereof existing at the effective date of this chapter, rendered necessary by wear and tear, deterioration or depreciation provided that the work does not constitute an expansion or extension of the existing nonconformity.

**§ 163-34. Clear sight triangle.**

Sight triangle easements shall be required and shall include the area on each street corner that is bounded by the line which connects the sight or connecting points located on each of the right-of-way lines of the intersecting street. The planting of trees or other plantings or the location of structures exceeding thirty (30) inches in height that would obstruct the clear sight across the area of the easements shall be prohibited, and a public right-of-entry shall be reserved for the purpose of removing any object, material or otherwise, that obstructs the clear sight.

**ARTICLE IX**

**Signs and Lights**

**§ 163-35. R Districts.**

In the R-1 and R-2 Residence Districts, only the following signs shall be permitted:

A. A sign not exceeding one (1) square foot in area, used to display and identify only the name of the individual, profession, organization or institution occupying the premises.

B. A bulletin board not exceeding eight (8) square feet in area, indicating the services of a church or institution, including the church or institution's name, if desired.

C. A sign not exceeding eight (8) square feet in area appertaining only to the rental, lease or sale of the property on which it is displayed.

**§ 163-36. C Districts.**

In the C-1 Convenience Commercial District and C-2 General Commercial District, only the following signs shall be permitted:

A. Signs permitted in R Districts.

B. Signs displayed on the outside of the building.

C. A sign which directs attention to a business, commodity, service or entertainment, conducted, sold or offered on the premises:

(1) Attached to a main wall of a main building, projecting not more than twelve (12) inches therefrom, and with no portion less than ten (10) feet above the basic grade. If not projecting from a wall of a building, the sign need not conform to the ten-foot height limit.

(2) Not attached to a building, but within the buildable area of the lot (except that it may be in the front yard or a side yard abutting a street in a C-1 District), erected with no portion less than ten (10) feet or more than twenty (20) feet above the ground. The sign [or, if more than one (1), the total] shall not exceed sixty (60) square feet in area.

D. Lights in a C-1 Convenience Commercial District shall be shielded so as not to reflect on nearby residential properties. No intermittent or flashing lights shall be permitted.

**§ 163-37. M Districts.**

In the M General Industrial District, only the following signs shall be permitted:

* + - 1. Signs permitted in any other district.
			2. Advertising or business sign not limited as to size or location except that it shall be within the buildable area of the lot.

**§ 163-38. General sign and light provisions.**

* + - 1. An occupancy permit shall be secured for the establishment, major alteration or the moving of any sign (except real estate signs) one and one-half (11/2) square feet or more in area.
			2. No sign established before the effective date of this chapter shall be repaired (except when ordered by an authorized public officer as a safety measure), repainted, altered in any major respect or moved, unless it is made to conform with the provisions of this chapter.
			3. No sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered only elsewhere than on the premises where it is displayed shall be established nearer than three hundred (300) feet to a residence district.
			4. In any district, signs limited to fifty (50) square feet in area used to indicate the location or direction of real estate development may be erected for a period of six (6) months on the approval of the Zoning Officer.
			5. Lights in all districts shall be shielded so as not to reflect on nearby residential properties.
			6. Lights on all signs or other advertising media on the premises of all nonconforming uses shall be shut off at 11:00 p.m. and remain off throughout the night.

**§ 163-38.1. Fee schedule. [Added 12-13-1993 by Ord. No. 94-3, amended 1-13-1997 by Ord. No. 97-3.]]**

1. Each sign requiring a permit as required by this Chapter shall be subject to payment of a fee hereby established as follows:
	1. For any sign under fifty (50) square feet in area, a fee of twenty-five dollars ($25.) payable at time of obtaining the permit.
	2. For any sign over fifty (50) square feet in area, a fee of one ($1.00) Dollar per square foot of sign area with no maximum, payable at time of obtaining the permit.
	3. For any billboard, as said term is hereinafter described, an annual fee shall be as follows:

(a) For every single face structure, a fee of Thirty ($30.00) Dollars payable on or before February 1 of each calendar year.

(b) For every multiple face structure, a fee of Thirty-Five ($35.00) Dollars payable on or before February 1 of each calendar year.

1. The definition of "billboard" is as follows: A sign which directs attention to a business, commodity, service, entertainment or attraction sold, offered or existing elsewhere than upon the same lot where such sign is displayed. The term "off-premises sign" shall include an outdoor advertising sign (billboard) on which space is leased or rented by the owner thereof to others for the purpose of conveying a commercial or noncommercial message.
2. All permit fees shall be paid at the time of issuance of permit. All annual permit fees shall be paid no later than thirty (30) days of the invoice requesting such payment. In the event that payment is made after thirty (30) days, then a penalty fee equal to fifty percent (50%) of the annual permit shall be assessed. All rights and privileges acquired under the provisions of the Zoning Ordinance are mere licenses and, as such, are at any time revocable for just cause by the Borough of South Greensburg. All permits issued pursuant to this section are hereby subject to this provision.

**ARTICLE X**

**Zoning Officer**

**§ 163-39. Administration and enforcement.**

1. Administration. The duty of administering and enforcing the provisions of this chapter is hereby conferred upon the Zoning Officer. The Zoning Officer shall administer the Zoning Ordinance in accordance with its literal terms and shall not have the power to permit any construction or any use or change of use which does not conform to the Zoning Ordinance.
2. Duties. The duties of the Zoning Officer shall be to:
	1. Examine all applications for permits.
	2. Issue permits only for construction and uses which are in accordance with the regulations of this chapter and other applicable ordinances as may be subsequently amended.
	3. Record and file all applications by tax parcel number for permits with the accompanying plans.
	4. Receive all required fees and issue all necessary cease and desist orders.
	5. Inspect nonconforming uses, buildings and signs and keep a filed record of such nonconforming uses and buildings by tax parcel number as a public record and to examine them periodically.
	6. Upon the request of the Borough Planning Commission, the Zoning Hearing Board or Council, present such bodies facts, records and any similar information on specific requests to assist such bodies in reaching their decisions.
	7. Be responsible for keeping up-to-date this Zoning Ordinance and accompanying Zoning District Map.
3. Appeals. Any appeal from a determination of the Zoning Officer shall be made directly to the Zoning Hearing Board.
4. Notification of violation. If it appears to the Zoning Officer that a violation of the Zoning Ordinance has occurred, the Zoning Officer shall initiate enforcement proceedings by sending an enforcement notice to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel and to any other person requested in writing by the owner of record. The enforcement notice shall state at least the following:
	1. The name of the owner of record and any other person against whom the borough intends to take action.
	2. The location of the property in violation.
	3. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the ordinance.
	4. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
	5. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within thirty (30) days of receipt of the complaint.
	6. That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation.
5. Causes of action. Council, an officer of the borough with express permission of Council or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such violation. The Zoning Officer shall respond to the complaint with a notice outlining the steps that will be taken within ten (10) working days after the receipt of the complaint.
6. Enforcement remedies.

(1) Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of any zoning ordinance enacted under this act or prior enabling laws shall, upon being found liable therefore in a civil enforcement proceeding commenced by the borough, pay a judgment of not more than five hundred dollars ($500.) plus all court costs, including reasonable attorney fees incurred by the borough as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice's determination that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one (1) such violation until the fifth day following the date of the determination of a violation by the District Justice, and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of zoning ordinances shall be paid over to the borough.

**§ 163-40. Permits.**

1. Requirements of zoning permits. A zoning permit shall be required prior to the erection, construction or alteration of any building, structure or any portion thereof, prior to the moving of a building into the borough, from one (1) place in the borough to another, prior to change in use of a building or land, and prior to the change or extension of nonconforming use and shall be issued simultaneously with the required building permits.

(1) Time limitation. No zoning permit for construction, erection or alteration of any building or structure or for any sign shall be valid for more than six (6) months from date of issue unless extension is otherwise granted by the Zoning Officer in accordance with provisions of § 61-4 of the Building Construction Ordinance as contained in Chapter 61 of the Code for the Borough of South Greensburg. No zoning permit for use of a building or land shall be valid for more than six (6) months from the date of issue unless such use is established within the six-month period; provided, however, that where such use is dependent upon erection or alteration of a building, the zoning permit shall continue in force if the erection or alteration is completed within the six-month period. **[Amended 12-12-1994 by Ord. No. 94-10]**

1. Building permit required. No building or other structure shall be erected, moved, added to or structurally altered without a permit therefor issued by the Zoning Officer. No building permit shall be issued by the officer except in conformity with the provisions of this Zoning Ordinance, unless he receives a written order from the Zoning Hearing Board or from Council in the form of an administrative review, special exception, conditional use or variance as provided by this chapter.
2. Application for building permit. All applications for building permits shall be accompanied by plans in triplicate, drawn to scale, showing the actual dimensions and shape of the lot or buildings already existing, if any, and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Zoning Officer, including existing or proposed buildings or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this Zoning Ordinance.
3. One (1) copy of the plans shall be returned to the applicant by the Zoning Officer, after he has marked such copy either as approved or disapproved and attested to the same by his signature on such copy. The original and one (1) copy of the plans, similarly marked, shall be retained by the Zoning Officer.
4. Notice of start of work. The Zoning Officer shall be given at least twenty-four (24) hours notice by the owner or applicant prior to commencement of work at the site under zoning or building permits.
5. Occupancy permits.

(1) For new use or expansion of existing uses:

* + - 1. Upon completion of any nonresidential building or structure for which a building permit has been issued, the contractor or builder for such building or structure shall apply to the Zoning Officer for an occupancy permit.
			2. The Zoning Officer shall inspect the premise and, if satisfied that all conditions of the building permit have been met, shall issue an occupancy permit certifying that the premises comply with the provisions of this chapter and may be used for the purposes set forth on the building permit.
			3. If the Zoning Officer, upon inspection, finds the premises to have been developed in violation of any of the conditions of the building permit, he shall order the violations corrected to conform to the building permit and shall not issue an occupancy permit until satisfied these corrections have been made.

(2) For changing existing uses:

* + - * 1. If a property owner wishes to change the use of any nonresidential building or structure or the property he owns, he shall apply to the Zoning Officer for an occupancy permit. Changes for which an occupancy permit shall be required include conversion from nonconforming to a conforming or less nonconforming use or conversion to another permitted use.
				2. If the Zoning Officer is satisfied that such change is in conformance with all requirements of this chapter and of other development ordinances of the borough, he shall issue an occupancy permit.
				3. Applications for occupancy permits for a change of use that are denied by the Zoning Officer may be appealed to the Zoning Hearing Board.
1. Home occupancy permits. A one-time purchase of a home occupation permit for major and minor home occupations will be required for home occupation businesses grossing over one thousand two hundred fifty dollars ($1,250.) a year in sales.
2. Unregulated uses. When a specific use is neither permitted nor prohibited in the schedule of district regulations, the Zoning Officer shall make a determination as to the similarity or compatibility of the use in question to the permitted uses in the district basing the decision on the overall intent stipulated for the district.
3. Application for permits. Application for permits shall be made in writing to the Zoning Officer.

**ARTICLE XI**

**Zoning Hearing Board**

**§ 163-41. Administration and enforcement.**

A. Establishment; appointment, term and removal.

* + - 1. Pursuant to Article IX of Act 247, known as the "Pennsylvania Municipalities Planning Code,"31 a Zoning Hearing Board is hereby established, which shall consist of three (3) members who shall be residents of the borough, to be appointed by the Borough Council for terms of three (3) years each. Appointments shall be so established that the term of office of no more than two (2) members of the Board shall expire each year. Members of the Board may be removed from office by the Borough Council for cause upon written charges and after public hearing if the member requests such hearing in writing. Vacancies shall be filled by appointment by the Borough Council for the unexpired term of the member affected. Members of the Board shall hold no other office in the borough.
			2. Alternate members. The Borough Council may appoint by resolution at least one (1) but no more than three (3) residents of the borough to serve as alternate members of the Board. The term of office of an alternate member shall be three (3) years. When seated as a member, the alternate member shall be entitled to participate in all proceedings and discussions of the Board to the same and full extent as provided by law for Board members, including specifically the right to cast a vote as a voting member during the proceedings and shall have all the powers of the Board members.

B. Proceedings of the Board.

(1) The Zoning Hearing Board shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Zoning Ordinance. Meetings shall be held at the call of the Chairman or, in his absence, the Acting Chairman. The Chairman or Acting Chairman may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

(2) The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if a member is absent or fails to vote, an indication of such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and immediately filed in the office of the Board.

C. Hearings; appeals; notice.

* 1. Hearings.

(a) Initiating action before the Board. All action before the Board shall be initiated by a written application for hearing which shall be filed with the Borough Secretary at least thirty (30) days prior to the meeting at which the matter is to be heard. All applications shall be made on forms specified by the Board. No application shall be accepted unless the same shall be fully and legibly completed and unless all exhibits and supplemental material required by the application shall be attached and until all fees required shall have been paid.

1. Time Limitations.
	1. Landowner appeals. All appeals from determinations adverse to the landowner shall be filed by the landowner within thirty (30) days after notice of the determination is issued.
	2. Appeal of persons aggrieved.
		1. No person shall be allowed to file any proceeding with the Board later than thirty (30) days after an application for development, preliminary or final, has been approved by the Zoning Officer.

[b] Any person or persons, board or bureau of the borough aggrieved by any decision by the Zoning Hearing Board may within thirty (30) days of the decision by the Zoning Hearing Board seek review of such decision by a court of record, in the manner provided by the laws of the commonwealth and particularly by Article X of the Pennsylvania Municipalities Planning Code.

1. Hearing schedule. The Board may conduct hearings and make decisions at any regular or special meeting. In no instance will a hearing be scheduled later than sixty (60) days from the date of the applicant's request for a hearing, unless the applicant has agreed in writing to an extension of time.
2. Notification of hearing.
	* 1. Whenever a hearing has been scheduled, public notice shall be given to the general public by means of publication once each week for two (2) successive weeks in a newspaper of general circulation with the community. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days prior to the date of the hearing.
		2. Written notice shall be given to the applicant, the Planning Commission, the Zoning Officer and to any person who has made a timely request for such notice.
		3. In addition to the notice provided herein, the Zoning Officer shall conspicuously post notice of said hearing on the affected tract of land no less than seven (7) days prior to the date of the hearing.
3. Conduct of hearing. The hearing shall be conducted by the Zoning Hearing Board, or the Board may appoint any member as a hearing officer. The decision, or, where no decision is called for, the findings, shall be made by the Board, but the appellant or the application, as the case may be, in addition to the borough, may waive the decision or findings by the Board and accept the decision or findings of the hearing officer as final.

(2) Information required on appeals to the Board. All appeals from a decision of the Zoning Officer and applications to the Board shall be in writing on forms prescribed by the Board. Every appeal or application shall include the following:

(a) The name and address of the applicant or appellant.

* + 1. The name and address of the owner of the zone lot to be affected by such proposed change or appeal.
		2. A brief description and location of the zone lot to be affected by such proposed change or appeal.
		3. A statement of the present zoning classification of the zone lot in question, the improvements thereon and the present use thereof.
		4. A statement of the part of this chapter under which the appeal is made, and reasons why it should be granted, or a statement of the section of this chapter governing the situation in which the alleged erroneous ruling is being appealed, and the reasons for this appeal.
		5. A reasonably accurate description of the present improvements, and the additions or changes intended to be made under this application, indicating the size of such proposed improvements, material and general construction thereof. In addition, there shall be attached a plot plan of the real property to be affected, indicating the location and size of the lot and size of improvements thereof and proposed to be erected thereon.

**§ 163-42. Administrative review.**

The Zoning Hearing Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Officer in the enforcement of this Zoning Ordinance.

**§ 163-43. Special Exceptions.**

The Zoning Hearing Board shall hear and decide only such special exceptions as such Board is specifically authorized to pass on by the terms of this Zoning Ordinance; decide such questions as are involved in determining whether special exception should be granted; and grant special exceptions with such conditions and safeguards as are appropriate under this chapter or the Pennsylvania Municipalities Planning Code, or deny a special exception when it is not in harmony with the purpose and intent of this chapter.

**§ 163-44. Variances.**

The Zoning Hearing Board shall authorize upon appeal in specific cases such variance from the terms of this Zoning Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the Board unless:

A. A written application for a variance is submitted by a landowner or a tenant with the landowner's permission demonstrating that:

* 1. There are unique physical circumstances or conditions, including irregularity narrowness or shallowness of lot size or shape or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions and not the circumstances and conditions generally created by the provisions of the Zoning Ordinance in the neighborhood or district in which the property is located.
	2. Because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
	3. Such unnecessary hardship has not been created by the appellant.
	4. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
	5. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

**§ 163-45. Reversing decisions of Zoning Officer.**

1. In exercising its powers, the Zoning Hearing Board may, as long as such action is in conformity with the terms of this Zoning Ordinance, reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination as necessary, and to that purpose shall have the powers of the Zoning Officer from whom the appeal is taken.
2. A majority of the quorum of the Board shall be necessary to reverse any order, requirement, decision or determination of the Officer, or to decide in favor of the applicant on any matter upon which it is required to pass in this chapter, or to effect any variance in the application of this chapter.

**§ 163-46. Mediation option.**

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

**§ 163-47. Intent.**

1. It is the intent of this Zoning Ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Officer, and that such questions shall be presented to the Zoning Hearing Board, only on appeal from the decision of the Officer, and that recourse from the decisions of the Board shall be to the courts as provided by law and particularly by Article X of the Pennsylvania Municipalities Planning Code.
2. It is further the intent of this chapter that the duties of the Borough Council in connection with this chapter shall not include hearing and deciding questions of interpretation and enforcement that may arise. Under this chapter, the Borough Council shall have only the duties of: considering and adopting or rejecting proposed amendments or the repeal of this chapter or any section thereof, as provided by law; establishing a schedule of fees and charges in accordance with the Pennsylvania Municipalities Planning Code; and those duties specifically noted in other articles of this chapter.

**§ 163-48. Fees and amendments.**

1. Establishment of fee schedule. The Borough Council shall by resolution establish a schedule of fees, charges and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals and other matters pertaining to this Zoning Ordinance. The schedule of fees shall be posted in the office of the Zoning Officer and may be altered or amended only by the Borough Council.
2. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

**§ 163-49. Amendments to Zoning Ordinance.**

1. The regulations, restrictions and boundaries set forth in this Zoning Ordinance may from time to time be amended, supplemented, changed or repealed; provided, however, that no such action may be taken until after a public hearing in relation thereto by the Borough Council, at which time interested parties and residents shall have an opportunity to be heard. At least fourteen (14) days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in the borough at least once in each of two (2) successive weeks.
2. If the amendment is initiated by any parties other than the Planning Commission, the Borough Council shall submit each such amendment to the Planning Commission at least thirty (30) days prior to the hearing on such proposed amendment to provide the Planning Commission the opportunity to submit recommendations. If after any public hearing held upon an amendment, the proposed amendment is revised or further revised to include land previously not affected by it, the Borough Council shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.