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**Part 1****General Provisions****§27-101. Title.**

This Chapter shall be known as and may be cited as the “Borough of New Morgan Zoning Ordinance of 2014, revised.”

*(Ord. 2015-4, 9/8/2015)*

**§27-102. Declaration of Legislative Intent.**

This Chapter, enacted for the purpose of promoting the health, safety, morals, and the general welfare of the Borough, is in accordance with a Comprehensive Plan to secure safety from fire, panic, and other danger, to provide adequate light and air, to prevent the overcrowding of the land, to avoid undue congestion of population, to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements, to conserve the value of buildings, to encourage agriculture, conservation, recreation, and other open space purposes and to encourage the most appropriate use of land throughout the Borough.

*(Ord. 2015-4, 9/8/2015)*

**§27-103. Community Development Objectives; Interpretation.**

1. In interpreting and applying the provisions of this Chapter, they shall be held to be the minimum requirements for the promotion of the health, safety, morals and the general welfare of the Township. The Comprehensive Plan in accordance with which this Chapter is enacted and which is reflected in the provisions of this Chapter has been formulated to implement the purpose set forth in §27-102 hereinabove, in the respects therein stated and more particularly with a view toward, inter alia, the following objectives:

A. Building and encouraging the future development of the Township in accordance with comprehensive planning of land use and population density that represents the most beneficial and convenient relationships among the residential, commercial, industrial and recreational areas within the Township, having regard to the suitability for various land uses appropriate to each of them and their potentiality for such uses, as indicated by topography and soil conditions, existing man-made conditions and the trends in population, in the direction and manner of the use of land in building development and in economic activity, considering such conditions and trends both within the Township and with respect to the relation of the Township to surrounding areas.

B. Protecting the character and social and economic stability of each of such areas and encouraging their orderly and beneficial growth.

C. Protecting and conserving the value of land and buildings throughout the Township appropriate to the various zoning districts established herein.

D. Bringing about through proper timing the gradual conformity of land use to the Comprehensive Plan aforesaid and minimizing conflicts among the uses of

land and buildings.

E. Aiding in bringing about the most beneficial relation between land use and the circulation of traffic throughout the Township, having particular regard to and from the expressways and to avoidance of congestion in streets and the provisions of safe and convenient access appropriate to the various land uses.

F. Aiding in providing a guide for public safety and action in the efficient provision of public facilities and services, in the provision of safe and proper sanitary sewage disposal and for private enterprise in building, development, investment and other economic activity relating to land use insofar as such objectives are consistent with the purpose set forth in §27-102 and with the aforesaid minimum requirements thereof.

2. The provisions of this Chapter shall be interpreted, administered and applied in such a manner as will facilitate attainment of the above objectives.

*(Ord. 2015-4, 9/8/2015)*

**Part 2****Definitions****§27-201. Definitions.**

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

Words used in the present tense include the future tense. The singular includes the plural.

The word “person” includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

The word “lot” includes the word “plot” or “parcel.”

The term “shall” is always mandatory; the word “may” is permissive.

The word “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged, or designed to be used or occupied.”

*Accessory building*—a building detached from and subordinate to the main building on the same lot and used for the purposes customarily incidental to the main building.

*Accessory use*—a use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

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

*Alterations*—as applies to a building or structure, a change or rearrangement in the total floor area, or an enlargement, whether by extending on a side or by increasing in height, or moving from one location or position to another.

*Alterations, structural*—any change in the supporting members of a building, such as bearing walls, columns, beams, or girders.

*Amusement center/park/resort*—a commercially-operated park with various devices for entertainment and booths for the sale of food and drink.

*Apartment*—a dwelling generally being a portion of a building occupied on a lease basis.

*Assisted living facility (personal care home)*—a premises in which food, shelter and personal assistance or supervision are provided for a period exceeding 24 hours for six or more adults who are not relatives of the operator, who do not require the services in (or of) a long term care facility, but who do require assistance or

supervision in matters such as dressing, bathing, diet, financial management, evacuation of a residence in the event of an emergency, or medication prescribed for self administration and which premises is licensed by the Pennsylvania Department of Welfare as such, but not including drug or alcohol rehabilitation or medical or nursing care or current court adjudicated felons or misdemeanants.

*Base flood*—the flood which has been selected to serve as the basis upon which the floodplain management provisions of this Chapter have been prepared; for the purposes of this Chapter, a flood which has a 1 percent chance of being equaled or exceeded in any given year (also called the “100-year flood” or “1-percent annual chance flood”).

*Base flood elevation; 100-year flood elevation*—within the approximated floodplain, the “base flood elevation” shall be estimated as a point on the boundary of the approximated floodplain which is nearest to the construction site in question.

*Basement*—as defined in the International Building Code as adopted by the Borough.

*Boarding school*—a school providing 7-day per week housing for a majority of its students.

*Building*—any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of persons, animals or chattels, and including covered porches or bay windows and chimneys.

*Building coverage*—the ratio of the building area on a lot to the developable area of the lot.

*Building, detached*—a building surrounded by open space on the same lot.

*Building line*—a line parallel to the front, side or rear lot line, set so as to provide the required yard.

*Building, semi-detached*—a building which has one wall in common with an adjacent building.

*Carport*—see “garage, private.”

*Cellar*—as defined in the International Building Code as adopted by the Borough.

*Civic buildings*—publicly owned and/or operated buildings that house uses such as community centers, cultural or entertainment facilities, recreational facilities, schools, meeting halls, libraries and similar uses as determined by the Borough Council.

*Common open space*—a parcel or parcels of land or an area of water, or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of a development, not including streets, off-street parking areas, and areas set aside for public facilities.

*Completely dry space*—a space which will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and water vapor.

*Conditional use*—a use permitted in a particular zoning district pursuant to the provisions in Part 15.

*Convenience store*—a commercial establishment either adjunct to a neighbor-

hood convenience center or freestanding; providing for the sale of convenience goods (food, drugs and sundries) and personal services, (self and/or full service gasoline dispensing). This use is intended to provide a shopper the opportunity to buy goods near home, work or temporary lodging during extended store hours.

*Customary household pets*—such pets which are normally found within the home such as dogs, cats, hamsters, birds, etc.

*Detention facility*—place of confinement, imprisonment or detention, including a prison, jail, penal institution or any similar facility for the detention of any person deprived of liberty and kept under involuntary restraint, confinement, or custody. A detention facility may be publicly or privately owned and operated.

*Development*—any man-made change to improved or unimproved real estate, including, but not limited to, the construction, reconstruction, renovation, repair, expansion or alteration of buildings or other structures; the placement of manufactured homes; streets and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.

*Dwelling*—a building consisting of one or more dwelling units that is designed and occupied principally for residential purposes. A dwelling shall be constructed in accordance with the Building and Housing Code and other ordinances of the Borough.

*Dwelling types and dwelling unit types*—included within this definition are all dwelling and dwelling unit types without regard to tenure. Specifically:

*Apartment*—a dwelling unit within a multi-family dwelling or within a building containing some other principal use.

*Apartment house or garden apartment*—a building containing two or more apartments which are customarily, but not necessarily, arranged in a stacking fashion. A basement in an apartment house or garden apartment shall not contain habitable rooms.

*Carriage home*—a townhouse, as defined herein, limited, however, to three dwelling units in a single building and designed (unless the Borough Council agrees otherwise) so that the garage doors for only one of the units in the building faces the public or private road from which the building takes its access.

*Elderly housing*—a complex providing dwelling units designed for and used by occupants 60 years of age or older.

*Mobile dwelling*—a mobile home, mobile trailer or a modular home which is capable of being transported, intended for permanent residence and contained in one unit, or in two units designed to be joined into one integral unit capable of again being separated for moving, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and which is constructed so that it may be used with or without a permanent foundation. “Mobile dwelling” includes any addition or accessory structures thereof such as porches, sheds, decks, or additional rooms.

*Multi-family dwelling*—a building consisting of two or more dwelling units,

with each unit used, intended to be used or capable of being used exclusively as a residence for one family.

*No-impact home-based business*—a business or commercial activity administered or conducted as an accessory use which is clearly secondary to the principal use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with residential use. The business or commercial activity must satisfy the following requirements:

(a) The business activity shall be compatible with the residential use of the property and surrounding residential uses.

(b) The business shall employ no employees other than family members residing in the dwelling.

(c) There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.

(d) There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.

(e) The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.

*Personal care facility*—a form of elderly housing providing common facilities and minimal private space of not more than 350 square feet per unit and licensed by the Commonwealth of Pennsylvania to provide assistance with our supervision of activities of daily living, including but not limited to eating, bathing, dressing and administering medication for a period exceeding 24 hours for four or more persons who do not require hospitalization or care in a skilled nursing facility.

*Residential nursing care facility*—a facility operated in conjunction with elderly housing licensed by the Commonwealth of Pennsylvania to provide daily skilled care services on an in-patient basis, such care requiring the skills of and being provided under the direction of a physician or other licensed medical professionals.

*Single-family detached dwelling*—a building designed for and occupied exclusively as a residents for only one family and having no party wall in common with an adjacent building.

*Townhouse or single-family attached*—a dwelling unit within a multi-family dwelling attached to one or more other similar dwelling units, with all units being separated from each other by party walls and constructed in accordance with the Building and Housing Code and other ordinances of the Borough.

*Dwelling unit*—a room or group of rooms within a building used, intended to be used or capable of being used as a complete housekeeping facility for one family, providing living, sleeping, cooking, dining and sanitary facilities. The unit shall be constructed in accordance with the Building and Housing Code and other ordinances of the Borough.

*Family*—any number of individuals living together as a single nonprofit housekeeping unit and doing their cooking on the premises, when said individuals are related by blood; marriage or adoption, including any number of foster children under the care of same; or no more than five unrelated individuals living together as a single nonprofit housekeeping unit. This definition excludes the occupants of a club, fraternity or sorority house, community residential facility, transient establishment, such as a halfway house for recovering drug addicts and alcoholics, lodge, residential club, boardinghouse or rooming house; and also excludes unrelated mentally ill persons unless certified by county mental health/mental retardation programs as capable of residing in a dwelling; and further excludes unrelated persons receiving treatment under Article III, “Involuntary Examination and Treatment,” or Article IV, “Determinations Affecting Those Charged with Crime or Under Sentence,” of the Act of July 9, 1976, P.L. 817, No. 143, 50 P.S. §7101 *et seq.*, known as the “Mental Health Procedures Act.”

*Fast food*—an establishment for the retailing of food and drink where more than 20 percent of the patrons eat in their automobiles rather than in the building.

*Fill*—material, exclusive of structures, placed or deposited so as to form an embankment or raise the surface elevation of the land; any sediment deposited by any agent so as to fill or partly fill a depression or other area.

*Flag lot*—a lot that has less than the required width at the street line. The supplemental district regulations of this Chapter regulate flag lots.

*Flood*—a general and temporary inundation of normally dry land areas from the overflow of streams, rivers, or other waters.

*Flood-fringe*—portion of the floodplain outside the floodway.

*Flood, 100-year*—for the purpose of this Chapter, the 100-year flood as defined by the Federal Emergency Management Agency, Federal Insurance Administration (FIA).

*Floodplain*—

(1) A relatively flat or low-lying area adjoining a river, stream or watercourse which is subject to periodic partial or complete inundation.

(2) An area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

*Floodproofing*—any combination of structural and nonstructural additions, changes or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures and contents of buildings.

*Floodway*—the designated area of a floodplain required to carry and discharge floodwaters of a given magnitude. For the purposes of this Chapter, the floodway shall be capable of carrying and discharging the waters of a 100-year flood.

*Floor area, livable*—the sum of the horizontal areas of all rooms used for habitation, such as living room, dining room, kitchen or bedroom, finished cellars and attics but not including unfinished cellars or attics, garages and roofed terraces, nor unheated areas such as enclosed porches. The measurements shall be taken to the outside face of the enclosing walls.

*Floor area ratio*—the relationship between the area of permitted floor space in

a structure and the area of the lot on which it is situated. A floor area ratio of one, would permit a one-story building to cover 100 percent of its lot, a two-story building to cover 50 percent of its lot, a four-story building to cover 25 percent of its lot, and so on.

*Garage, private*—an enclosed or covered space for the storage of one or more vehicles, provided that no business occupation or service is conducted for profit therein.

*Garage, public*—any garage other than a private garage, which is used for storage, repair, rental, servicing of motor vehicles.

*Gasoline service station*—a structure, building or area of land or any portion thereof that is used primarily for the sale of gasoline, batteries, or other motor vehicle fuel which may or may not include facilities for lubrication, washing, selling of accessories, and otherwise servicing motor vehicles, including minor repairs, but not including body or paint shops. Any business or industry dispensing gasoline solely for its own use and vehicles will not be deemed to be a gasoline service station.

*Grade, finished*—the completed surfaces of lawns, walks, and roads brought to grades as shown on official plans or designs relating thereto.

*Green court*—a shared green space bordered on two or three sides by buildings, usually residential dwellings.

*Health fitness center*—a commercially-operated facility having various equipment/or areas dedicated for physical activities generally held indoors but not excluding outdoor facilities as part of the overall center.

*Height of building*—the vertical distance measured from the main level of the ground surrounding the building to the highest point of the roof, but not including chimneys, spires, towers, elevator penthouses, tanks, and similar projections.

*Historic structure*—any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior.

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (a) by an approved state program as determined by the Secretary of the Interior; or (b) directly by the Secretary of Interior in states without approved programs.

*Home occupations*—any gainful occupation or profession operated by a member of the immediate family residing on the premises, and where the business or profession is conducted wholly within the dwelling (see §27-1113 for further

stipulations).

*Hospital*—a place for the diagnosis, treatment of disease, or other care of humans and having facilities for inpatient care and/or outpatient care.

*Hotel or lodging house*—a building used as the temporary abiding place of three or more individuals who are, for compensation, lodged, with or without meals, and in which no provision is made for cooking in an individual room or suite and for which there is no direct access to the lodgings via parking lots and automobiles. A hotel may include restaurants, newsstands, and other accessory services primarily for serving its occupants and only incidentally the public.

*Impervious coverage*—that portion(s) of a property that is/are impenetrable to or unable to absorb water, including, but not limited to, buildings, structures, and paved areas (driveways, parking lots, streets, sidewalks, etc.) any area of concrete, asphalt, or packed stone shall be considered “impervious” areas.

*Junk*—scrap or discarded material, not including refuse or garbage kept in a proper container for the purpose of prompt disposal.

*Junkyard*—a lot, land, or structure, or part thereof, used primarily for the collection, storage, and sale of waste paper, rags, scrap metal, or discarded material, or for the collection, dismantling, storage and salvaging of machinery or vehicles not in running condition, and for the sale of parts thereof. The term shall not include any solid waste management facility when permitted and operated as required by the Pennsylvania Department of Environmental Protection in a Solid Waste Management District, or any recycling facility. The storage of more than one unregistered, uninspected vehicle on a lot shall constitute a junkyard.

*Juvenile*—an individual resident in a juvenile detention and rehabilitation facility, provided they are admitted not later than the age of 18, and remaining at the facility until the earlier of achieving the age of 21, or completing the rehabilitation program.

*Juvenile detention and rehabilitation facility*—a facility where juveniles, as defined herein, are sent by a Federal, State, county, school district, and/or private person or entity to receive educational and/or counseling services.

*Laundromat*—business premises equipped with individual clothes washing and/or drying machines for the use of retail customers, exclusive of laundry facilities provided as an accessory use in an apartment house or hotel.

*Live-work unit*—a structure or portion of a structure combining a residential living space with a commercial space principally used or operated by one or more of the residents. A live-work unit shall not be required to contain a commercial activity but shall be required to contain a residence on the second floor or above. A live-work unit may be converted into a mixed-use building.

*Lot*—a parcel of land which is occupied or is to be occupied by one principal building or other structure or use, together with any accessory buildings or structures or uses customarily incidental to such principal building or other structure or use, and any such open spaces as are arranged or designed to be used in connection with such principal building or other structure or use, such open spaces and the area and dimensions of such lot being not less than the minimum required by this Chapter.

*Lot area*—the area contained within the property lines of the individual parcels of land, excluding any permanent body of water, any area within any public or private right-of-way and ultimate right-of-way of a road, but including the area of any easement other than the area of a permanent drainage easement containing open channels. Where a permanent drainage easement contains an open channel on the lot, the lot area shall not be less than the minimum lot area as specified or required by this Chapter, plus the area of the drainage easement.

*Lot area, developable*—all land within the lot lines except that located within the ultimate, right-of-way of public or private streets, right-of-way public utility easements, drainage easements, floodplains, wetlands and land continuously covered by water.

*Lot, corner*—a lot at the point of intersection of and abutting in two or more intersecting streets.

*Lot, interior*—see “flag lot.”

*Lot, reverse frontage*—a lot having frontage on two parallel or approximately parallel streets.

*Lot line*—a property boundary line of any lot held in a single and separate ownership, except that in the case of any lot abutting a street, the lot line for such portion of the lot as abuts the street shall be deemed to be the ultimate right-of-way line and shall not be center line of the street or any other line within the street line, even though such may be the property boundary line.

*Lowest floor*—the lowest floor of the lowest fully enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building’s “lowest floor” provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of the National Flood Insurance Program (regulations for Floodplain Management and Flood Hazard Identification), Federal Emergency Management Agency, October 1, 1988, as amended.

*Manufactured home*—a transportable, single-family dwelling intended for permanent occupancy, office or place of assembly, contained in one or more sections, built on a permanent chassis, which arrives at a site completed and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.

*Manufactured home park*—a parcel of land under single ownership, which has been planned and improved for the placement of two or more manufactured homes for non-transient use.

*Manufactured housing*—any vehicle designed, intended, or used for living, sleeping, or office purposes, that is, or has been, intended for mobility as a single unit whether standing on wheels or on rigid supports. The term “mobile” shall include travel trailers and campers.

*Minor structure*—see “accessory building or structure.”

*Mobile home*—a transportable, single-family dwelling intended for permanent

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

*Mobile home lot*—a parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home.

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

*Motel*—a building or group of buildings, whether detached or in connected units, used as individual sleeping or dwelling units designed with separate entrances and direct access to parking lots and automobiles designed for occupancy, primarily for transient automobile travelers, and providing for accessory off-street parking facilities. The term “motel” includes buildings designated as tourist courts, tourist cabins, motor lodges, and similar terms.

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

*Nonconforming sign*—a sign which does not conform to the regulations of the district in which it is located.

*Nonconforming structure*—a structure or part of a structure manifestly not designed to comply with the applicable dimensional requirements in this Chapter, or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment or prior to the application of such ordinance or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.

*Nonconforming use*—a use whether of land or of structure, which does not comply with the applicable use provisions in a zoning ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such ordinance or amendment, or prior to the application of such ordinance or amendment to its location by reason of annexation.

*Non-criminal detention facility*—a facility where adults and/or families, who are in detention due to their status under the immigration laws, and not because they have been charged with a crime under a different body of law, are detained.

*Notice*—in any case in which mailed notice or electronic notice is required by the Municipalities Planning Code, 53 P.S. §10109, the following shall apply:

- (1) An owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within a municipality may request that the municipality provide written or electronic notice of a public hearing which may affect such tract or parcel of land.
- (2) Mailed notice shall be required only if an owner of a tract or parcel of

land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality has made a written request that the notice be mailed and has supplied the municipality with a stamped, self-addressed envelope prior to a public hearing.

(3) Electronic notice shall be required only if an owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality has made a written request that notice be sent electronically and has supplied the municipality with an electronic address prior to a public hearing and only if that municipality maintains the capability of generating an electronic notice. An owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality making the request and supplying an electronic address may at any time notify the municipality that the owner of the tract or parcel of land located within the municipality or the owner of the mineral rights in the tract or parcel of land within the municipality no longer will accept electronic notice, and, in that event, the municipality may no longer provide electronic notice.

(4) An owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality who has requested a mailed notice shall be solely responsible for the number, accuracy and sufficiency of the envelopes supplied. The municipality shall not be responsible or liable if the owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality does not provide to the municipality notice of any changes in the owner's mailing address.

(5) An owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality who has requested electronic notice shall be solely responsible for the accuracy and functioning of the electronic address provided to the municipality. The municipality shall not be responsible or liable if the owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality does not provide to the municipality notice of any changes to the owner's electronic address.

(6) A municipality shall deposit a mailed notice in the United States mail or provide electronic notice not more than 30 and not less than 7 days prior to the scheduled date of the hearing as shown on the notice.

(7) For each public hearing, the Township Secretary or Zoning Officer shall prepare, sign and maintain a list of all mailed notices, mailing dates, electronic notices and electronic notice dates. The signed list shall constitute a presumption that the notice was given.

(8) The mailed notice shall be deemed received by an owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality on the date deposited in the United States mail.

(9) The electronic notice shall be deemed received by an owner of a tract or parcel of land located within a municipality or an owner of the mineral

rights in a tract or parcel of land within the municipality on the date the municipality electronically notifies the owner.

(10) Failure of an owner of a tract or parcel of land located within a municipality or an owner of the mineral rights in a tract or parcel of land within the municipality to receive a requested mailed notice or electronic notice shall not be deemed to invalidate any action or proceedings under this Act.

*Nursing or convalescent home*—a building with sleeping rooms where persons are housed or lodged and furnished with meals and nursing care, excluding mental cases, cases of contagious or communicable disease or other treatments customarily provided in sanitariums and hospitals.

*One-hundred-year flood*—a flood that has 1 chance in 100 or a 1 percent chance of being equaled or exceeded in any year: for the purposes of this Chapter, the 100-year flood (base flood) as defined by the Federal Insurance Administration in its Flood Insurance Study for the Borough of New Morgan, Berks County, Pennsylvania.

*Open space*—lands from which the potential for development has been permanently removed as a result of the land development or subdivision process under the zoning regulations of New Morgan Borough, or as a result of donation, acquisition or other means. Open space may be made up of both undevelopable land and previously developed land. The open space may be active or passive in nature, and improvements may be made on the property to facilitate the use and enjoyment of the land, whether on a private or public basis. Provision for the ownership and maintenance of the open space shall be made at the time of the land development approval in a manner so as to ensure its preservation. The specific manner shall be subject to approval by the Borough Solicitor; it may be accomplished by dedication to the Borough (at the Borough's option), by deed restriction with conveyance to an acceptable association, condominium, conservancy, corporation, funded community trust, individual or other legal entity. For purposes of computing the area of required open space, segments of land that are four or more times longer than they are wide may be excluded by the Borough Council.

*Open space, active*—open space that may be improved and set aside, dedicated, designated or reserved for recreational activities such as swimming, fishing, hiking, walking, bicycling, golfing, play equipment for children, ball fields, court games, picnic facilities and the like. Recreation facilities such as ball fields, tennis courts, tracks, and the like, which are owned by, or proposed for, dedication to a school district may be included within the calculation of active open space if available for use by the residents of the TND during non-school hours.

*Open space, common*—a parcel or parcels of land, water or a combination of land and water within a tract designed and intended for the use or enjoyment of residents of a TND or the general public, not including streets, off-street parking areas, private lots and areas set aside for public facilities, except that common open space may contain buildings, structures, roads and parking facilities utilized for or associated with outdoor recreational purposes, underground utilities and associated easements and stormwater facilities. For the purposes of this Part, common open space includes three sub-categories: active open space, passive open space, and

resource protection open space.

*Open space, passive*—open space areas usable for outdoor activities that create opportunities for quiet enjoyment, closeness to nature and a high degree of interaction with the natural environment which require no organization, rules of play, facilities or improvements other than appropriate landscaping, walking trails, paths and similar improvements which may be necessary to protect the natural environment.

*Open space, resource protection*—open space that is proposed to remain in its natural state and which may be encumbered by floodplain, floodplain soils, lakes or ponds, wetlands, shorelines, steep slopes, or other natural features.

*Parking space*—the space within a building or on a lot or parking lot for the parking or storage of one motor vehicle.

*Premises*—any lot, parcel, or tract of land and any building constructed thereon.

*Private road*—a legally established right-of-way, other than a street, which provides the primary vehicular access to a lot.

*Public hearing*—a formal meeting held pursuant to public notice by the Borough Council or planning agency, intended to inform and obtain public comment, prior to taking action in accordance with the Municipalities Planning Code, 53 P.S. §10101.

*Public meeting*—a forum held pursuant to notice under the Sunshine Act, 65 Pa.C.S.A. §701 *et seq.*, and the Municipalities Planning Code, Act of 1968, P.L. 805, No. 247.

*Public notice*—notice published once each week for 2 successive weeks in a newspaper of general circulation in the Borough. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than 7 days from the date of the hearing.

*Rear lane*—a minor road or alley that provides access to the rear of a property. A rear lane can be privately owned or publicly dedicated.

*Recreational vehicle*—a vehicle which is built on a single chassis; not more than 400 square feet, measured at the largest horizontal projections; designed to be self-propelled or permanently towable by light-duty truck; and not designed for use as a permanent dwelling but as a temporary living quarters for recreational camping, travel or seasonal use.

*School*—a facility providing educational services including, but not limited to, academic instruction, vocational training, counseling, physical education and similar activities. Schools may be publicly or privately owned and operated.

*Screen planting*—a vegetative material of sufficient height and density to screen the view, in adjoining districts, or the structures and uses on the premises upon which the screen planting is located.

*Shopping center*—a group of stores, planned and designed as an integrated unit with off-street parking provided on a property as an integral part of the unit.

*Sign*—includes any writing (including letter, word, or numeral); pictorial presentation (including illustration or decoration); emblem (including device,

symbol, or trademark); or any other device of similar character.

*Solid waste management facility*—disposal of and activities related to the processing and/or disposal of, solid waste as that term is defined in the Solid Waste Management Act, Act of July 7, 1980, P.L. 380, No. 97, 35 P.S. §6018.101 *et seq.*, not including any resource recovery facility as that term is defined in the Municipal Waste Planning, Recycling and Waste Reduction Act, Act of July 28, 1988, P.L. 556, No. 101 (“Act 101”), 53 P.S. §4000.101 *et seq.*; a solid waste management facility qualifies as such when it is permitted by the Pennsylvania Department of Environmental Protection. The term shall include all related uses, buildings and improvements as permitted, or as required, by the Pennsylvania Department of Environmental Protection for the operation of a solid waste management facility.

*Special exception*—a use or a condition, listed specifically in the regulations of this Chapter, which is permitted only after a hearing held by the Zoning Hearing Board, pursuant to the provisions of this Chapter and the Municipalities Planning Code of Pennsylvania, 53 P.S. §10101 *et seq.*

*Story*—as defined in the International Building Code as adopted by the Borough.

*Street*—a public or private thoroughfare which affords primary vehicular access to abutting properties.

*Street, arterial*—a street which serves major traffic movements such as between a central business district and outlying commercial and residential areas which is designed or utilized primarily for high vehicular speeds or for heavy volumes of traffic on a continuous route.

*Street, collector*—a street carrying traffic from local streets to arterial streets and highways and including the principal entrance streets and principal streets for circulation within a TND development.

*Street, cul-de-sac*—a street intersecting another street at one end and terminating in a vehicular turnaround at the other end.

*Street line*—the dividing line between a lot and the outside boundary or ultimate right-of-way line of a public street, road or highway legally opened or officially plotted, or between a lot and a privately owned street, road or way over which the owners or tenants of two or more lots each held in single and separate ownership have the right-of-way.

*Street, local*—a street used primarily for providing access to abutting properties or connecting blocks within neighborhoods and designed for reduced speeds and traffic volumes.

*Structure*—a walled and roofed building, including a gas or liquid storage tank, that is principally above ground; anything constructed or erected on the ground or attached to the ground having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

*Subdivision*—the division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, transfer of ownership, or building or lot development; provided, however, that the division of land for agricultural purposes into parcels of more than 10 acres, not

involving any new street or easement of access, shall be exempted.

*Substantial damage*—damage from any cause sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent or more of the market value of the structure before the damage occurred.

*Substantial improvement*—any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

(2) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

*TND tract*—an area, parcel, site, piece of land, lot or property that is the subject of a TND application, including all areas encompassed by rights-of-way, open space, waters, easements.

*Tract area, gross*—the total area of a tract, or portion of a tract, to be developed as a TND. The calculation of gross tract area shall not include any deductions of any kind and shall include, but not be limited to, rights-of-way, land, open space, waters, constrained lands and uses of all kinds.

*Traditional neighborhood development (TND)*—an area of land developed for a compatible mixture of residential units and nonresidential commercial and workplace uses, including some structures that provide for a mix of uses within the same building. Residences, shops, offices, workplaces, public buildings and parks are interwoven within the neighborhood so that all are within relatively close proximity to each other. Traditional neighborhood development is relatively compact, limited in size and oriented toward pedestrian activity. It has an identifiable center and a discernible edge. The center of the neighborhood is in the form of a public park, commons, plaza, square or prominent intersection of two or more major streets. Generally, there is a hierarchy of streets laid out in a rectilinear or grid pattern of interconnecting streets and blocks that provides multiple routes from origins to destinations and are appropriately designed to serve the needs of pedestrians and vehicles equally.

*University/college*—an institution of advanced education and research, that has the power to grant associate’s degrees and higher, including administrative offices and living quarters, as well as facilities for research and teaching.

*Use*—the specific purpose for which land or a building is designated, arranged or intended, or for which it is or may be occupied or maintained.

*Variance*—relief granted by the Zoning Hearing Board pursuant to the provisions of this Chapter and the Municipalities Planning Code of Pennsylvania,

53 P.S.. §10101 *et seq.*

*Yard*—an open, unoccupied space on the same lot with a building or other structure or use, open and unobstructed from the ground to the sky.

*Front yard*—a yard extending the full width of the lot along the front lot line and extending in depth from the front lot line to the nearest point of any structure on the lot.

*Rear yard*—a yard extending the full width of the lot along the rear lot line and extending in depth from the rear lot line to the nearest point of any structure on the lot.

*Side yard*—a yard extending the full depth of the lot along a side lot line and extending in width from such lot line to the nearest point of any structure on the lot.

*Zoning Officer (Zoning Administrative Official)*—the agent or official designated by the Borough Council to enforce the regulations of this Chapter.

*Zoning permit*—a permit stating the purpose for which a building or land is to be used is in conformity with the uses permitted and all other requirements of this Chapter for the zone in which it is located or to be located.

(*Ord. 2015-4, 9/8/2015*)



**Part 3****Provision for Official Zoning Map****§27-301. Official Zoning Map.**

1. The Borough is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matters thereon, is hereby adopted by reference and declared to be a part of this Chapter.

2. The Official Zoning Map shall be identified by the signature of the President of the Borough of New Morgan attested by the Mayor and Secretary of the Borough, bearing the seal of the Borough, under the following words: "This is to certify that this is the Official Zoning Map referred to in §27-301 of this Part of New Morgan Borough, Berks County, Pennsylvania," together with the date of adoption of this Chapter. If, in accordance with the provisions of this Chapter and Article IV, Pennsylvania Municipalities Planning Code, 53 P.S. §10401 *et seq.*, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Mayor and Council with an entry of the Official Zoning Map as follows: "On (date), by official action of the Mayor and Council, the following (change) (changes) were made in the Official Zoning Map: (brief description or nature of change)," which entry shall be signed by the President of the Borough of New Morgan and attested by the Mayor and Secretary of the Borough. No amendment to this Chapter, which involves matter portrayed on the Official Zoning Map, shall become effective until after such change and entry has been made on said map. No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Chapter. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Chapter and punishable under Article XXIV."

3. Regardless of the existence of purported copies of the Official Zoning Map, which may from time to time be made or published, the Official Zoning Map which shall be located in the Borough Hall Offices and shall be the final authority as to the current zoning status of land water areas, buildings and other structures in the Borough.

(Ord. 2015-4, 9/8/2015)



**Part 4****Establishment of Districts****§27-401. Classes of Districts; Zoning Map.**

1. For the purposes of this Chapter, the Borough is hereby divided into classes of districts which shall be designated as follows:

- A. R–Residential.
- B. I–Industrial.
- C. GC–General Commercial.
- D. HC–Highway Commercial.
- E. SWM–Solid Waste Management.

2. The locations and boundaries of such districts shall be shown upon the map attached to and hereby made a part of this Chapter, which shall be designated as the “Zoning Map of the Borough of New Morgan,” Berks County, Pennsylvania of [date], a true and correct copy of which is attached hereto as Exhibit 27-A and expressly incorporated herein and made a part hereof.

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

A. Boundaries indicated as approximately following the center lines of streets, highways or marginal access streets shall be construed to follow such center lines.

B. Boundaries indicated as approximately following plotted lot lines shall be construed as following such lot lines.

C. Boundaries indicated as approximately following Borough limits shall be construed as following Borough limits.

D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

E. Boundaries indicated as parallel to, or an extension of, features indicated in paragraphs .A through .C above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

F. Traditional Neighborhood Development (TND) Overlay District.

G. Planned Residential Development.

H. FPC Floodplain Conservation District.

*(Ord. 2015-4, 9/8/2015)*



**Part 5****R-Residential District****§27-501. Specific Intent.**

It is the purpose of this district to provide areas for a wide array of residential development depending upon the availability of adequate water supplies and sewage disposal facilities.

*(Ord. 2015-4, 9/8/2015)*

**§27-502. Uses Permitted by Right.**

Land and buildings in the R District may be used for the following purposes and no others:

- A. Single-family detached dwellings.
- B. Multi-family dwellings.
- C. Apartment dwellings.
- D. Single-family, attached dwellings.
- E. Carriage home dwellings.
- F. Non commercial recreational uses as part of a residential development.
- G. Home occupations, subject to §27-1113 of this Chapter.
- H. Accessory uses and structures as permitted under this Chapter.
- I. Municipal uses.
- J. Agriculture.

*(Ord. 2015-4, 9/8/2015)*

**§27-503. Uses Permitted by Conditional Use.**

The following uses are permitted when approved as a conditional use by the Borough Council pursuant to Part 15 of this Chapter:

- A. Nursery or greenhouse.
- B. Church on a minimum 3 acre site.
- C. Fire station on a minimum 3 acre site.
- D. Police station on a minimum 3 acre site.
- E. Library on a minimum 3 acre site.
- F. Financial institutions on a minimum 3 acre site.
- G. Mobile home parks pursuant to the following:
  - (1) The minimum area of a mobile home park shall be 10 acres.
  - (2) When the mobile home park is served by either a public or community sewage disposal system, there shall be a maximum gross density of eight dwelling units per acre.
  - (3) Not less than 20 percent of the total area of the mobile home park

shall be devoted to recreation areas for the use of all residents of the park. Provisions shall be made by the owner of installation, and perpetual maintenance of such recreation areas. Such recreation areas are further subject to:

(a) A plan showing how the recreations areas will be developed and equipped shall be submitted to the Borough for approval.

(b) The size, surface conditions, shape, and location of the parcels shall be suitable for the intended purpose, and be such that recreational use is feasible.

(c) Recreation areas shall be readily accessible to residents of the park, but shall be so located that they can be reached and used safely, without undue traffic or other hazards.

(d) A comprehensive parking plan shall be submitted for approval. Parking shall comply with the requirements of Part 13 with 2.5 spaces per unit. Visitor and special use lots shall be effectively screened from the mobile home units.

(4) The minimum allowable distance between any mobile home, service or accessory building, or parking facility and a boundary line of the mobile home park shall be 50 feet, provided that no mobile home shall be located any closer than 75 feet to any street located outside the boundary lines of the park. No mobile home shall be located any closer than 25 feet to any street located within the boundary lines of the mobile home park.

H. Religious retreats.

I. Accessory uses and structures to the above conditional uses when on the same lot as the permitted use.

J. Public utility uses.

K. State licensed hospitals, nursing homes, medical centers, animal hospitals, clinics, retirement and convalescent homes, offices of doctors, dentists, surgeons, and similar medical personnel.

L. Day care centers, schools, nursery schools, colleges and universities.

(Ord. 2015-4, 9/8/2015)

#### **§27-504. Open Space Requirements.**

Subdivisions and land developments on sites of 5 or more acres shall be required to preserve 20 percent of the developable area of the tract as open space, exclusive of all stormwater management facilities.

(Ord. 2015-4, 9/8/2015)

#### **§27-505. Bulk Requirements.**

1. *Single-Family Detached Dwellings.*

A. Minimum lot width—95 feet.

B. Minimum lot area—½ acre.

C. Minimum front yard—4 feet.

D. Minimum side yards—5 feet.

- E. Minimum rear yards—20 feet.
- F. Maximum building coverage—35 percent.
- G. Maximum impervious coverage—65 percent.
- H. Maximum height—35 feet to the highest point of the roof.
- I. The proportion of all lots shall be such that the depth of the lot is not less than 1.5 nor more than 3 times the lot width.

2. *All Other Residential Uses.*

- A. Minimum lot width—150 feet.
- B. Minimum lot area—1 acre.
- C. Minimum front yard—24 feet.
- D. Minimum side yards—20 feet.
- E. Minimum rear yards—50 feet.
- F. Maximum building coverage—35 percent.
- G. Maximum impervious coverage—65 percent.
- H. Maximum building height—35 percent.

3. *Nonresidential Uses.*

- A. All bulk requirements shall be subject to review and approval during the conditional use process. Council shall have sole discretion.

(Ord. 2015-4, 9/8/2015)



**Part 6****Traditional Neighborhood Development (TND) Overlay District****§27-601. Purpose.**

It is the purpose of this Part is to implement the purposes and intent of traditional neighborhood development as defined and authorized by Article VII-A of the Pennsylvania Municipalities Planning, 53 P.S. §10701-A, and establishing qualifications, procedures and standards for such development.

*(Ord. 2015-4, 9/8/2015)*

**§27-602. Applicability.**

The TND development provisions of this Part are applicable within areas which meet all of the following qualifying criteria:

A. Tracts or portions thereof, which are greater than 10 contiguous acres.

B. Tracts that can be served by a centralized sewer disposal system and water system.

*(Ord. 2015-4, 9/8/2015)*

**§27-603. Overlay Zoning District.**

The standards of the TND Traditional Neighborhood Development Overlay District are to be used as an option to the base zoning district standards. The following regulations shall apply to applications for traditional neighborhood development ("TND").

*(Ord. 2015-4, 9/8/2015)*

**§27-604. Permitted Uses.**

Each TND shall include two or more of the following elements:

A. Single-family detached dwellings.

B. Two-family detached dwellings (duplex).

C. Single-family semi-detached dwellings (twin).

D. Single-family attached dwellings (townhouses).

E. Multi-family dwellings.

F. Accessory residential uses, subject to the regulations of §27-1235.2 of this Chapter.

G. Home occupations, subject to the regulations of §27-1235.4 of this Chapter.

H. Mixed use buildings containing both permitted residential and nonresidential uses, subject to the regulations of §27-1217.2.A(10) of this Chapter.

I. Live-work units, subject to the regulations of §27-1217.2.A(11) of this Chapter.

J. Active and passive open space areas and associated buildings and/or recreational structures.

K. Community facilities including swimming pools, recreation centers, meeting halls, club houses, childcare centers, and other facilities which serve as an amenity to residents of the TND.

L. Civic buildings including governmental offices, United States Post Office, and similar service facilities as determined by the Borough Council that specifically promote the TND as a Borough focal point.

M. Business, professional or governmental offices, including office buildings.

N. Personal service establishments including, but not limited to, barber shops, beauty shops, laundromats, laundry and dry cleaning shops, tailor and seamstress shops, appliance repair shops, rental of medical equipment and other establishments serving the needs of nearby residents.

O. Convenience stores with or without gasoline pumps.

P. Restaurants and taverns, including those with take-out, fast-food restaurants, musical entertainment, dancing, drive-through service, and/or outdoor service of food and/or alcohol.

Q. Banks or other financial institutions.

R. Retail stores.

S. Funeral homes.

T. Churches or other similar places of worship, religious retreats with or without cemeteries.

U. Fire or police stations.

V. Libraries.

*(Ord. 2015-4, 9/8/2015)*

#### **§27-605. Permitted Density.**

1. The maximum number of dwelling units within a TND shall be determined by establishing the developable tract area of the TND, as defined by this Chapter, and thereafter multiplying the resulting acreage by 4.

2. Lots containing exclusively commercial uses shall not exceed 20 percent of the developable tract area of the TND, and not be less than 10 percent.

3. Lots containing exclusively civic uses shall not exceed 20 percent of the developable tract area of the TND and not be less than 10 percent.

*(Ord. 2015-4, 9/8/2015)*

#### **§27-606. General Design and Improvement Standards.**

1. The provisions of this Part shall govern all zoning aspects of the proposed TND and shall supersede the zoning requirements of the underlying zoning districts within which the property is located.

2. Because of the unique design elements which will distinguish a TND from other forms of residential and nonresidential development in New Morgan Borough, the specific design standards for a TND shall be governed entirely by this Part unless expressly stated that other ordinances and regulations shall apply.

3. *General Design Principles.* The following are the design principles adopted to promote the compact, integrated and sustainable neighborhood form typical to small towns and boroughs in Pennsylvania:

A. The form of blocks and buildings in a TND shall be determined primarily by the objective to create a compact, pedestrian-oriented and mixed-use community and not by archaic conventions of minimum lot size, set backs, coverage ratios and other standards for each type of land use.

B. Buildings and landscaping should contribute to the physical definition of streets.

C. Development should adequately accommodate automobiles while respecting the pedestrian and the spatial form of public space.

D. The design of streets and buildings should reinforce safe environments, but not at the expense of accessibility.

E. Architecture and landscape design should grow from local climate, topography, history, and building practice.

F. Variations in architectural treatment of buildings are encouraged.

G. Civic buildings and public gathering places should be provided at locations that reinforce community identity and support self-government.

H. Civic buildings should be distinctive and appropriate to a role more important than the other buildings that constitute the fabric of the city.

I. Residential lots should be designed to promote the compact, integrated and sustainable neighborhood form typical to small towns and boroughs in Pennsylvania, which is consistent with the TND objectives of this Part.

4. No minimum lot size shall be required for residential lots within a TND. Siting of buildings shall be governed by the TND guidelines submitted by the applicant and the following minimum standards:

	Maximum lot coverage	Minimum lot width at building line	Minimum front yard	Minimum side yard	Minimum rear yard
Single-family detached	85 percent	30 feet	4 feet	3 feet	3 feet
Two-family detached (duplex)	75 percent	24 feet	4 feet	5 feet	3 feet
Single-family semi-detached (twin)	75 percent	21 feet per unit	4 feet	5 feet	3 feet
Multi-family (townhouse, row house, stacked townhouse)	85 percent	18 feet	4 feet	N/A	3 feet
Multi-family (all other types)	85 percent	24 feet	4 feet	0 feet	5 feet
Live-Work	85 percent	18 feet	4 feet	0 feet	5 feet
Other	85 percent	18 feet	4 feet	0 feet	5 feet

5. Mixed-use buildings and live-work units constructed within a TND shall be

governed by the specific regulations for residential uses set forth in this Section.

6. *Maximum Impervious Coverage.* The total impervious coverage of the developable tract area of a TND shall not exceed 80 percent.

7. *Common Open Space Requirements.* Within a TND a variety of common open spaces shall be designed to complement residential and nonresidential development.

A. *Minimum Common Open Space Requirements.*

(1) A minimum of 30 percent of the developable tract area shall be designated and maintained as common open space.

(2) Common open space areas shall conform with the design standards contained in this Part and shall be allowed to deviate from the design standards for open space found elsewhere in this Chapter because of the unique design objectives of the TND.

(3) The Borough may, at any time and from time to time, accept the dedication of land or any interest therein for public use and maintenance, but the Borough may not require, as a condition of the approval of a TND, that land proposed to be set aside for common open space be dedicated to the Borough or made available to general public use. If common open space is offered for dedication and accepted by the Borough, it shall still count towards the common open space provided within the TND.

(4) In the event that the applicant does not dedicate its common open space to the Borough, or the Borough does not accept dedication thereof, the applicant shall provide for and establish an organization for the ownership and perpetual maintenance of the common open space, and that such organization shall not be dissolved nor shall it dispose of the common open space, by sale or otherwise (except to an organization conceived and established to own and maintain the common open space).

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

(b) If the deficiencies set forth in the original notice or in the modifications thereof shall not be corrected within said 30 days or any extension thereof, the municipality, in order to preserve the taxable values of the properties within the TND and to prevent the common open space from becoming a public nuisance, may enter upon said common open space and maintain the same for a period of 1 year. Said maintenance by the Borough shall not constitute a taking of said common open space, nor vest

in the public any rights to use the same.

(c) Before the expiration of said year, the Borough shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common open space, call a public hearing upon notice to such organization, or to the residents of the TND, to be held by the Borough Council or its designated agency, at which hearing such organization or the residents of the TND shall show cause why such maintenance by the Borough shall not, at the option of the Borough, continue for a succeeding year. If the Borough Council, or its designated agency, shall determine that such organization is ready and able to maintain said common open space in reasonable condition, the Borough shall cease to maintain said common open space at the end of said year. If the Borough Council or its designated agency shall determine that such organization is not ready and able to maintain said common open space in a reasonable condition, the Borough may, in its discretion, continue to maintain said common open space during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter.

(d) The decision of the Borough Council or its designated agency shall be subject to appeal to court in the same manner, and within the same time limitation, as is provided for zoning appeals by the Municipalities Planning Code, 53 P.S. §10101 *et seq.*

(e) The cost of such maintenance by the Borough shall be assessed ratably against the properties within the TND that have a right of enjoyment of the common open space, and shall become a lien on said properties. The Borough at the time of entering upon said common open space for the purpose of maintenance shall file a notice of lien in the office of the Prothonotary of Berks County, upon the properties affected by the lien within the TND.

8. In order to achieve the purposes and intent of traditional neighborhood development and specifically to encourage innovations in residential and nonresidential development through traditional neighborhood development, at the request of the landowner or applicant, Borough Council may permit the modification of the standards and requirements of this Chapter and Subdivision and Land Development Ordinance [Chapter 22] otherwise applicable to traditional neighborhood development, including, but not limited to, provisions relating to the density of dwelling units, the intensity of nonresidential uses, minimum yard dimensions, road widths and the like. To the extent feasible, an applicant desiring to obtain such modification shall identify those provisions of this Part for which a modification is requested prior to the time of preliminary plan approval. To the extent that the need for modifications is not known until the time of final plan submission, an applicant desiring to obtain such modification may identify the provisions of this Part for which a modification is requested prior to the time of final plan approval. Borough Council shall grant such modifications where the applicant demonstrates that such ordinance provisions are not detrimental to the public interest and that the modifications of such ordinance provisions will result in design which is equal to or better than the provisions otherwise applicable.

(Ord. 2015-4, 9/8/2015)



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**Part 7****GC-General Commercial Zoning District****§27-701. Specific Intent.**

It is the purpose of this district to provide for a mixing of commercial and residential uses in specific areas.

*(Ord. 2015-4, 9/8/2015)*

**§27-702. Uses Permitted by Right.**

Land and buildings in the GC District may be used for the following purposes and no others:

- A. Amusement centers and parks.
- B. Indoor theaters.
- C. Miniature golf courses.
- D. Campgrounds.
- E. Businesses, professional, or governmental offices.
- F. Municipal uses.
- G. Restaurants and taverns.
- H. Personal and household service establishments such as barber shops, beauty shops, laundromats, laundry and dry cleaning shops, tailor and seamstress shops, show and appliance repair shops, rental of medical equipment.
- I. Motel or hotel.
- J. Health fitness centers.
- K. Art gallery, museums, and studios.
- L. Indoor and outdoor recreational facilities, including parks, playgrounds, fishing, boating, hiking, and riding trails.
- M. Printing and publishing.
- N. Retail sale of goods.

*(Ord. 2015-4, 9/8/2015)*

**§27-703. Uses Permitted by Conditional Use.**

The following uses are permitted when approved as a conditional use by the Borough Council pursuant to Part 15 of this Chapter.

- A. Residential uses as a part of a mixed use development with a maximum density four units per acre over the ground area where the units and their parking are located.

*(Ord. 2015-4, 9/8/2015)*

**§27-704. Bulk Requirements.**

See §27-1101.

*(Ord. 2015-4, 9/8/2015)*

**Part 8****H-C-Highway Commercial Zoning District****§27-801. Specific Intent.**

It is the purpose of this district to provide for the concentration of commercial uses in specific areas. Planned commercial centers are encouraged.

*(Ord. 2015-4, 9/8/2015)*

**§27-802. Uses Permitted by Right.**

Land and buildings in the H-C District may be used for the following purposes and no others:

- A. Office buildings.
- B. Golf courses and driving ranges.
- C. Business, professional or governmental offices.
- D. Municipal uses.
- E. Restaurants and taverns.
- F. Motel or hotel.
- G. Funeral home.
- H. Printing and publishing.
- I. Shopping centers and malls.
- J. New and used car dealerships.
- K. Earth satellite receiving dishes.
- L. Uses §§27-702.A through .N in the GC-General Commercial District.
- M. Shopping centers and malls.
- N. Communications towers.
- O. Convention centers.

*(Ord. 2015-4, 9/8/2015)*

**§27-803. Uses Permitted by Conditional Use.**

The following uses are permitted when approved as a conditional use by the Borough Council pursuant to Part 15 of this Chapter.

- A. Motor vehicle service stations, repair garages and gas stations subject to:
  - (1) All automobile parts, dismantled vehicles, and similar articles shall be stored within a building.
  - (2) All repair activities shall be carried out within a building.
- B. Carwash, subject to:
  - (1) No water used in the washing of cars shall be discharged onto the public roads or onto other properties.
  - (2) Car washing activities shall be carried out within a building.

(3) Car washing facilities are required to recycle and reuse wash water and environmentally sensitive disposal methods must be employed.

(4) In the case of automatic car washes, driveways shall be designed to accommodate a minimum of 12 vehicles off-street.

*(Ord. 2015-4, 9/8/2015)*

**§27-804. Bulk Requirements.**

See §27-1101.

*(Ord. 2015-4, 9/8/2015)*

**Part 9****I-Industrial District****§27-901. Specific Intent.**

It is the purpose of this district to provide an area in which a variety of industrial uses may locate provided that they will not adversely affect the public health, safety and welfare nor degrade the environment.

*(Ord. 2015-4, 9/8/2015)*

**§27-902. Uses Permitted by Right.**

Land and buildings in the I District may be used for the following purposes and no others:

- A. Office buildings.
- B. Office of construction contractors (all trades).
- C. Wholesaling and warehousing.
- D. Researching, testing, cleaning, production, packaging, fabrication, processing, assembly, manufacture, compounding and bottling of food, goods, and materials, provided such activities are carried on within a building.
- E. Municipal use.
- F. Indoor and outdoor self-storage facilities.
- G. Truck and/or bus depots.
- H. Railroad stations.
- I. Lumber and building supply establishments.
- J. Earth, satellite receiving dishes.
- K. New and used car dealerships.
- L. Amusement centers, parks and resorts.
- M. Indoor and outdoor recreational facilities, including parks, playgrounds, boating, fishing, hiking, and riding trails.
- N. As a conditional use, any use permitted by right or condition in any other Borough zoning district provided that the standards and conditions of the underlying zoning district of the use are met.

*(Ord. 2015-4, 9/8/2015)*

**§27-903. Uses Permitted by Conditional Use.**

The following uses are permitted when approved as a conditional use by the Borough Council pursuant to Part 15 of this Chapter:

- A. Junkyard, subject to:

- (1) No junk shall be stored within 300 feet of an existing dwelling unless the junk is stored in completely enclosed buildings, in which case such buildings may be located not closer than 100 feet from an existing dwelling.

(2) No junk shall be stored closer than 100 feet from the legal right-of-way of any public street or highway nor within 50 feet of any other lot line.

(3) No open burning or melting of materials shall be permitted. The manner of storage, arrangement of materials, and drainage materials shall be such as to prevent the accumulation of stagnant water upon the premises.

(4) No stored material shall be stacked greater than 8 feet from the ground.

(5) The manner of storage and arrangement of materials shall be such as to provide for adequate access for firefighting equipment and to prevent accumulation of stagnant water on the premises.

(6) All fluids shall be drained from any junk or scrapped vehicles into containers and removed from the premises within 24 hours after the arrival of junked vehicles on the premises.

(7) No garbage or organic waste shall be stored in the junkyard.

(8) The premises shall be maintained so as not to constitute a nuisance or a menace to the health of the residents and inhabitants of the Borough and shall be maintained so as not to constitute a place for the breeding of rodents and vermin.

(9) All junkyards shall be completely enclosed, except at entrances, by an evergreen planting screen of a minimum height of 6 feet which shall be backed by a fence at least 6 feet in height. The fence shall contain gates at all entrances which shall be locked except during operating hours.

**B. Airport or heliport, subject to:**

(1) Prior to use of the airport or heliport, notification shall be made to the Federal Aviation Administration (FAA) of the intention to establish an airport and the FAA shall indicate it has no objection.

(2) Prior to use of the airport or heliport, the site shall be inspected and approved for licensing by the Bureau of Aviation, Pennsylvania Department of Transportation.

(3) The airport or heliport shall be constructed, operated, and maintained in accordance with the published rules and regulations of the Federal Aviation Administration, Pennsylvania Bureau of Aviation and the National Fire Protection Association.

(4) The permit to operate the airport or heliport shall be revoked if:

(a) The Bureau of Aviation revokes its license.

(b) The FAA withdraws its approval.

(c) The site becomes or is operated in violation of this Chapter or the rules and regulations of the Federal Aviation Administration or the Pennsylvania Bureau of Aviation, or is operated in a manner different than approved by the Bureau of Aviation or the Borough Council.

**C. Surface mining, or deep mining subject to:**

(1) The filing with the Borough of a copy of a complete and detailed plan for the reclamation of the land affected, which has been filed by the operator with and has received approval of any and all Commonwealth of Pennsylvania

and Federal governmental agencies having regulatory jurisdiction over such matters. All copies of amendments and supplements thereto shall thereafter be filed with the Borough. Said plans shall show or describe the following:

(a) The use to which the land was put prior to the commencement of surface mining.

(b) The use which is proposed to be made of the land following reclamation.

(c) The manner in which topsoil and subsoil will be conserved and restored.

(d) Where the proposed land use so requires, the manner in which compaction of the soil and fill will be accomplished.

(e) A complete planting program.

(f) A timetable for the accomplishment of each major step in the reclamation plan.

(2) The monthly filing with the Borough of copies of any and all reports which set forth the current status of reclamation work performed and activities undertaken to implement stormwater management and erosion and sediment control plans which the operator is required to file with the aforesaid governmental agencies. When verified in writing by the governmental agency or body having jurisdiction, a noncompliance with any approved reclamation plan, erosion and sediment control plan, or stormwater management plan shall be grounds for issuance of a notice to stop work until such noncompliance is corrected.

(3) An erosion and sediment control plan and a stormwater management plan shall be submitted to and approved by the Borough Council and the Berks County Soil Conservation District for appropriate review and comment. Such plans shall be designed to prevent adverse effect from water runoff, erosion, and sedimentation on adjoining streams, properties and streets and the stagnation of water. Any plans submitted to and approved by the aforesaid governmental agencies shall be received in lieu of such plans if they have been prepared to cover such subject matter.

(4) A plan indicating the location and proposed construction materials used on roadways within the property lines of the mining operation which will be used by trucks entering and leaving the site shall be submitted to the Borough Council. The plan shall state that:

(a) All such roadways shall be maintained and constructed by the operator so that truck travel on them will not result in the spread of dust beyond the property lines of the mining operation.

(b) All such roadways shall be maintained and constructed by the operator so that trucks leaving the mining operation will not deposit any amount of mining products, dirt, mud or other substances on public roads.

(5) No surface mining operations which will result in the creation of an elevation difference in excess of 10 feet between the surface of the mine and any adjacent property or public road shall be carried out within 200 feet of such a property, nor within 200 of such public road.

(6) No storage of products, by-products, overburden, or cover material shall be permitted to reach a height in excess of 50 feet. No such storage shall be permitted within 150 feet of a property line of the mining operation or a public road.

(7) All blasting operations shall conform with the regulations enforced by the aforesaid agencies of the Commonwealth of Pennsylvania and the Federal government. Blasting shall not be permitted between 5 p.m. and 8 a.m. and shall not be permitted on Sundays and legal holidays. Notice of all blasting operations shall be given to the Borough Secretary and the occupants of all properties within a radius of  $\frac{3}{4}$  of a mile of the location of blasting at least 24 hours prior to the commencement of the blasting.

(8) All other State and Federal requirements pertaining to surface mining activities, air pollution, and noise shall be complied with. When a license is required from the State, a copy of such license shall be filed with the Borough along with evidence that any bond required for completion or the reclamation plan has been filed with the State.

(9) The minimum lot size for any surface mining operation shall be 10 acres.

(10) No operations shall be carried out on Sundays or legal holidays, nor between the hours of 5 p.m. and 8 a.m..

(11) Planting screens to screen mining operations from all adjoining properties shall be placed along the property lines of the mining operation.

(12) Removal of materials from the site shall be done in such a manner that undue amounts of spillage will not be deposited on any public road or other properties.

(13) Crushing and processing operations of the minerals, rock and other products of the earth mined on the premises shall be permitted so long as the physical or chemical properties of same are not changed and so long as such crushing or processing operations do not involve the manufacture of cement or concrete, asphalt materials and products or any other form of manufacturing or fabrication.

(14) No substances which can harm persons, animals, vegetation, or other forms of property shall be dispersed beyond the property lines of the mining operation.

(15) A hydrologic study shall be submitted to the Borough, which shall indicate the impact of the mining activity on ground water supplied and quality in the area of the operations. Mining activities shall not endanger ground water levels and quality in the area, nor adversely affect ground water supplies or nearby properties. Any surface mining operator who affects a public or private water supply by contamination or diminution shall restore or replace the affected supply with an alternate source of water adequate in quantity and quality for the purposes served by the supply.

D. Intensive agricultural activities involving specialized activities including, but not limited to, mushroom, pig, poultry and dry lot livestock production, which due to the intensity of production necessitates special control of operation, raw

material storage and processing and the disposal of liquid and solid wastes.

(1) No structure used for an intensive agricultural activity shall be located within 400 feet of any lot line.

(2) Solid and liquid wastes shall be disposed of in a manner to avoid creating insect or rodent problems, or a public nuisance. No emission of noxious, unpleasant gases shall be permitted in such quantities as to be offensive outside the lot lines of the tract occupied by an intensive agricultural user.

(3) No discharge of liquid wastes and/or sewage shall be permitted into a reservoir, sewage or storm disposal system, holding pond, stream or other open body of water, or into the ground unless treated so that the discharge is in total compliance with the standards approved by the appropriate local, State or Federal regulatory bodies and/or agencies.

(4) All on-site composting shall be performed under roof in a partially enclosed structure having impervious flooring with drainage and suitable protection so as to insure that there is no runoff from said structure onto surrounding lands.

(5) All organic materials to be used in on-site composting shall be stored under roof in a totally enclosed structure having impervious flooring with drainage and suitable protection so as to insure that there is no runoff from said structure onto surrounding lands.

(6) No intensive uses may occur in a floodplain.

E. Solid waste transfer stations and/or recycling facilities subject to:

(1) The operation of a transfer station and/or recycling facility shall not be permitted unless a permit for such facility has been issued by the Pennsylvania Department of Environmental Protection. All facilities shall be operated in accordance with the Pennsylvania Solid Waste Management Act, 35 P.S. §6018.101 *et seq.*, and the rules and regulations of the Pennsylvania Department of Environmental Protection.

(2) No operation shall be carried out within 200 feet of any property line of the facility or within 200 feet of any public street.

(3) A chain link fence of a minimum height of 10 feet shall be erected along all boundary lines of the area which is used as a transfer station. The fence shall not contain openings greater than 3 square inches and shall contain, at all entrances, gates which shall be locked except during operating hours.

(4) A buffer yard shall be maintained along all boundaries of the facility, except at entrances. All buffer yards shall include a planted landscape screen composed of both a low level and a high level screen. The species and spacing of trees shall be approved by the Borough Zoning Officer and shall be such to constitute an effective screen. The high level screen shall consist of a combination of evergreen and deciduous trees with no deciduous specimen less than 8 feet in height when planted and not more than 25 feet apart on center. Evergreen trees shall be no less than 6 feet in height when planted. The low level screen shall consist of evergreen trees not less than 6 feet in height when

planted and spaced at intervals of not more than 10 feet on center. The low lever screen shall contain two staggered rows not more than 10 feet apart. The operator shall maintain the planted screen and replace any plant material which does not live within 1 year of initial planting.

F. Power plants, incinerators, crematoriums, subject to:

(1) Provisions detailed by §27-1116 of this Chapter.

(2) Copies of all other permits required by County, State and Federal agencies must be submitted to the Borough.

G. Adult entertainment subject to:

(1) The minimum lot size shall be 5 acres.

(2) All activity must be located within a completely enclosed building.

(3) A planted buffer yard shall be maintained along all boundaries of the facility. The landscaping shall include both low level and high level vegetation consisting of a combination of evergreen and deciduous hedges and trees with no high level specimen less than 8 feet in height. Evergreen hedges and trees shall be planted in two staggered rows not more than 10 feet apart. The operator shall maintain the screening and replace any plant material which does not live.

H. Heavy industrial uses.

I. All uses permitted by right in the SWM–Solid Waste Management District.

J. Juvenile detention and rehabilitation facility, provided that the proposed use is located on a tract of ground consisting of at least 45 acres in size.

K. Non-criminal detention facility for all age ranges, provided that the proposed use is located on a tract of ground consisting of at least 45 acres in size.

*(Ord. 2015-4, 9/8/2015)*

**§27-904. Bulk Requirements.**

See §27-1101.

*(Ord. 2015-4, 9/8/2015)*

**Part 10****SWM–Solid Waste Management District****§27-1001. Specific Intent.**

It is the purpose of this district to provide an area for the processing and disposal of solid waste for the benefit of residents of the Borough and areas outside the Borough. (Ord. 2015-4, 9/8/2015)

**§27-1002. Permitted Uses.**

1. Solid waste management facilities, subject to the following:

A. All solid waste management facilities shall be operated in accordance with the Pennsylvania Solid Waste Management Act, 35 P.S. §6018.101 *et seq.*, and the rules and regulations of the Pennsylvania Department of Environmental Protection.

B. The minimum lot size shall be 10 acres.

C. No waste disposal or processing shall be located closer than 200 feet from any property line of the solid waste management facility or within 100 feet any public street.

D. A chain link fence of a minimum height of 8 feet shall be erected along all boundary lines of the area which is used for the solid waste management facility. The fence shall not contain openings greater than 3 square inches and shall contain, at all entrances, gates which shall be locked except during operating hours.

E. A buffer yard shall be maintained along all boundaries of the landfill, except at entrances. Whenever possible, the solid waste management facility shall utilize the existing natural vegetation for screening. Where new vegetation must be planted, the species and spacing of trees shall be approved by the Borough Zoning Officer and shall be such to constitute an effective screen. All screening shall be consistent with the following standards. All buffer yards shall include a planted landscape screen composed of both a low level and a high level screen. The high level screen shall consist of a combination of evergreen and deciduous specimen less than 8 feet in height when planted and no more than 25 feet apart on center. Evergreen trees shall be no less than 6 feet in height when planted. The low level screen shall consist of evergreen trees not less than 6 feet in height when planted and spaced at intervals of not more than 10 feet on center. The low level screen shall contain two staggered rows not more than 10 feet apart. The operator shall maintain the planted screen and replace any plant material which does not live within 1 year of initial planting.

F. Except in the case of a Borough-operated solid waste management facility, the operator shall post security with the Borough to cover the cost to repair, reconstruct or resurface any public roads maintained by the Borough which are damaged or subjected to excessive wear resulting from the use of said roads by the operator or others in connection with the landfill operations. In lieu thereof the operator may enter into an agreement with the Borough to make an annual

contribution to be used in the maintenance of said roads.

G. All requirements detailed by §27-1116 of this Chapter, except that the Zoning Officer has the full discretion to approve the required landscaping including natural buffer as outlined in paragraph .E above.

(Ord. 2015-4, 9/8/2015)

### **§27-1003. Eco-Park Overlay District.**

1. *Creation and Purpose.* The Eco-Park Overlay District is hereby established to permit by conditional use specific heavy industrial uses in the Solid Waste Management District which utilize and/or process any by-product of a solid waste management facility permitted by right in the Solid Waste Management District in the production or manufacturing of new products. The purpose of the Eco-Park Overlay District is to encourage and promote heavy industrial uses within the SWM District which recycle the by-products of the landfills in the SWM District and to promote and protect the health, safety and general welfare of the citizens of the Borough of New Morgan by decreasing and minimizing the harmful effects of such by-products on the community and the environment.

2. *Applicability.* The following provisions shall apply to the Eco-Park Overlay District:

A. The Eco-Park Overlay District is an overlay district to be applied to the base zoning district of Solid Waste Management, as defined by this Chapter and as depicted on the Borough of New Morgan Zoning Map.

B. The overlay district shall serve as an alternative to the otherwise applicable zoning district.

C. In the case of a conflict between the provisions or requirements of the Eco-Park Overlay District and the those of the underlying district, the more restrictive provisions shall apply.

D. Whenever the Eco-Park Overlay District is declared inapplicable to any land by administrative or judicial action or whenever the land is otherwise deleted from the Eco-Park Overlay District, the underlying zoning classification for the subject land shall apply.

3. *Uses Permitted by Conditional Use.* Any heavy industrial use which is permitted by conditional use under §27-903.H, which meets the qualifying conditions set forth below and which utilizes and/or processes as an integral part of the use the by-products of the solid waste management facilities permitted by right in the SWM District in the production or manufacturing of new products, whether as raw materials, fuel or otherwise, shall be permitted by conditional use in the Eco-Park Overlay District, provided that all of the standards set forth in §27-1004 of this Chapter are also met. Any new, changed or expanded heavy industrial use shall require a new conditional use approval.

(Ord. 2015-4, 9/8/2015)

### **§27-1004. Qualifying Conditions for Uses Within the Eco-Park Overlay District.**

The following conditions shall be satisfied prior to the consideration of any tract for

development or expansion of existing development under the provisions of the Eco-Park Overlay District regulations:

A. The tract(s) shall be entirely within the Eco-Park District.

B. The tract to be considered shall contain a minimum of 10 acres.

C. All standards applicable to permitted solid waste management facilities under this Part shall apply to the heavy industrial uses permitted in the Eco-Park Overlay District, except to the extent the applicable standard is regulated by a permit issued by the Department of Environmental Protection, in which case the standard set forth in the permit shall apply.

D. The use shall comply with the same area and bulk requirements applicable to heavy industrial uses within the Industrial District, as per §27-1101.2.

E. The use shall comply with all of the standards and criteria set forth in Part 11, "Supplementary District Regulations," except to the extent the applicable standard is regulated by a permit issued by the Department of Environmental Protection, in which case the standard set forth in the permit shall apply, with the following modifications:

(1) The regulations applicable to solid waste management set forth in §27-1116.2.C shall apply to all uses within the Eco-Park Overlay District.

(2) The regulations applicable to buffer yards set forth in §27-1116.2.I shall apply to all uses within the Eco-Park Overlay District.

F. In the event that, after a heavy industrial use approved by conditional use has been constructed and is fully operational, the waste by-products utilized and/or processed are not readily available from solid waste management facilities within the SWM District due to reasons beyond the reasonable control of the owners of both the solid waste management facility and the industrial development, the use may substitute materials or fuels from a source outside the SWM District for the unavailable by-products, provided that other waste by-products of the solid waste management facilities in the SWM District beyond those contemplated in the original conditional use approval are further utilized and/or processed as an integral part of the approved use pursuant to a new conditional use approval.

*(Ord. 2015-4, 9/8/2015)*



**Part 11****Supplementary District Regulations****§27-1101. Bulk Requirements.**

1. *Area and Yard Requirements for GC-General Commercial Districts.* It is the purpose of this Chapter to encourage flexibility in the design of commercial centers so that the setback requirements and lot sizes are minimized unless otherwise noted elsewhere in this Chapter or in the interest of the health, safety, and welfare of the residents and visitors to the Borough.

2. *Area and Yard Requirements for Commercial and Industrial Buildings in the GC-General Commercial; H-C-Highway Commercial; and I-Industrial Districts.*

A. *Lot Size.* Lot size is to be determined by adding the total area of gross leasable area plus the area needed to accommodate stormwater management requirements plus the area needed to accommodate the required parking and access aisles and driveways; plus 20 percent of the total area for landscaping and open space. In any event, the minimum tract size for a detention facility shall be 45 acres.

B. *Lot Width.* Generally, the depth of lots shall not be less than one nor more than three times their width.

C. *Building Setbacks.* If any industrial or commercial use proposed in the HC-Highway Commercial or I-Industrial Districts adjoins an existing residential use or Residential District boundary line, then a 100-foot setback from such use, property line or district boundary line is required; 25 feet of such setback is required to be planted with a permanent visual planting screen as required by §27-1118. For the GC General Commercial District the setback shall be 50 feet.

D. Parking requirements will be per Part 13, "Off-Street Parking Requirements."

(Ord. 2015-4, 9/8/2015)

**§27-1102. Visibility at Intersections.**

On a corner lot in any district a clear sight triangle shall be provided at all streets and alley intersections. Within such triangles, no vision obstructing object other than utility poles shall be permitted which obscures vision above the height of 30 inches and below 10 feet measured from the center line grade of intersection streets. Such triangles shall be established per Pennsylvania Department of Transportation standards.

(Ord. 2015-4, 9/8/2015)

**§27-1103. Fences, Walls and Hedges.**

Notwithstanding other provisions of this Chapter, fences, walls and hedges may be permitted in any required yard, or along the edge of any yard; provided, that no fence, wall or hedge along the sides or front edge of any front yard shall be over 30 inches in height. Fences, walls and hedges in side or rear yards may not be more than 6 feet in height.

(Ord. 2015-4, 9/8/2015)

**§27-1104. Accessory Building.**

No separate accessory building shall be permitted in any required front or side yard. In rear yards, they shall not be permitted within 10 feet of any lot line.

(Ord. 2015-4, 9/8/2015)

**§27-1105. Exception to Height Regulations.**

The height limitations contained in the schedule of district regulations or in the height and area regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

(Ord. 2015-4, 9/8/2015)

**§27-1106. Structures to Have Access.**

Every building hereafter erected or moved shall be on a lot with frontage on a public street, or approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking.

(Ord. 2015-4, 9/8/2015)

**§27-1107. Parking Storage or Use of Major Recreational Equipment.**

For purposes of these regulations, major recreational equipment is defined as including boats and boat trailers, travel trailers, pickup campers or coaches, designed to be mounted on automotive and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not. No major recreational equipment shall be permitted to occupy any lot or any public right-of-way except in a carport or enclosed building; provided, however that such equipment may be parked anywhere during loading and unloading for a period not to exceed 24 hours. No such equipment shall be used for living, sleeping or housekeeping purposes when stored on a residential lot, or in any location not approved for such use.

(Ord. 2015-4, 9/8/2015)

**§27-1108. Corner Lot Restrictions.**

On every corner lot, there shall be provided on the side street a side yard equal in depth to the required front yard of all other properties along said side street.

(Ord. 2015-4, 9/8/2015)

**§27-1109. Projections into Yards.**

The following projections shall be permitted into required yards and shall not be considered in the determination of yard size or lot coverage:

- A. Terraces or patios, provided that such terraces or patios are not under roof or otherwise enclosed and are not closer than 5 feet to any adjacent property line.
- B. Projecting architectural features—bay windows, cornices, eaves, fireplaces, chimneys, window sills or other architectural features provided they do not extend

more than 3 feet into any required yard nor closer than 5 feet to any adjacent property line.

C. Uncovered stairs or landings.

D. Open balconies or fire escapes provided such balconies or fire escapes are not supported on the ground and do not project more than 3 feet into any required yard nor closer than 5 feet to any adjacent property line.

*(Ord. 2015-4, 9/8/2015)*

**§27-1110. Accessory Uses.**

1. Permanent swimming pools shall be entirely enclosed with a permanent barrier or fence not less than 4 feet in height, such fence having no opening with a dimension greater than 4 inches on a side (or in diameter in the case of round openings). Walls of buildings may serve as part of the fence or barrier. Where such pools are of the type having above ground construction, that portion of the pool way extending above the ground may be included as part of the barrier or fence. Fences shall have a gate which shall be securely locked when not in use. Above ground pools shall have a ladder or stairway which can be removed or rendered unusable and the entrance of the pool shall be capable of being securely closed to a height of 4 feet.

2. Private tennis courts shall be permitted within side or rear yards, provided that such facility shall not be less than 15 feet wide from side or rear property lines.

3. Patios, paved terraces, or open porches shall be permitted in all yards, provided that no impermeable surface shall be within 5 feet of any property line.

*(Ord. 2015-4, 9/8/2015)*

**§27-1111. Municipal Uses.**

In any district, a building or use may be erected, altered or extended and land may be developed which is arranged, intended or designed for municipal uses. Further, the lot sizes, yard regulations and coverage requirements may be modified to accommodate such buildings or uses provided that the modifications will represent the least possible modification of the regulations at issue and, provided further, that all such modifications shall be in the public interest and they will not adversely affect other properties in the district in which they are located.

*(Ord. 2015-4, 9/8/2015)*

**§27-1112. Public Utilities Exempt.**

The regulations of this Chapter shall not apply to any existing or proposed building, or extension thereof, used or to be used by a public utility corporation if, upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.

*(Ord. 2015-4, 9/8/2015)*

**§27-1113. Home Occupation Regulations.**

1. In any Residential District, any gainful occupation conducted by a member of the immediate family owning and residing on the premises may use parts of a dwelling

for a home occupation, provided that the following conditions are met and a permit is issued by the Zoning Officer:

A. Such occupation shall be clearly incidental or secondary to the use of the property as a residence and the use of the dwelling shall not change the character thereof or show any exterior evidence of such secondary use other than one small nameplate as provided in Part 21.

B. Home occupations shall be limited to the employment of not more than one assistant. An assistant is not to be construed as an additional independent operator or professional, but rather must be clearly an auxiliary helper such as a secretary or a receptionist.

C. The home occupation shall be conducted wholly within the dwelling and shall not occupy more than 25 percent of the area of the first floor nor more than 400 square feet.

D. All parking shall be off-street and two off-street spaces shall be provided in addition to that required of the residence unit.

E. Any home occupation which may create objectionable noise, fumes, odor, dust, electrical interference or more than normal residential traffic shall be prohibited.

2. Home day-care for one child is permitted in the Borough without regulation. Home day-care for two to a maximum of five nonresident children, located only in a single-family detached dwelling in which the care giver resides, shall be considered a home occupation and shall be subject to the following requirements:

A. The care giver shall be registered or licensed by the Commonwealth to provide child care services in the dwelling.

B. There shall be no structural change to the exterior of the single-family detached dwelling to accommodate the day-care use.

C. In no case shall home day-care be permitted on a lot with an area of less than 10,000 square feet.

D. There shall be a minimum of 40 square feet of floor space per child, inclusive of space occupied by furniture and equipment, but exclusive of closets, halls, bathrooms, kitchens and related areas. All of such floor space shall be on the first floor of the single-family detached dwelling.

E. A minimum of 100 square feet of outdoor play space per child shall be available on the same lot. Such play space shall be:

- (1) In the rear yard of the lot only.
- (2) Enclosed by a fence or wall.
- (3) Not less than 30 feet from neighboring residential buildings.

F. The normal hours of operation shall not be earlier than 7 a.m. nor later than 7:00.

G. A driveway shall be required in order to allow off-street pick-up and drop-off of children.

H. No home day-care shall be permitted within 750 feet of any other home day-care use.

(Ord. 2015-4, 9/8/2015)

**§27-1114. Gasoline Pump.**

Gasoline pumps and all other service equipment shall be set back not less than 25 feet from any lot line and shall be so located that vehicles stopped for service will not extend closer than 10 feet to any property line.

(Ord. 2015-4, 9/8/2015)

**§27-1115. Riparian and Wetland Buffers.**

For the purpose of preventing groundwater contamination, reducing surface runoff and sedimentation of nearby streams and bodies of water, protecting sensitive wildlife habitats, minimizing disruption to the hydrology of riparian and wetlands sites and preventing damage to dwellings and properties as a result of construction on or adjacent to alluvial soils or construction adjacent to active creeks, streams, watercourses, waters of the Commonwealth, waters of the United States of America, riparian and wetlands buffers shall be established as follows:

A. The minimum riparian or wetlands buffer shall extend outward 25 feet from the following:

(1) The edge of any wetlands.

(2) The top of any banks of any active creek, stream, or other watercourses.

(3) The edge of any waters of the Commonwealth and/or waters of the United States of America.

(4) The center line of any floodplain if the distance from the center line to the outside edge of the floodplain is less than 25 feet.

B. Where the 300 feet of land adjacent to a riparian or wetland boundary has an upland slope greater than 10 percent, the minimum buffer which shall be increased by 4 feet for each degree of slope above 10 percent shall be added to the minimum riparian or wetlands buffer set forth in paragraph .A above.

C. No filling, grading, clearing or development related to any structure or improvement, including stormwater management facilities, shall be permitted within any wetlands, active creeks, streams, watercourses, waters of the Commonwealth, waters of the United States of America, wetlands buffers or riparian buffers. Upon proof that no reasonable engineering alternative exists, stormwater management facilities, utility crossings, public roads, private roads and driveway crossings may be permitted by conditional use. Any wetlands, active creeks, streams, watercourses, waters of the Commonwealth, waters of the United States of America, wetland buffers or riparian buffers permitted to be filled or otherwise destroyed by conditional use shall be replaced elsewhere on the site, in accordance with the applicable requirements of the Pennsylvania Department of Environmental Protection, so that the total predevelopment area shall not be reduced.

(Ord. 2015-4, 9/8/2015)

**§27-1116. Environmental Performance Standards for Nonresidential and**

**Nonagricultural Uses.**

1. All nonresidential and nonagricultural uses shall be subject to the following requirements.

2. In the case of a facility which holds a permit from the Pennsylvania Department of Environmental Protection (“PADEP”), the standards and requirements with respect to each of these matters set shall be the same and not greater than the standards and requirements imposed by PADEP to the extent that the PADEP standards and requirements for the facility actually regulate the specific matter set forth below; provided, however, that the Borough shall have the right to demand evidence of compliance with the PADEP standards and requirements and shall have the independent right to enforce the same.

*A. Air Management.*

(1) No gases, vapors, or fumes shall be emitted which are harmful to persons, property, animals, or vegetation beyond the lot lines of the lot on which such gases, vapors, or fumes originate. No toxic or corrosive gases, vapors, or fumes shall be released into the atmosphere.

(2) No odors shall be detectable beyond the lot lines of the lot on which such odors originate.

(3) The regulations of the Pennsylvania Department of Environmental Protection shall be complied with for fugitive emissions, particulate matter emissions, sulfur compound emissions, standards for sources, sources of volatile organic compounds, emission hazardous air pollutants, and ambient air quality sources.

(4) No person shall permit the emission into the outdoor atmosphere of visible air contaminants in such a manner that the opacity of the emission is greater than 20 percent, except where the presence of uncombined water is the only reason for the failure of the emission to meet this limitation.

(5) No dust or dirt shall be discharged beyond the lot lines of the lot on which it originates.

*B. Wastewater Management.*

(1) Effluent must meet any standards established by the Pennsylvania Department of Environmental Protection (“PADEP”).

(2) In no case shall untreated potentially dangerous or contaminating effluent or waste from plant operations be discharged.

*C. Solid Waste Management.* Except in the Solid Waste Management District, and excluding landfills and junkyards, no storage of waste material on the lot shall be permitted in excess of 30 days. All waste materials awaiting transport shall be concealed from view from all adjacent properties and streets and kept in enclosed containers. In a waste management district, storage shall be in accordance with “PADEP” permit.

*D. Noise and Vibration.*

(1) *Noise.* No person shall operate or cause to be operated on private or public property any source of continuous sound (any sound that is static, fluctuating or intermittent with a recurrence greater than one time in any 15

second interval) in such a manner as to create a sound level that exceeds the limits set forth in the receiving land use category in the following table when measured at or within the property boundary of the receiving land use.

<b>Continuous Sound Levels by Receiving Land Use</b>		
<b>Receiving Land Use Category</b>	<b>Time</b>	<b>Sound Level Limit</b>
Residential, Public Space, Open Space, Agricultural, Institutional	7 a.m. to 10 p.m. 10 p.m. to 7 a.m. Plus Sundays and legal holidays	55 dBA 50 dBA
Commercial or Business	7 a.m. to 10 p.m. 10 p.m. to 7 a.m. Plus Sundays and legal holidays	65 dBA 60 dBA
Industrial	At all times	70 dBA

(a) For any source of continuous sound that emits a pure or continuous tone the maximum sound level limits set forth in the above table shall be reduced by 5 dBA. For any source of sound that emits an impulsive sound (a sound of short duration with an abrupt onset and rapid decay and an occurrence of not more than one time in any 15 second interval) the excursions of sound pressure level shall not exceed 20 dBA over the ambient sound level regardless of the time of day or night or receiving land use using the “faster” meter characteristic of a Type II meter meeting the ANSI specifications S1.4-1971.

(b) In no case shall impulsive sounds exceed the continuous sound level limits established in this Section between the hours of 10 p.m. and 7 a.m.

(c) The maximum permissible sound levels by the receiving land use category as listed in the table, above, shall not apply to the following noise sources:

- 1) Emergency work to provide electricity, water or other public utilities when public health or safety are involved.
- 2) Normal and legally permitted residential activities customarily associated with residential use.
- 3) Domestic power tools.
- 4) Explosives and construction operations.
- 5) Agriculture.
- 6) Motor vehicle operations on public streets. Such noise shall be regulated by Pennsylvania Transportation Regulations, 67 Pa.Code, Chapter 450, governing established sound levels.
- 7) Public celebrations, specifically authorized by the Borough.
- 8) Surface carriers engaged in commerce by railroad.
- 9) The un-amplified human voice.

(d) *Additional Noise Standards.*

1) Except as noted below, the following shall apply to specified uses and properties within the Borough, between the hours of 10 p.m. and 6 a.m., plus all day Sunday and legal holidays.

a) There shall be no nonresidential off-street loading operation.

b) There shall be no operation of a vehicle in excess of 8,600 pounds on the property, nor idling of any engine of such vehicle.

c) There shall be no outside operation for nonresidential purposes of any powered equipment, mobile refrigeration unit, powered hand tool, forklift, tractor, or other similar vehicle except for lawn maintenance, snow removal, or emergency services or repairs.

d) Other than police, fire or ambulance operators, no person shall sound any horn, bell, gong, siren, or whistle or make other unnecessarily loud noises except when reasonably required to prevent accidents. There shall be no outdoor loudspeakers or similar amplification that may be heard beyond the property line.

2) The restrictions established in subclause 1) above shall not be applied to agricultural operations on properties within the Borough. Agriculture shall be as defined and regulated by this Chapter.

3) For any purpose or existing use of land in which potential or actual noise impacts need amelioration, the means to ameliorate such impacts shall be proposed by the applicant and reviewed by the Borough on a case-by-case basis. The use of berms, existing and installed vegetation, fencing or similar enclosure, etc., shall be considered by the Borough and, where deemed suitable, may permit modification or waiver of restriction in subclause 1) above.

E. *Visual and Heat.*

(1) No lighting shall be utilized in a manner which produces glare perceptible at or beyond the lot lines.

(2) Any operation producing heat shall be conducted in such a manner as to prevent any effect from the heat beyond the lot lines of the lot on which the operation is located.

F. *Groundwater and Surface Water Supplies and Quality.* No activity shall endanger groundwater levels and quality and surface water quality in the area of the use, nor adversely affect groundwater supplies of nearby properties. If so, then the Borough may require a hydrologic study which shall indicate the impact of the use on groundwater supplies and quality in the area.

G. *Electromagnetic and Radioactive Radiation.* All electromagnetic radiation shall comply with the regulations of the Federal Communication Commission, provided that no electromagnetic radiation shall be produced which interferes with radio or television reception or the operation of other equipment beyond the lot lines. No injurious electromagnetic radiation or radioactive emission shall be

produced, and all radioactive emissions shall meet Federal and State standards.

H. *“PADEP” Requirements.* All regulations of the Pennsylvania Department of Environmental Protection shall be complied with.

I. *Buffer Yard.* Except for solid waste management facilities in the Solid Waste Management District, when the side and/or rear yard of a lot adjoins land zoned for or used for residential purposes pursuant to this Chapter, a 25-foot buffer strip suitably landscaped to provide minimum a screen, and in which no paved areas or structures are permitted, shall be provided within the side and/or rear yard adjoining said areas.

(Ord. 2015-4, 9/8/2015)

#### **§27-1117. Prohibited Uses.**

No building or structure may be erected, altered, or used, and no lot or premises may be used for any activity which is noxious, injurious, or offensive by reason of dust, smoke, odor, fumes, noise, vibration, gas, effluent discharge, illumination, or similar substances or conditions.

(Ord. 2015-4, 9/8/2015)

#### **§27-1118. Landscaping.**

1. Where district regulations require buffer yards, screening, planting strips and the like, these shall be subject to approval of the Zoning Officer or Planning Commission prior to planting unless approval responsibility is otherwise specified in this Chapter. The type and density of planting shall adequately provide the screening effect required year round. Complete plans showing the arrangement of all buffer yards and the placement, species and size of all plant materials and the placement, size, materials, and type of all fences to be placed in such buffer yard shall be reviewed by the Planning Commission to ascertain that the plans are in conformance with the terms of this Chapter.

2. Plant materials used in screen planting shall be at least 5 feet in height when planted.

3. The screen planting shall be maintained permanently and plant material which does not live shall be replaced within the current or following growing season.

4. The screen planting shall be so placed that at maturity it will not infringe upon any street or property line.

5. A clear sight triangle shall be maintained at all street intersections and at all points where private accessways intersect public streets.

6. The screen planting shall be broken only at points of vehicular or pedestrian access.

(Ord. 2015-4, 9/8/2015)

#### **§27-1119. Exterior Lighting.**

Exterior lighting of a building or grounds, in any district in the Borough, shall be color corrected illumination which shall not be more than 14 feet above grade, shall be screened so as not to permit the source of illumination to be seen from off the premises, shall not cast measurable illumination off of the subject property and shall not create

a nuisance or intrusion to the privacy of adjacent property owners or the public.  
(Ord. 2015-4, 9/8/2015)

**§27-1120. Steep Slopes.**

1. *Overlay Concept; Applicability.* The Steep Slope Conservation District is an overlay of all other zoning districts within the Borough of New Morgan and applies to all steep slope areas within these zoning districts.

2. Slopes of 25 percent or greater shall be considered steep slopes.

3. Steep slopes shall be determined by one of the following methods:

A. On-site measurement by a registered professional engineer or surveyor.

B. Use of County soils maps.

C. Use of USGS Survey 7.5 Minute Quadrangles.

D. The Borough Engineer shall make the final determination of where steep slopes exist. Appeals may be made to the Zoning Hearing Board.

4. *Steep Slope Regulations.* Areas with steep slopes of greater than 25 percent shall meet the following requirements:

A. All development shall be laid out to avoid or minimize disturbance of areas with slopes over 25 percent. In no case shall more than 25 percent of the steep slopes be disturbed unless approved by conditional use.

B. It shall be incumbent upon the applicant to show that disturbance of steep slopes has been avoided.

C. The Borough Engineers shall have final determination as to compliance with the regulations above.

C. Areas with steep slopes greater than 40 percent shall not be disturbed.

(Ord. 2015-4, 9/8/2015)

**§27-1121. Landscape Buffers.**

A landscape buffer shall be provided at the perimeter of GC, H-C and I District use developments when they abut a residential development.

A. The buffer shall be 25 feet in depth and may be coincident with the yard setback.

B. The buffer shall be opaque, consisting of evergreen plant material.

C. Where natural vegetation exists in sufficient quantity to serve as a buffer, new plantings may be omitted.

(Ord. 2015-4, 9/8/2015)

**§27-1122. Forestry.**

Forestry, as mandated by the PA MPC, is permitted in all districts in the Borough subject to the following regulations:

A. Forestry activities shall be practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting, and selling of trees for commercial purposes. A plan shall be filed with the Borough,

which shall provide measures for erosion and sedimentation control and the immediate replanting of trees on areas where existing tree growth has been harvested.

B. *Setbacks.* Buildings, including accessory structures, and the harvesting or cutting of timber which is part of any forestry operation within the Borough shall be set back from property lines and road frontages as follows:

- (1) Front yard setback—100 feet.
- (2) Side yard setback—100 feet.
- (3) Rear yard setback—100 feet.
- (4) Setback from any residential building—100 feet.
- (5) Setback from road frontages—100 feet.

C. *Hours of Operation.* No forestry operations conducted in the Borough shall commence operations of any machinery utilized in the forestry business, including motorized vehicles engaged in the business, until 7 a.m., and all such operations shall cease by 5 p.m., prevailing time, Monday through Friday, only.

D. *Exterior Signage.* Any exterior storage of lumber or forestry product or by-product shall comply with all recognized fire standards and safety standards and shall be screened from view with the planting of an appropriate evergreen screen.

E. *Deliveries of Transport to and from the Site.* No deliveries to the location or transportation of product or by-product of the forestry operation shall be conducted except between the hours of 7 a.m. and 5 p.m. Monday through Friday, only.

F. *Signage and Retail Operations.* No sale of any of the lumber or any other product or by-product of the forestry operation may be sold on the premises where the forestry operation is conducted.

(Ord. 2015-4, 9/8/2015)



**Part 12****Planned Residential Development****§27-1201. Purpose.**

It is the purpose of this Part to in order to implement the purposes and intent of planned residential development as defined and authorized by the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*, and establishing qualifications, procedures and standards for such development.

(*Ord. 2015-4, 9/8/2015*)

**§27-1202. Statement of Legislative Findings.**

The Borough hereby elects to adopt the provisions of and exercise the powers granted by Article VII of the Pennsylvania Municipalities Planning Code, 53 P.S. §10701 *et seq.* In support thereof, Borough Council makes the following findings:

A. Borough Council finds that the Borough Comprehensive Plan provides broad community development objectives for the future development of the Borough which are consistent with the intent of Article VII of the Municipalities Planning Code, 53 P.S. §10701 *et seq.* The Comprehensive Plan sets forth land use goals of local concern related to: (1) promoting and preserving a unified Borough character that incorporates the historic and natural features of the area; (2) maintaining the ecological balance within the Borough; (3) providing a flexible and dynamic land use management system that responds to changes in economic realities and is suitable to administer the development of mixed uses in a large scale community; (4) providing for sound fiscal management that supports sustainable levels and rates of growth; (5) responding to regional needs and obligations by providing open space and recreation, employment, housing, shopping, entertainment, and other uses of regional importance; (6) promoting the public health, safety and welfare through appropriate regulation of land uses and development practices; and (7) requiring development to occur in an environmentally responsible and ecologically sensitive manner.

B. Borough Council finds that it is in the best interest of the Borough to take full advantage of modern design, construction, technology and planning methods and thus seeks to permit planned residential development, under certain conditions meeting certain design standards of the Borough. The objectives to be accomplished by this Part (the "PRD Objectives"), in furtherance of the goals and objectives of the Comprehensive Plan, shall include, but are not limited to, the following:

(1) To address the unique planning and development issues affecting the Borough of New Morgan by encouraging innovative and flexible long-range development plans that will contribute to the quality of life in the community through a variety of well-planned land uses and amenities.

(2) To provide an optional approach to community development with provisions to permit more efficient use of land and public services on other than a lot by lot basis.

(3) To provide increased flexibility in the laws governing the development

of those areas in the Borough which are now substantially open land and encourage such development in directions that will recognize the changes in design and technology in the building industry, new demands in the housing market and the continuing evolution of community form.

(4) To insure that the uniform regulations in place in the Borough's various zoning districts do not operate to discourage efficient and imaginative development of said substantially open areas.

(5) To encourage the efficient allocation and maintenance of common open space ancillary to new residential, commercial and other nonresidential areas.

(6) To encourage the efficient development and use of public facilities required in connection with new development within the Borough.

(7) To create opportunities for the clean-up and redevelopment of areas affected by prior mining and industrial activity.

(8) To provide greater opportunities for pedestrian and bicycle mobility as an alternative to travel by automobile.

(9) To encourage innovations in residential and nonresidential development and renewal so that the growing demand for housing and other development may be met by greater variety in type, density, design and layout of dwellings and other buildings and structures and by the conservation and more efficient use of open space ancillary to said dwellings and uses.

(10) To assure that the flexibility of regulations herein is carried out pursuant to sound, expeditious and fair administrative standards and procedures.

(Ord. 2015-4, 9/8/2015)

### **§27-1203. Definitions.**

Unless specifically defined in this Part, the definitions contained in Part 2 of this Chapter shall apply. For the purpose of this Part, certain terms, phrases and words are defined as follows:

*Civic buildings*—publicly owned and/or operated buildings that house uses such as community centers, cultural or entertainment facilities, recreational facilities, schools, meeting halls, libraries and similar uses as determined by the Borough Council.

*Court*—a street which is no greater than 300 feet in length and is designed for limited access to homes and for the provision of on-street parking. Generally courts intersect another street at one end and terminate in a parking area or simple stub at the other end.

*Cul-de-sac*—a street intersecting another street at one end and terminating in a vehicular turnaround at the other end.

*Development schedule*—a schedule approved with the tentative PRD plan showing proposed time frames within which the applicant shall submit final plans for each development section. The development schedule may be modified subject to the provisions of §27-1216.1 of this Chapter.

*Development sections*—areas delineated in a PRD tentative plan for which

separate applications for final plan approval may be filed. Development sections shall have no minimum or maximum acreage and may include one or more permitted uses.

*Dwelling, multi-family*—a building designed for or occupied by two or more families living independently of each other and doing their own cooking. This definition includes, but is not limited to, apartments, townhouses, stacked townhouses, row houses, two-family detached, two-family semi-attached housing, triplexes, quadplexes and other innovations in multi-family housing.

*Flag lot*—a lot which does not adjoin a street or rear lane but is connected thereto by an access strip which is a fee simple part of a lot. An access strip may provide access for up to three flag lots and shall be located within the title lines of one lot. Where the access strip is within the title lines of a flag lot, the specific regulations for residential uses in a PRD set forth in §27-1219 of this Chapter shall be met on that portion of the lot that is exclusive of the access strip.

*Gross tract acre*—an acre included in the calculation of gross tract area.

*Live-work unit*—a structure or portion of a structure combining a residential living space with a commercial space principally used or operated by one or more of the residents. A live-work unit shall not be required to contain a commercial activity but shall be required to contain a residence on the second floor or above. A live-work unit may be converted into a mixed-use building.

*Livestock*—any animal or animals, including poultry or other fowl, which can legally be kept and maintained or attended under conditions which require or include space, open or in a building or both, for commercial use, enjoyment, or well-being, not including family pets.

*Lot coverage*—the percentage of the gross tract area of a lot which can be covered by impervious surfaces including buildings, driveways, sidewalks, leadwalks, swimming pools and the like.

*Lot typical*—a plan showing a building's general size, shape, lot coverage and location on a typical lot including regular parking, if any. The lot typical is a general indication of the applicant's intentions and is not required to be a precise indication of the final plan or building permit plan submission.

*Open space, active*—open space that may be improved and set aside, dedicated, designated or reserved for recreational activities such as swimming, fishing, hiking, walking, bicycling, golfing, play equipment for children, ball fields, court games, picnic facilities and the like. Recreation facilities such as ball fields, tennis courts, tracks, and the like, which are owned by, or proposed for, dedication to a school district may be included within the calculation of active open space if available for use by the residents of the PRD during non-school hours.

*Open space, common*—a parcel or parcels of land, water or a combination of land and water within a tract designed and intended for the use or enjoyment of residents of a PRD or the general public, not including streets, off-street parking areas, private lots and areas set aside for public facilities, except that common open space may contain buildings, structures, roads and parking facilities utilized for or associated with outdoor recreational purposes, underground utilities and associated easements and stormwater facilities. For the purposes of this Part, common open space includes three sub-categories: active open space, passive open space, and

resource protection open space.

*Open space, passive*—open space areas usable for outdoor activities that create opportunities for quiet enjoyment, closeness to nature and a high degree of interaction with the natural environment which require no organization, rules of play, facilities or improvements other than appropriate landscaping, walking trails, paths and similar improvements which may be necessary to protect the natural environment.

*Open space, resource protection*—open space that is proposed to remain in its natural state and which may be encumbered by floodplain, floodplain soils, lakes or ponds, wetlands, shorelines, steep slopes, or other natural features.

*Performance guarantee*—the financial security required as per §27-1213 of this Chapter.

*Planned residential development (PRD)*—an area of land within the Planned Residential Development (PRD) District to be developed pursuant to this Part as a single entity for a number of dwelling units or a combination of residential and nonresidential uses, the development plan for which does not correspond in lot size, bulk, type of dwelling, use, density, intensity, lot coverage or required open space to the regulations established in any one district created, from time to time, under the provisions of this Chapter. Planned residential development occurring within the Planned Residential Development District must comply with the regulations of the Planned Residential Development District and need not comply with the regulations applicable to the base zoning district in which the property is located.

*Rear lane*—a minor road or alley that provides access to the rear of a property. A rear lane can be privately owned or publicly dedicated.

*Street, arterial*—a street which serves major traffic movements such as between a central business district and outlying commercial and residential areas which is designed or utilized primarily for high vehicular speeds or for heavy volumes of traffic on a continuous route.

*Street, collector*—a street carrying traffic from local streets to arterial streets and highways and including the principal entrance streets and principal streets for circulation within a PRD development.

*Street, local*—a street used primarily for providing access to abutting properties or connecting blocks within neighborhoods and designed for reduced speeds and traffic volumes.

*Tract*—an area, parcel, site, piece of land, lot or property that is the subject of a PRD application, including all areas encompassed by rights-of-way, open space, waters, easements.

*Tract area, gross*—the total area within the title lines of a tract. With respect to a PRD tentative plan, the calculation of gross tract area shall not include any deductions of any kind and shall include, but not be limited to, rights-of-way, land, open space, waters, constrained lands and uses of all kinds. The gross tract area of an approved PRD tentative plan shall not be reduced or changed as portions of the PRD are conveyed by the applicant to other parties.

(Ord. 2015-4, 9/8/2015)

**§27-1204. Administration.**

The Borough Council of the Borough of New Morgan shall administer the Planned Residential Development District regulations of the Chapter pursuant to Article VII of the Pennsylvania Municipalities Planning Code, 53 P.S. §10701 *et seq.*, and shall be the entity with responsibility for the approval of all plans filed pursuant to this Section.

(Ord. 2015-4, 9/8/2015)

**§27-1205. Application for Tentative Approval.**

1. *Submission of Information to the Borough.* Copies of the tentative plan and all supporting data shall be officially submitted to the Borough by the applicant or the applicant's representative authorized in writing to submit the plan.

2. *Number of Copies.*

A. Twelve completed copies of an application for tentative approval for a PRD shall be submitted by the applicant to the Borough.

B. Twelve legible black-line paper prints of the tentative plan which shall fully comply with this Part. Whenever a PRD is located in or adjacent to another municipality, one additional print shall be required per adjacent municipality.

C. Twelve copies of all other required supporting information.

3. *Filing Fee.* The Borough Secretary shall collect a filing fee for each application for tentative approval of a PRD. Fees shall be charged in order to cover the costs of examining plans and other incidental expenses. The applicant shall pay the fee at the time of application for tentative approval in accordance with the fee schedule of New Morgan Borough.

4. *Tentative Plan Requirements.* The intent of the tentative plan submission requirements is to provide the schematic design and planning information specifically required by §707(4) of the Pennsylvania Municipalities Planning Code, 53 P.S. §10707(4), without mandating detailed site engineering, architecture or landscape architecture which shall be required in the final plan submission.

The tentative plan shall be prepared by a professional engineer, surveyor, landscape architect or architect registered in the Commonwealth of Pennsylvania, who shall place his/her seal and signature on all applicable plans, maps and drawings. Site plans shall be drawn on sheets having a sheet size of either 24 inches by 36 inches, 30 inches by 42 inches, or 36 by 48 and shall be at one or more of the following scales: 10 feet, 20 feet, 30 feet, 40 feet, 50 feet, 60 feet, 100 feet, 500 feet, or 800 feet to the inch. Site plans may consist of multiple sheets if a key map showing the relationship of each sheet to the overall site plan is placed on all of the multiple sheets.

The tentative plan shall include:

A. The project name or identifying title.

B. The name and address of the landowner of the tract, the applicant, and the firm that prepared the plans.

C. The nature of the landowner's interest in the land proposed to be developed.

D. The file or project number assigned by the firm that prepared the plan, the plan date, and the dates of all plan revisions.

E. A key map for the purpose of locating the site to be developed at a minimum scale of 2,000 feet to the inch, showing the relation of the tract to adjoining property and to all streets, municipal boundaries and streams existing within 500 feet of any part of the property proposed to be developed.

F. The entire tract boundary with bearings, distances and identification of all existing corner markers.

G. An existing features plan including:

(1) The natural topography of the tract. Contour lines shall show vertical intervals of no greater than 2 feet.

(2) The delineation of all soil types as indicated by the most recently available USDA Soil Conservation Service Soil Survey of Berks County.

(3) The delineation of 100-year flood plains as per FEMA FIRM map panels or a studied floodplain.

(4) The delineation of wetlands.

(5) All existing buildings, roads or other structures and the approximate location of all existing pipelines, major power transmission lines, sewage and water treatment plants, buildings, tree masses, rock out-crops, lakes, ponds, streams and other watercourses.

(6) A data table showing the acres of floodplains and wetlands, separately and combined, as a percentage of the gross tract area.

(7) Any mine subsidence areas or other areas of concern due to former mining activity.

H. A proposed overall development plan including:

(1) A designation of the intended uses of all portions of the proposed development.

(2) A statement of the maximum number of residential units permitted (including accessory residential units) and the proposed number of units.

(3) A statement of the amount of nonresidential square footage proposed.

(4) A statement of the amount of required common open space and the amount of proposed common open space (in acres and as a percentage of the gross tract area).

(5) The location of all existing streets and proposed arterial streets. The general location of all proposed collector and local streets in a PRD. The location of proposed local streets within an individual development section shall be considered to be for conceptual purposes only and may be modified between the time of tentative plan approval and final plan submission.

(6) The approximate height, bulk and location of buildings and other structures. To establish compliance with this requirement, the applicant shall submit lot typicals for each proposed use or shall identify which lot typicals contained in the PRD design guidelines (as hereinafter defined) will be included within each development section. It is specifically recognized that the locations and configurations of buildings shown on the overall development plan may change between tentative plan approval and final plan approval.

(7) The general location of parking areas within the PRD and an

explanation of the provisions made for parking of vehicles within the PRD.

I. A development section plan which shall depict for each development section the general delineation, location and size of each development section within the PRD and the approximate number of residential units (including accessory residential units) and/or amount of nonresidential square footage proposed within each development section.

J. A master utility plan or plans including:

(1) General location of trunk lines showing how water service will be provided to each development section. No location or profiles of water facilities shall be required.

(2) General location of trunk lines showing how wastewater service will be provided to each development section. No location or profiles of sewer facilities shall be required.

(3) The location of existing gas and electric service and a general indication of how such services shall be provided to each development section.

(4) The general location of surface and subsurface drainage (e.g., swales, inlets, stormwater collection systems, stormwater management basins) and a general indication of how such services shall be provided to each development section.

K. An open space plan which shall depict the general location and use of the proposed common open space as it can be determined at the time of the tentative plan submission. To preserve the flexibility of development, which is a prime objective of this Part, the applicant shall not have to depict the precise location of the proposed common open space areas in the tentative plan but shall identify:

(1) The general location of the proposed open space.

(2) The general use of the proposed open space and its designation as active open space, passive open space, resource protection open space or a mixture of open space types.

(3) The form of organization proposed to own and maintain such common open space.

(4) The general location of any trails, bike paths or other pedestrian systems that may interlink or provide access to open space areas as known at the time of the tentative plan submission.

(5) The general location of any other improvements to the common open space known at the time of the tentative plan submission.

L. The tentative plan shall be accompanied by the following supplemental data as applicable:

(1) A draft of a manual of written and graphic design guidelines for buildings, streets, landscaping and wayfinding within the proposed PRD (the "PRD Design Guidelines"). The PRD design guidelines shall describe in text and graphics those building types, massing, materials, techniques, building locations, etc., which are appropriate to the proposed PRD. To preserve the flexibility of development, which is a prime objective of this Part, the PRD design guidelines shall not have to describe exhaustively all appropriate

buildings, streets and landscaping under the PRD design guidelines; rather, the PRD design guidelines should, in conjunction with the other materials submitted with the PRD tentative plan, provide general guidance on the design of buildings, streets, streetscape elements, fences, walls, signs, provisions for exterior storage of trash receptacles and wayfinding to future residents of the PRD. The PRD design guidelines shall be adopted by the homeowners association or associations of the PRD for enforcement and shall not be adopted by ordinance.

(2) Information demonstrating the feasibility of proposals for water supply to meet expected demand. If a new water system is proposed for the PRD, the applicant shall submit a description of the ability to achieve a safe and efficient water supply system supported by geologic, hydrologic or other relevant data necessary to demonstrate the feasibility of the water supply. In the event that water service is proposed to be provided by an existing water company, authority or other entity, a written statement from the water company of intent to provide public water service to the PRD and of conceptual approval of the proposed points of connection.

(3) Information demonstrating the feasibility of proposals for the disposition of sanitary wastewater including a description of the ability to achieve a safe and efficient system for sewage disposal. The description shall indicate all proposed measures and methods for conveying, treating, and disposing of wastewater sewage, the approximate sizes of all major collection mains, the direction and approximate quantities of anticipated flow, as well as all connections which will be required to tie into existing sanitary sewers, if applicable and as known at the time of filing of the application for tentative plan approval. In the event that wastewater service is proposed to come from an existing public sewer source, a written statement from the owner/operator of the sewer source of intent to provide public sewer service to the PRD and of conceptual approval of the proposed points of connection.

(4) Information demonstrating the feasibility of proposals for the management of stormwater. Soil permeability testing or other information required to demonstrate ultimate compliance with applicable stormwater infiltration requirements shall not be required at the tentative plan stage.

(5) To the extent known at the time of the application for tentative plan approval, the substance of covenants, grants of easements or other restrictions proposed to be imposed upon the use of the land, buildings and structures including proposed easements or grants for public utilities.

(6) To the extent known at the time of the application for tentative plan approval, identification of the required modifications in the Borough land use regulations otherwise applicable to the site.

(7) *Development Schedule.* In the case of a tentative plan which calls for development of various development sections over a period of years, a development schedule showing the proposed times within which applications for final approval of each development section of the PRD are intended to be filed. Said development schedule shall be updated annually by the anniversary of tentative plan approval.

(8) To the extent known at the time of the application for tentative plan approval a report that evaluates the feasibility of proposals for energy conservation and the effective utilization of renewable energy sources.

(9) A traffic impact study analyzing the impact of the proposed development on the roads within the Borough and demonstrating that the proposed development can be safely accommodated by the existing and/or proposed roads within and adjacent to the PRD. The traffic impact study shall be prepared by a qualified traffic engineer and/or transportation planner with the cost borne by the applicant.

(10) A written statement by the applicant setting forth the reasons why, in the applicant's opinion, a PRD would be in the public interest and would be consistent with the Comprehensive Plan for the development of the Borough.

(Ord. 2015-4, 9/8/2015)

#### **§27-1206. Review of Tentative Plan.**

1. *Review by the Borough Engineer.* The Borough Engineer shall review the tentative plan to determine its conformance with this Part. The Engineer may recommend changes, alterations or modifications as he may deem necessary in order to bring the plan into conformity with the requirements of this Part. The report of the Engineer shall be in writing and shall be submitted to the Borough Planning Committee prior to the regularly scheduled or special meeting at which the tentative plan is to be considered by the Planning Committee. The scheduled date for the meeting at which the tentative plan is to be discussed shall provide for a reasonable interval of time, as agreed upon by the Borough, the Borough Engineer and the applicant, for review of the plan.

2. *Review by the Berks County Planning Commission.* Within 10 days after the submission of a tentative plan, the Borough shall submit two copies of the tentative plan and one copy of all supporting materials to the Berks County Planning Commission for review.

3. *Review by the Borough Planning Committee.* When a tentative plan has been submitted, such plan shall be reviewed by the Borough Planning Committee. The scheduled date for the meeting at which the tentative plan is to be discussed shall provide for a reasonable interval of time, as agreed upon by the Borough, the Borough Engineer and the applicant, for review of the plan. During review of the tentative plan, the Borough Planning Committee shall consider the written reports of the Borough Engineer, the Berks County Planning Commission or other Borough consultants, if any. The Borough Planning Committee may recommend changes, alterations or modifications deemed necessary in order to bring the plan into conformity with the requirements of this Part. The report of the Borough Planning Committee shall be in writing and shall be submitted no less than 5 days before the public hearing at which the tentative plan is to be heard by Borough Council.

(Ord. 2015-4, 9/8/2015)

#### **§27-1207. Public Hearing.**

1. Within 60 days after the Borough receives an application for tentative approval of a PRD, a public hearing shall be held by Borough Council, which shall be advertised,

conducted and made a record in the manner prescribed in §708 of the Municipalities Planning Code, 53 P.S. §10708.

2. At the hearing, the applicant shall present evidence as to the proposed PRD's:
  - A. General character and substance.
  - B. Objectives and purposes to be served.
  - C. Scale, scope and impact of the proposed development on the Borough.
  - D. General sequence of development.

3. A stenographic record of the hearing shall be caused to be made by the Borough Council. The appearance fee for a stenographer shall be shared equally by the applicant and the Borough. The cost of the original transcript shall be paid by the Borough if the transcript is ordered by the Borough or shall be paid by the person ordering such original transcript. The cost of additional copies shall be paid by the person ordering such additional copy or copies.

*(Ord. 2015-4, 9/8/2015)*

#### **§27-1208. The Findings.**

1. Borough Council, within 60 days following the conclusion of the public hearings, shall, by official written communication to the landowner, either:
  - A. Grant tentative approval of the tentative plan as submitted.
  - B. Grant tentative approval subject to specified conditions not included in the tentative plan as submitted.
  - C. Deny tentative approval of the tentative plan.

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

The applicant shall have the right to appeal the denial of tentative approval or any conditions imposed upon the grant of tentative approval to the Court of Common Pleas of Berks County.

2. The grant or denial of tentative approval by official written communication shall include not only conclusions but also findings of fact related to the specific proposal and shall set forth the reasons for the grant, with or without conditions, or for the denial. The written communication shall set forth with particularity in what respects the tentative plan would or would not be in the public interest including, but not limited to, findings of fact and conclusions on the following:

- A. The extent to which the tentative plan departs from the specific regulations applicable to a PRD, including, but not limited to, density, bulk and use, and the reasons why such departures are or are not deemed to be in the public interest.

B. The extent to which the tentative plan is or is not consistent with the Borough Comprehensive Plan, or with the objectives of this Section.

C. The purpose, location and amount of the common open space, the proposals for ownership, administration, maintenance and conservation of common open space, and the adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of residential development.

D. The physical design of the tentative plan and the manner in which the design does, or does not, make adequate provisions for public services, provide adequate control over vehicular traffic, and further the amenities of light and air and recreation.

E. The relationship, beneficial or adverse, of the proposed PRD to the neighborhood in which it is proposed to be established.

F. In the case of a tentative plan which proposes development over a period of years, the sufficiency of terms and conditions intended to protect the interests of the public and/or the residents of the PRD in the integrity of the tentative plan.

G. The extent to which the intent of the tentative plan is made clear for the benefit of future Borough officials and future residents of the PRD in the protective covenants which shall be imposed for the preservation of the integrity of the tentative plan over the years and through various stages of development where such are contemplated.

3. In the event a tentative plan is granted tentative approval, with or without conditions, the Borough Council may set forth in the official written communication the approved development schedule. Except upon the consent of the landowner, the time so established between grant of tentative approval and application for final plan approval shall not be less than 3 months and in the case of developments over a period of years, the time between applications for final approval of each part of the plan shall not be less than 12 months.

4. In the event a tentative plan is granted tentative approval with conditions which require that modifications be made to the overall development plan, within 45 days of the grant of tentative approval, the applicant shall submit to the Borough a revised overall development plan which modifies the layout of the PRD as required by the conditions of tentative approval.

*(Ord. 2015-4, 9/8/2015)*

#### **§27-1209. Status of Plan after Tentative Approval.**

1. Where tentative approval has been granted, it shall be deemed an amendment to the Zoning Map, effective upon final approval, and shall be noted on the Zoning Map.

2. Tentative plan approval shall not qualify a PRD plan for recording nor authorize construction or the issuance of any zoning and/or building permits. A tentative plan which has been given tentative approval as submitted or which has been given tentative approval with conditions which have been accepted by the landowner (provided the landowner has not defaulted or violated any of the conditions of the tentative approval), shall not be modified or revoked or otherwise impaired by action of the Borough pending application for final approval, without the consent of the landowner, provided an application or applications for final approval is filed or, in the

case of development over a period of years, provided applications are filed, within the periods of time specified in the official written communication granting tentative approval.

3. In the event the PRD plan is granted tentative approval and thereafter, but prior to final approval, the landowner shall elect to abandon the tentative plan and shall so notify the Borough Council in writing, or in the event the landowner shall fail to file application or applications for final approval within the required period of time or times, as the case may be, the tentative approval shall be deemed to be revoked and all the portion of the area included in the tentative plan for which final approval has not been given shall be subject to those ordinances otherwise applicable thereto as they may be amended from time to time, and the same shall be noted on the Zoning Map and in the records of the Borough Secretary.

(Ord. 2015-4, 9/8/2015)

### **§27-1210. Application for Final Plan Approval.**

1. An application for final plan approval may be for all the land included in the PRD or for one or more specific development sections as delineated on the approved tentative plan. Said application shall be made to the Borough within the time or times specified by the official written communication granting tentative approval or any extensions thereof granted by Borough Council. If the application for final plan approval is in accordance with the approved tentative plan, a public hearing need not be required.

2. *Number of Copies.*

A. Twelve completed copies of an application for final plan approval shall be submitted by the applicant to the Borough.

B. Twelve legible black-line paper prints of the final plan which shall fully comply with this Part and one additional plan set for each adjacent municipality.

C. Twelve copies of all other required information.

3. *Filing Fee.* The Borough Secretary (or his representative) shall collect a filing fee for each application for final plan approval of a PRD in accordance with the fee schedule of New Morgan Borough. Fees shall be charged in order to cover the costs of examining plans and other incidental expenses. The applicant shall pay the fee at the time of application for final plan approval.

4. *Final Plan Application Requirements.* Each copy of the application for final plan approval shall consist of the following:

A. Name of the applicant and record owner and the source(s) of title to the area included in the application for final plan approval as shown by the records of the Berks County Recorder of Deeds.

B. The boundary lines of the area being developed pursuant to the final plan with accurate distances to hundredths of a foot and bearings to one second. These boundaries shall be determined by accurate survey in the field, which shall be balanced and close with an error of closure not to exceed 1 foot in 10,000 feet; provided that the boundary(s) adjoining additional unplatted land (for example, between separately submitted final plan sections) are not required to be based upon field survey and may be calculated. The location and elevation of all existing and

proposed boundary line (perimeter) monuments shall be indicated along with a statement of the total area of the property being developed. In addition, the engineer shall certify to the accuracy of the survey, the drawn plan and the placement of the monuments.

C. The name (or number), right-of-way width and cartway width of all existing public streets and the name and location of all other roads within the area included in the application for final plan approval.

D. The following data shall be shown for the cartway edges and right-of-way lines for all existing, recorded (except those to be vacated) and/or proposed streets within or abutting the area included in the application for final plan approval: the length of all straight lines and the radius, length and central angle of all arcs. Measurements shall be to the nearest hundredth of a foot or in degrees, minutes and seconds, as appropriate.

E. The following data shall be shown for all lot lines and all internal angles within lot lines: the length, width and direction of all straight lines and the radius, length and central angle of all arcs. Measurements shall be to the nearest hundredth of a foot or in degrees, minutes and seconds, as appropriate.

F. A statement of the intended use of all nonresidential lots, with reference to restrictions of any type which exist or will exist as covenants in the deed for the lots contained in the development, and if covenants are recorded, including the book and page number.

G. The permitted building envelope and the location of proposed buildings. It is acceptable for prototypical buildings to be depicted if exact buildings are not known at the time of final plan submission.

H. The location (and elevation, if established) of all existing and proposed required street and boundary monuments.

I. All easements or rights-of-way where provided for or owned by public services and any limitations on such easements or rights-of-way. Rights-of-way shall be shown and accurately identified on the plan and easements shall either be shown or specifically described on the plan.

J. Plan for water supply and distribution; fire hydrants; locations, size and invert elevations of all sanitary and/or storm sewers and location of all manholes, inlets and culverts (this data may be submitted as a separate plan).

K. Appropriate sight distance measurements as per AASHTO design guidelines set forth in its *Policy on Geometric Design of Highways and Streets*, (5<sup>th</sup> Edition (2004) or the most recent edition) or applicable PADOT standards, shall be clearly shown.

L. A certification of ownership, acknowledgment of plan and offer of dedication shall be lettered on the plan and shall be duly acknowledged and signed by the owner(s) of the property and notarized.

M. A plan for the final location of surface and subsurface drainage of the tract shall be shown. The application for final plan approval shall include stormwater runoff calculations for the entire property being developed (keyed to the plan submitted) as well as anticipated runoff from areas at a higher elevation in the same watershed and shall show the proposed method of accommodating the

anticipated runoff.

N. A certificate for approval of the plan by Borough Council and by the Borough Planning Committee shall be lettered on the plan.

O. The total number of lots, dwelling units, approximate square feet of nonresidential uses, gross and net residential density, total acres of common open space and number of parking spaces provided. A running total of these same items from all previously approved final plans should also be included.

P. A lot typical for each type of dwelling unit and nonresidential structure to be developed pursuant to the final plan, giving approximate dimensions of the structures, distances between the structures, distances to street rights-of-way and parking areas.

Q. Accurate dimensions of common open space areas specifically indicating those areas to be developed for active or passive recreation. Where common open space areas are to be developed, a general description of the type and nature of the open space improvements and the approximate location of the structures in the common open space areas.

R. A landscape plan showing existing and proposed grades for the area, location and construction details of proposed retaining walls and other structures in common areas, and a proposed planting schedule indicating the locations, species and sizes of plantings. Existing vegetation shall be shown by depicting the general edge of woodland areas and individual trees of 12-inch diameter at breast height or greater within 20 feet of any proposed disturbance.

S. Location and dimensions of easements for utilities and any limitations on such easements.

T. Certification with seal by a registered engineer to the effect that the survey and plans are correct to the accuracy required by this Part. If the final plans propose subdivision resulting in the creation of any new property lines, they shall be sealed by a surveyor registered in the Commonwealth of Pennsylvania.

U. A blank space measuring 3 inches square shall be left along the lower edge of the sheet, in order that the Berks County Planning Commission may acknowledge receipt of the final plan when it is presented.

V. A blank space measuring 3 inches square shall be left along the lower edge of the sheet, in order that the Berks County Recorder of Deeds may acknowledge receipt of the final plan when it is presented.

5. The final plan shall be accompanied by:

A. Profile sheets for all proposed streets within the area to be developed pursuant to the final plan. Such profiles shall show at least the following information, properly labeled:

(1) Existing (natural) profiles along the centerline of each street. Profiles shall also be shown along each right-of-way when requested by the Borough Engineer.

(2) Profiles along the centerline of each proposed street shall be shown. Such profiles shall show existing and proposed grades at one of the following sets of scales:

(a) One inch equals 10 feet horizontal, and 1 inch equals 1 foot vertical.

(b) One inch equals 20 feet horizontal, and 1 inch equals 2 feet vertical.

(c) One inch equals 40 feet horizontal, and 1 inch equals 4 feet vertical.

(d) One inch equals 50 feet horizontal, and 1 inch equals 5 feet vertical.

(e) One inch equals 100 feet horizontal and 1 inch equals 10 feet vertical.

(3) Proposed finished grade of the centerline and a grid with specific existing and proposed elevations every 25 feet and appropriate curb radius details to ensure adequate information for construction.

(4) The length of all vertical curves and the function of such curves.

(5) Existing and proposed sanitary sewer mains and manholes, storm sewer mains, inlets, manholes and culverts and existing or proposed water mains and fire hydrants.

B. An updated overall development plan which depicts:

(1) All phases and sections of the PRD that have been built in the manner that they were built.

(2) An outline of the area to which the phased final plan section pertains.

(3) The remaining portions of the PRD that have not yet been built, depicting the improvements shown on the approved tentative plan.

(4) All street, alley, sidewalk, trail, open space, recreation, utility, lot line, and other plan changes and linkages that may be necessary to integrate the final plan phase to adjoining development.

(5) Overall calculations of development density and intensity, open space, and other tract wide parameters established by the tentative approval.

C. Proposed deeds of dedication for all streets which are proposed to be public streets.

D. Any additional required modifications to the Borough land use regulations otherwise applicable to the PRD.

E. Such private deed restrictions, including building setback lines as may be imposed upon the property as a condition of sale together with a statement of any restrictions previously imposed which may affect the title to the area included in the application for final plan approval.

F. A completed stormwater drainage system, showing culverts, ditches, curbs and gutters is required; all inlets, manholes and pipes for storm drainage shall be shown; this shall be accompanied by computations prepared and certified by a registered professional engineer that the stormwater drainage system will be adequate for the development pursuant to the final plan.

G. The applicant shall comply with all other conditions of the written notice and communication concerning the approval of the tentative plan.

H. Prior to the time of final plan approval, restrictions of all types which will run with the land and become covenants in the deeds of lots shown on the final plan shall be submitted.

I. Such certificates of approval by authorities as have been required in this Part, including certificates approving the water supply system and the sanitary sewer system, shall be submitted.

J. Prior to the time of final plan approval, an estimate of the cost of construction of all public improvements required by this Part for the area to be developed pursuant to the final plan (“Construction Cost Estimate”). The estimate shall be prepared by the applicant’s consulting engineer or other qualified professional to be a fair and reasonable estimate of such costs.

(Ord. 2015-4, 9/8/2015)

### **§27-1211. Review of Final Plan.**

1. *Review by the Borough Engineer.* The Borough Engineer shall review the final plan to determine its conformance with this Part. The Engineer may recommend changes, alterations or modifications, as he may deem necessary in order to bring the plan into conformity with the requirements of this Part and the conditions of tentative plan approval. The report of the Engineer shall include a review of the construction cost estimate of all public improvements required by this Part for the area to be developed pursuant to the final plan.

2. In the event an application for final plan approval has been filed as required by this Part and the official written communication granting tentative plan approval, the Borough Council, within 45 days after the date of the next regular meeting of Council following the date the application is filed, shall grant final plan approval. A public hearing on an application for final plan approval shall not be required provided the submission for final approval is determined to be consistent with this Part and the official written communication granting tentative plan approval.

3. In the event the final plan as submitted contains substantial variations from the approved tentative plan, Borough Council may refuse to grant final plan approval, and within 45 days from the filing of the application for final plan approval, shall so advise the applicant in writing of its refusal, setting forth in the notice the reasons why one or more of the variations are not in the public interest. In the event an application for final plan approval is denied approval, the applicant may either:

A. Refile his application for final plan approval without the substantial variations objected to.

B. File a written request with Borough Council that it hold a public hearing on his application for final plan approval.

If the applicant wishes to take either action, he may do so at any time within which he is entitled to apply for final plan approval, or within 30 additional days if the time for applying for final plan approval shall have already passed at the time when the applicant was advised that the final plan was not in substantial compliance. In the event the applicant shall fail to take either of these alternate actions within the required time, he shall be deemed to have abandoned the final plan.

4. Any public hearing on an application for final plan approval granted by

Borough Council shall be held pursuant to public notice within 30 days after request for the hearing is made by the applicant, and the hearing shall be conducted in the manner prescribed herein for public hearings on applications for tentative approval. Borough Council, within 30 days following the conclusion of the public hearings, shall by official written communication, either:

- A. Grant final plan approval.
- B. Deny final plan approval.

The grant or denial of final plan approval shall, in cases arising under this Section, be in the form and contain the findings required for an application for tentative approval set forth herein.

(Ord. 2015-4, 9/8/2015)

**§27-1212. Recording of Final Plan.**

1. A final plan which has been granted final approval shall be certified without delay by Borough Council as being approved; provided, however, no final plan shall be certified unless security to secure the completion of improvements in accordance with the PRD requirements of this Part has been posted.

2. Within 90 days after certification by Borough Council of final plan approval, the plan shall be filed of record by the landowner in the Office of the Recorder of Deeds of Berks County.

3. Upon the recording of the final plan the zoning and subdivision regulations otherwise applicable to the land included in such final plan shall cease to apply thereto.

(Ord. 2015-4, 9/8/2015)

**§27-1213. Performance Guarantee.**

1. Prior to the Borough releasing an approved final plan for recording, the applicant shall guarantee the installation of all required improvements by posting a performance guarantee in the amount of 110 percent of the cost of all public improvements required by this Part and as reviewed and approved by the Borough Engineer for that portion of the development in the approved final plan. If the applicant and the Borough Council are unable to agree upon an estimate, the estimate shall be recalculated and recertified pursuant to the provisions of the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*

2. If water mains, sanitary sewer lines or electric service, along with apparatus or facilities related thereto, are to be installed under the jurisdiction and pursuant to the rules and regulations of a public utility or municipal authority separate and distinct from the Borough, financial security to assure proper completion and maintenance thereof shall be posted in accordance with the regulations of the controlling public utility or municipal authority and shall not be included within the performance guarantee as otherwise required by this Section.

3. The performance guarantee may be either: (A) a restricted set-aside with a lending institution, (B) a letter of credit from a financial institution, (C) a performance bond with corporate surety, or (D) other security acceptable to Borough Council. The performance guarantee shall be submitted in a form and with a surety approved by the Borough Solicitor guaranteeing the construction and installation of all improvements

within a stated period which shall not be longer than 3 years from the date of final approval.

4. In the event of default, the obligor and surety shall be liable thereon to the Borough for the cost of the improvements or parts thereof not installed. Upon receipt of the proceeds thereof, the Borough shall install the improvements. In case the amount of the performance guarantee exceeds the actual cost of improvements made, the Borough shall return the unused sum to the surety or the person who has paid or deposited the performance guarantee. In case the amount of the performance guarantee is less than the actual cost of the improvements made, then the applicant shall place additional funds with the Borough in an amount estimated by the Borough Engineer to be satisfactory for completing the improvements covered by the performance guarantee.

5. If a performance guarantee has been provided, the municipality shall not condition the issuance of building, grading, or other permits relating to the erection or placement of improvements, including buildings, upon the lots or land as depicted upon the final plan upon actual completion of the improvements depicted upon the approved final plan. Moreover, if said performance guarantee has been provided, occupancy permits for any building or buildings to be erected shall not be withheld following the improvement of the streets providing access to and from existing public roads to such building or buildings to a mud-free or otherwise permanently passable condition, as well as the completion of all other improvements as depicted upon the approved plan, either upon the lot or lots or beyond the lot or lots in question if such improvements are necessary for the reasonable use of or occupancy of the building or buildings.

6. A performance guarantee provided in accordance with this Part shall be the only financial security or escrow deposit required to ensure the completion of improvements in an approved final plan.

*(Ord. 2015-4, 9/8/2015)*

#### **§27-1214. Release of Performance Guarantee.**

As the work of installing the required improvements proceeds, the party posting the performance guarantee may request the Borough Council to release or authorize the release, from time to time, such portions of the performance guarantee necessary for payment to the contractors performing the work. Any such request shall be in writing and addressed to the Borough Council and the Borough Council shall have 45 days from receipt of such request within which to allow the Borough Engineer to certify, in writing, that such portion of the work upon the improvements has been completed in accordance with the approved plans. Upon any such certification, the Borough Council shall authorize release by the bonding company or lending institution of an amount as estimated by the Borough Engineer fairly representing the value of the improvements completed or, if the Borough Council fails to act within said 45-day period, the Borough Council shall be deemed to have approved the release of funds as requested.

*(Ord. 2015-4, 9/8/2015)*

#### **§27-1215. Dedication and Maintenance Guarantee.**

1. All streets, parks or other improvements shown on the final plan, recorded or otherwise, shall be deemed to be private until such time as the same has been offered

for dedication to the Borough and accepted by resolution of Borough Council. It is the intent of this Part that all streets, rear lanes and other public ways be offered for public dedication to and accepted by the Borough in accordance with this Part unless the applicant notes on the plan that such improvements shall remain private.

2. Before accepting dedication of any improvements, the Borough Council shall completely release the applicant of the performance guarantee and require the applicant to file a maintenance guarantee in an amount of 15 percent of the cost of constructing the improvements to be dedicated to the Borough. Such maintenance guarantee shall not have a term greater than 18 months from the date of acceptance of dedication.

3. Dedication shall be effected by a deed in a form approved by the Borough Solicitor, which deed shall include a reference to a plan of the streets and/or other parcels dedicated.

4. The applicant shall furnish the Borough with as-built plans. There shall be one paper and two mylar prints of the as-built plans showing completed required improvements, including drainage, profiles and utilities. The applicant shall also provide an electronic copy of the as-built plans in a form specified by the Borough at the time of dedication.

(Ord. 2015-4, 9/8/2015)

#### **§27-1216. Specific Procedures for Administration of PRD Approvals.**

1. *Development Schedule.*

A. The Borough shall notify the applicant of the requirement to present an updated development schedule to Borough Council at its first regularly scheduled meeting of every calendar year. The applicant shall be notified by the Borough by certified mail return receipt 30 days before the first regularly scheduled meeting of every calendar year following the year the tentative plan was approved.

B. The applicant shall present an updated development schedule to Borough Council at its first regularly scheduled meeting of every calendar year following the year the tentative plan was approved until the development is completed and accepted. If the updated development schedule is unchanged from the most recently approved development schedule, then the submitted development schedule shall be automatically deemed approved. If the updated development schedule shows changes from the most recently approved development schedule, the applicant shall demonstrate good cause for the change in a written statement and other prepared materials.

C. If the applicant has demonstrated reasonable cause for the requested change in the development schedule, Borough Council shall approve said request and the revised development schedule shall supersede and replace the originally-approved development schedule.

D. Failure of the applicant to submit an updated development schedule shall not be deemed an abandonment of the PRD.

(Ord. 2015-4, 9/8/2015)

#### **§27-1217. Development Standards.**

1. *Conditions of Eligibility.*

A. The tract or tracts shall be in one ownership or in the case of multiple ownership and/or several parcels, evidence shall be presented of a written agreement between the parties and owners involved that development will be in accordance with a single plan with common authority and common responsibility.

B. The tract or tracts shall be a minimum of 60 contiguous acres of land located wholly within the Borough of New Morgan. Additional parcels of land less than 60 acres in size may subsequently be added to the PRD provided that such parcels are owned or controlled by the original PRD applicant.

2. *Use Regulations.*

A. The following residential uses are permitted within a PRD:

- (1) Single-family detached dwellings.
- (2) Two-family detached dwellings (duplex).
- (3) Single-family semi-detached dwellings (twin).
- (4) Single-family attached dwellings (townhouses).
- (5) Multi-family dwellings.
- (6) Mobile homes and mobile home parks, subject to the regulations of Part 5 of this Chapter and Part 6 of the Subdivision and Land Development Ordinance [Chapter 22].
- (7) Dormitories, group homes, boarding houses.
- (8) Accessory residential uses, subject to the regulations of §27-1235.2 of this Chapter.
- (9) Home occupations, subject to the regulations of §27-1235.4 of this Chapter.
- (10) Mixed use buildings containing both permitted residential and nonresidential uses, subject to the regulations of §27-1221 of this Chapter.
- (11) Live-work units, subject to the regulations of §27-1221 of this Chapter.

B. The following commercial uses are permitted within a PRD:

- (1) Movie theaters.
- (2) Business, professional or governmental offices, including office buildings.
- (3) Personal service establishments including, but not limited to, barber shops, beauty shops, laundromats, laundry and dry cleaning shops, tailor and seamstress shops, appliance repair shops, rental of medical equipment and other establishments serving the needs of nearby residents.
- (4) Convenience stores with or without gasoline pumps.
- (5) Restaurants and taverns, including those with take-out, fast-food restaurants, musical entertainment, dancing, drive-through service, and/or outdoor service of food and/or alcohol.
- (6) Gasoline service stations, motor vehicle service stations, auto repair garages, and carwashes.
- (7) Health fitness centers.

- (8) Banks or other financial institutions.
  - (9) Hotels, motels, lodging houses.
  - (10) Convention centers or conference centers.
  - (11) Shopping centers.
  - (12) Retail stores.
  - (13) Printing and publishing.
  - (14) Funeral homes.
  - (15) Art galleries, museums, studios, aquariums.
  - (16) New and used car dealerships.
  - (17) Storage facilities.
  - (18) Kennels with indoor pens and offices of veterinarians.
  - (19) Cemeteries.
  - (20) Public parking lots or structured parking facilities.
  - (21) Mixed use buildings containing both permitted nonresidential and residential uses, subject to the regulations of §27-1221 of this Chapter.
- C. The following industrial uses shall be permitted within a PRD:
- (1) Public utility uses including systems and structures for potable water, wastewater, electricity, methane (landfill gas), natural gas, cable television, telecommunications, combinations thereof, and the like.
  - (2) Warehousing and distribution facilities.
  - (3) Earth, satellite receiving dishes.
  - (4) Cell towers.
  - (5) Researching, testing, cleaning, production, packaging, fabrication, processing, assembly, manufacture, repair, compounding and bottling of food, goods and materials, provided such activities are carried on within a building.
  - (6) Airport or heliport.
  - (7) Transportation depots.
  - (8) Communication towers.
  - (9) Kennels with outdoor pens or runs.
- D. The following institutional and/or public uses shall be permitted within a PRD:
- (1) State licensed hospitals, nursing homes, medical centers, animal hospitals, clinics, retirement and convalescent homes, independent living facilities, assisted living facilities, offices of doctors, dentists, surgeons, and similar medical personnel.
  - (2) Day care centers, schools, nursery schools, boarding schools, colleges and universities.
  - (3) Granges, lodges and clubs.
  - (4) Governmental offices.
  - (5) Churches or other similar places of worship, religious retreats with or

without cemeteries.

- (6) Fire or police stations.
- (7) Post offices.
- (8) Libraries.
- (9) Public parking lots or structured parking facilities.

E. The following agricultural and/or recreational uses shall be permitted within a PRD:

- (1) Nurseries or greenhouses.
- (2) Minor agricultural uses such as the raising of livestock, the keeping of horses, land cultivation and other similar uses.
- (3) Riding academies and stables.
- (4) Miniature golf courses and driving ranges.
- (5) Public or private golf courses and typical accessory uses including, but not limited to, clubhouses, banquet facilities, and golf-related retail.
- (6) Private or public indoor and outdoor recreational facilities, including but not limited to, parks, playgrounds, fitness clubs, boating, fishing, hiking, and riding trails.
- (7) Private or public community facilities including swimming pools, recreation centers, meeting halls, club houses, and other facilities which serve as an amenity to residents of the PRD, either private or public.
- (8) Forestry activities.

3. *Permitted Residential Density.*

A. The overall residential density of a PRD, including accessory residential units, shall not exceed 8.5 units per gross tract acre of the PRD.

B. Each development section of the PRD shall be permitted to vary from the residential density established for the entire PRD so long as the entire PRD tract does not exceed the maximum density of 8.5 units per gross tract acre of the PRD.

C. A PRD shall contain at least two different types of permitted residential uses.

4. *Permitted Nonresidential Density.*

A. Lots containing exclusively commercial uses shall not exceed 20 percent of the gross tract area of the PRD.

B. Lots containing exclusively industrial uses shall not exceed 20 percent of the gross tract area of the PRD.

C. Lots containing exclusively institutional and/or public uses, excluding uses countable as open space, shall not exceed 20 percent of the gross tract area of the PRD.

D. Nonresidential uses proposed for mixed-use buildings containing both nonresidential and residential uses shall not count towards the maximum permitted density calculations in this Section.

(Ord. 2015-4, 9/8/2015)

**§27-1218. General Design and Improvement Standards.**

1. The provisions of this Part shall govern all zoning aspects of the proposed PRD and shall supersede the zoning requirements of the underlying zoning districts within which the property is located.

2. Because of the unique design elements which will distinguish a PRD from other forms of residential and nonresidential development in New Morgan Borough, the specific design standards for a PRD shall be governed entirely by this Part unless expressly stated that other ordinances and regulations shall apply.

3. At the request of the landowner or applicant, Borough Council may permit the modification of the provisions of this Part governing PRDs including, but not limited to, provisions relating to the density of dwelling units, the intensity of nonresidential uses, minimum yard dimensions, road widths and the like, in order to encourage innovation in design of a PRD. To the extent feasible, an applicant desiring to obtain such modification shall identify those provisions of this Part for which a modification is requested prior to the time of tentative plan approval. To the extent that the need for modifications is not known until the time of final plan submission, an applicant desiring to obtain such modification may identify further provisions of this Part for which a modification is requested prior to the time of final plan approval. Borough Council shall grant such modifications where the landowner demonstrates that such ordinance provisions are not required in the interest of the residents of the PRD and that the modifications of such ordinance provisions are not inconsistent with the stated PRD objectives of this Part.

4. *General Design Principles.* The following are the design principals adopted to promote the compact, integrated and sustainable neighborhood form typical to small towns and boroughs in Pennsylvania.

A. *The Community.*<sup>1</sup>

(1) Neighborhoods, villages, and town centers should be compact, pedestrian-oriented and have a mix of land uses.

(2) Neighborhoods, villages and town centers should be the preferred pattern of development and areas specializing in single-use should be the exception.

(3) Ordinary activities of daily living should occur within walking distance of most dwellings, allowing independence to those who do not drive.

(4) Interconnected networks of thoroughfares should be designed to disperse and reduce the length of automobile trips.

(5) A range of housing types and price levels should be provided to accommodate diverse ages and incomes.

(6) Appropriate building densities and land uses should be provided within walking distance of transit stops.

(7) Civic, institutional, and commercial activity should be embedded in downtowns, not isolated in remote single-use complexes.

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<sup>1</sup>Credit footnote. Sections 27-501.4.A and .B of this Chapter are based upon the *SmartCode* v7.0 by Duany Plater-Zyberk & Company.

(8) Elementary schools should be sized and located to enable children to walk or bicycle to them.

(9) A range of open space including parks, squares, and playgrounds should be distributed within neighborhoods and urban center zones.

**B. *The Block and the Building.***

(1) The form of blocks and buildings in a PRD shall be determined primarily by the objective to create a compact, pedestrian-oriented and mixed-use community and not by archaic conventions of minimum lot size, setbacks, coverage ratios and other standards for each type of land use.

(2) Buildings and landscaping should contribute to the physical definition of streets.

(3) Development should adequately accommodate automobiles while respecting the pedestrian and the spatial form of public space.

(4) The design of streets and buildings should reinforce safe environments, but not at the expense of accessibility.

(5) Architecture and landscape design should grow from local climate, topography, history, and building practice.

(6) Variations in architectural treatment of buildings is encouraged.

(7) Civic buildings and public gathering places should be provided at locations that reinforce community identity and support self-government.

(8) Civic buildings should be distinctive and appropriate to a role more important than the other buildings that constitute the fabric of the city.

*(Ord. 2015-4, 9/8/2015)*

**§27-1219. Specific Regulations for Residential Uses in a PRD.**

1. Residential lots shall be designed to promote the compact, integrated and sustainable neighborhood form typical to small towns and boroughs in Pennsylvania, which is consistent with the PRD objectives of this Part.

2. No minimum lot size shall be required for residential lots within a PRD. Siting of residential dwellings shall be governed by the PRD guidelines submitted by the applicant and the following minimum standards:

	Maximum lot coverage	Minimum lot width at building line	Minimum front yard	Minimum side yard	Minimum rear yard
Single-family detached	85 percent	30 feet	0 feet	3 feet	3 feet but it may be reduced to 0 feet if the rear yard abuts a rear lane
Two-family detached (duplex)	85 percent	24 feet	0 feet	3 feet	3 feet but it may be reduced to 0 feet if the rear yard abuts a rear lane
Single-family semi-detached (twin)	85 percent	21 feet per unit	0 feet	3 feet	3 feet but it may be reduced to 0 feet if the rear yard abuts a rear lane

	Maximum lot coverage	Minimum lot width at building line	Minimum front yard	Minimum side yard	Minimum rear yard
Multi-family (town-house, row house, stacked townhouse)	100 percent	18 feet	0 feet	N/A	3 feet but it may be reduced to 0 feet if the rear yard abuts a rear lane
Multi-family (all other types)	100 percent	24 feet	0 feet	0 feet	5 feet but it may be reduced to 0 feet if the rear yard abuts a rear lane
Live-Work	100 percent	18 feet	0 feet	0 feet	5 feet but it may be reduced to 0 feet if the rear yard abuts a rear lane
Other	100 percent	18 feet	0 feet	0 feet	5 feet but it may be reduced to 0 feet if the rear yard abuts a rear lane

(Ord. 2015-4, 9/8/2015)

**§27-1220. Specific Regulations for Nonresidential Uses in a PRD.**

1. Nonresidential uses shall be designed in a manner that promotes the PRD objectives of this Part.

2. Nonresidential uses shall be designed in a manner that is consistent with the applicant’s overall vision of the PRD and with the design objectives of each given development section as set forth in the applicant’s PRD design guidelines.

3. Nonresidential uses shall be governed by the following minimum standards:

- A. Minimum lot size–500 square feet.
- B. Minimum lot width at building line–18 feet.
- C. Minimum front yard–none.

D. Minimum side yard–there shall be no minimum side yard requirement where attached nonresidential buildings are proposed. Detached nonresidential buildings shall have a minimum side yard of 3 feet provided that there is at least a total of 6 feet in side-to-side distance between nonresidential buildings. Nonresidential buildings shall be permitted to attach to residential buildings.

E. Minimum rear yard–3 feet but it may be reduced to 0 feet if the rear yard abuts a rear lane.

4. Nonresidential uses that are located within the same development section, lot or building with residential uses shall be designed in a manner that does not unreasonably interfere with residential uses.

(Ord. 2015-4, 9/8/2015)

**§27-1221. Specific Regulations for Mixed-Use Buildings and Live-Work Units.**

1. Mixed-use buildings and/or live-work units constructed within an area primarily devoted to residential uses shall be governed by the specific regulations for residential uses set forth in §27-1219 of this Chapter.

2. Mixed-use buildings and/or live-work units constructed within an area primarily devoted to nonresidential uses shall be governed by the specific regulations for nonresidential uses set forth in §27-1220 of this Chapter.

*(Ord. 2015-4, 9/8/2015)*

**§27-1222. Common Open Space.**

1. A variety of common open spaces shall be designed to complement residential and nonresidential development. Common open space areas shall include areas for active use, passive use and resource protection.

2. The location of common open space shall be consistent with the declared function of the common open space as set forth in the tentative plan application, and where possible, located for accessibility and maximum benefit of the residents, interspersed with and linking the different residential neighborhoods and town centers, and preserving and, where possible, enhancing natural features.

3. Not less than 20 percent of the gross tract area of a PRD shall be designated as common open space.

4. The Borough may, at any time and from time to time, accept the dedication of land or any interest therein for public use and maintenance, but the Borough may not require, as a condition of the approval of a PRD, that land proposed to be set aside for common open space be dedicated to the Borough or made available to general public use. If common open space is offered for dedication and accepted by the Borough, it shall still count towards the common open space provided within the PRD.

5. In the event that the applicant does not dedicate its common open space to the Borough, or the Borough does not accept dedication thereof, the applicant shall provide for and establish an organization for the ownership and perpetual maintenance of the common open space, and that such organization shall not be dissolved nor shall it dispose of the common open space, by sale or otherwise (except to an organization conceived and established to own and maintain the common open space).

A. In the event that the organization established to own and maintain common open space, or any successor organization, shall at any time after establishment of the PRD fail to maintain the common open space in reasonable order and condition in accordance with the development plan, the Borough may serve written notice upon such organization or upon the residents of the PRD setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be corrected within 30 days thereof, and shall state the date and place of a hearing thereon which shall be held within 14 days of the notice. At such hearing the Borough may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be corrected.

B. If the deficiencies set forth in the original notice or in the modifications thereof shall not be corrected within said 30 days or any extension thereof, the Borough, in order to preserve the taxable values of the properties within the PRD and to prevent the common open space from becoming a public nuisance, may enter upon said common open space and maintain the same for a period of 1 year. Said maintenance by the Borough shall not constitute a taking of said common open

space, nor vest in the public any rights to use the same.

C. Before the expiration of said year, the Borough shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common open space, call a public hearing upon notice to such organization, or to the residents of the PRD, to be held by the Borough Council or its designated agency, at which hearing such organization or the residents of the PRD shall show cause why such maintenance by the Borough shall not, at the option of the Borough, continue for a succeeding year. If the Borough Council, or its designated agency, shall determine that such organization is ready and able to maintain said common open space in reasonable condition, the Borough shall cease to maintain said common open space at the end of said year. If the Borough Council or its designated agency shall determine that such organization is not ready and able to maintain said common open space in a reasonable condition, the Borough may, in its discretion, continue to maintain said common open space during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter.

D. The decision of the Borough Council or its designated agency shall be subject to appeal to court in the same manner, and within the same time limitation, as is provided for zoning appeals by the Municipalities Planning Code, 53 P.S. §10101 *et seq.*

E. The cost of such maintenance by the Borough shall be assessed ratably against the properties within the PRD that have a right of enjoyment of the common open space, and shall become a lien on said properties. The Borough at the time of entering upon said common open space for the purpose of maintenance shall file a notice of lien in the office of the Prothonotary of Berks County, upon the properties affected by the lien within the PRD.

(*Ord. 2015-4, 9/8/2015*)

**§27-1223. Lots.**

1. Lots within a PRD shall front onto a street, a rear lane, or a common open space area that is adjacent to a street provided that easements are furnished as necessary for public access and the provision of utilities. When a lot has frontage on both a street and a common open space, the applicant may declare one frontage to be the front yard and determine rear and side yards.

2. Side lot lines shall not be required to be at a right angle to the street line but shall be as close to a right angle as practical so as to avoid awkward-shaped lots.

3. Rear and side yards shall be interpreted as rear and side yards when they abut a rear lane.

4. Multiple buildings shall be permitted within a single lot.

5. To provide for the flexibility which is the intent of this Part, there shall be no maximum or minimum lot area requirements for lots in a PRD.

6. Where a side yard is less than 4 feet for a detached building, a maintenance easement shall be provided over the yard of the adjacent lot so that a total of at least 6 feet is available for building repair and maintenance.

(*Ord. 2015-4, 9/8/2015*)

**§27-1224. Landscaping.**

1. Landscaping shall be regarded as an essential feature of every PRD in order to promote the active and passive recreational use of open space for residents, to promote the appearance and marketability of housing, to provide protection from the wind, and sun and to protect and enhance the natural ecology.

2. It is not the intent of this Part that landscaping be required to visually screen residential from nonresidential uses or to screen between residential uses. However, a 10-foot high landscaped buffer is required between adjacent industrial uses and residential uses.

3. A wide range of landscaping in the form of parks, common greens, and the like are encouraged to respond to the environmental features of the land and the unique conditions of each neighborhood within a PRD.

4. At the discretion of the applicant, certain open space areas may be left in a natural, unimproved condition to preserve environmental features of the tract.

5. *Street Trees.*

A. Street trees may be planted between the edge of cartway and the sidewalk, within landscaped medians, islands, and the like, even if the area is located within the public right-of-way. Street tree species proposed to be planted between the edge of cartway and sidewalk shall be selected to minimize heaving of sidewalks and shall be planted so as not to block sight distances at intersections.

B. Street trees shall be planted at intervals appropriate to the species proposed by the applicant's landscape architect.

C. Street trees shall be planted in any appropriate pattern, whether that be an opposing pattern, alternating pattern, or otherwise.

D. Street trees shall be of nursery stock. They shall be of symmetrical growth, free of insects, pests and disease, suitable for street use, and in conformity with the standards of the American Association of Nurserymen.

(Ord. 2015-4, 9/8/2015)

**§27-1225. Streets, Rear Lanes and Driveways.**

1. *General Standards.*

A. Streets and rear lanes shall be designed to promote pedestrian and motorist safety, to calm the movement of vehicles, to achieve the general design principles of this Part, to coordinate with abutting land uses, and to provide access for emergency services.

B. The street network shall be a hierarchy of streets and rear lanes generally laid out in a rectilinear or grid pattern of interconnecting streets and blocks that provide multiple routes from origins to destinations. Cul-de-sacs are not encouraged but are permitted where a grid structure is not possible due to site constraints.

C. Innovative street engineering techniques such as context-sensitive design, roundabouts, planted medians, chicanes, narrow cartways, bulb outs, couplets, and other traffic calming techniques described in *Pennsylvania's Traffic Calming Handbook* (2001) and *Traffic Calming: State of the Practice* (1999) are encouraged.

Designers of streets and rear lanes in a PRD are encouraged to take advantage of the full range of design parameters afforded to designers by AASHTO and PADOT in their official publications.

D. The street system shall create efficient and safe connections with the existing adjacent road system in order to insure proper ingress and egress to and from the PRD.

2. *Standards for Streets and Rear Lanes in a PRD.*

A. Minimum standards for streets and rear lanes in a PRD:

Type	Directions	On-street parallel parking	Typical minimum cartway width
Street	1-way	None	10 feet
Street	1-way	1 side	18 feet
Street	1-way	2 sides	22 feet
Street	2-way	None	18 feet with no curb or 20 feet with curb
Street	2-way	1 side	22 feet
Street	2-way	2 sides	24 feet
Rear lane	1-way or 2-way	None	12 feet
Rear lane	1-way or 2-way	1 side	18 feet

The above standards are acceptable for streets with traditional vertical curbs unless otherwise noted above. At the time of tentative plan submission, the applicant shall provide a hierarchy of street sections categorizing each of the proposed street types by functional classification as local, collector or arterial and indicating proposed cartway widths for the proposed street types.

B. Where the applicant proposes a street in accordance with subsection .2 that implies a yield movement condition, the applicant shall demonstrate that for each block of more than 100 feet in length there will be at least one break in the on-street parking sufficient for a passenger vehicle to pull out of the path of an approaching vehicle. Driveway curb cuts, rear lane to street intersections, fire hydrant no-parking zones and the like are acceptable breaks in on-street parking. Street to street intersections shall not count as breaks in on-street parking for the purposes of this Section.

C. The rear lane with one side of on-street parking is intended only for areas with abutting commercial uses requiring deliveries, trash pick-up, employee parking and the like.

D. An area shall be provided and shown on the final plan for the stockpiling of snow along any street or rear lane that ends in a cul-de-sac, court or dead-end.

3. *Rights-of-Way.* Rights-of-way for publicly dedicated streets shall be a minimum of 40 feet. However, smaller rights-of-way for publicly dedicated streets shall be permitted as long as there is sufficient width to contain the cartway of the street, curbing or swales, and sidewalks where not otherwise permitted on a lot. In such case, in lieu of providing additional right-of-way area beyond the edge of the cartway, any additional area required for utility purposes may be provided through a private

easement. The right-of-way of a rear lane shall be sufficient to accommodate the minimum cartway width.

4. In the event that a street or rear lane does not meet the geometric standards for the Borough to receive liquid fuels monies from the Commonwealth of Pennsylvania for that street or rear lane, the street or rear lane shall be publicly dedicated but the homeowners association for the abutting properties shall accept all responsibility for their maintenance and repair. All public streets or rear lanes which will not qualify for liquid fuels monies shall be identified on the final plan.

5. *Intersections.*

A. Curb radii—5-feet minimum.

B. Grading at intersection and approaches—the streets approaching an intersection shall have a leveling area, the grade of which shall not exceed 5 percent within 50 feet of the intersection of the nearest right-of-way line.

C. Clear sight triangles of 50 feet measured at the height of 3½ feet from the intersection of the centerlines of the intersecting streets shall be provided at all street-to-street intersections without all-way stop controls. A clear sight triangle shall not be required for intersections involving residential driveways or rear lanes.

No solid objects, except for a single street light, a single street name sign, and any other required traffic control devices shall obstruct any one side of the clear sight triangle.

D. Appropriate sight distance measurements as per as per AASHTO design guidelines set forth its *Policy on Geometric Design of Highways and Streets*, (5<sup>th</sup> Edition (2004)) or the most recent edition) or applicable PADOT standards, shall be shown for all intersections.

6. *Curbing.* Innovative materials and techniques for curbing are encouraged to promote the applicant's aesthetic vision for the PRD, stormwater management, or other appropriate objectives. Curbing shall be installed along all streets in front of residential and commercial uses where necessary for stormwater management purposes; however, the applicant may elect not to install curbing for reasons of aesthetics or stormwater management so long as the health, safety and welfare of the residents is not imperiled. Curbs shall not be required along rear lanes.

7. *Street Grades.*

A. There shall be a minimum centerline grade of 1 percent.

B. Centerline grades shall not exceed the following:

(1) Rear lane—10 percent.

(2) Local street—10 percent.

(3) Collector street—8 percent.

(4) Arterial street—6 percent.

C. Grades up to 13 percent may be permitted on a local street or rear lane where alternative access to abutting properties (not including common open space) is possible on streets or rear lanes of 10 percent or less.

D. Grades up to 15 percent may be permitted on a street or rear lane provided that there is no vehicular access to abutting properties in that stretch of the street

or rear lane with grades greater than 13 percent.

8. *Vertical Curves.* Vertical curves shall be based upon applicable AASHTO specifications for the design speed of the roadway.

9. *Horizontal Curves.*

A. *Local Streets.* For a horizontal curve less than 150 feet measured at the centerline, an adequate sight distance triangle should be provided on the inside radius of horizontal curve sufficient to safely accommodate the design speed of the two “intersecting roads.”

B. Collector streets should be designed to safely accommodate the design speed of the road.

C. Arterial streets should be designed to safely accommodate the design speed of the road.

D. *Cul-de-sacs.* All cul-de sacs shall have a minimum radius of 40 feet to the face of the outside curb if adequate turning movement for trash trucks and emergency vehicles can be established to the satisfaction of the Borough Engineer.

E. Courts shall be treated like local streets and shall not be required to have the geometric requirements of a cul-de-sac.

10. Roundabouts, traffic islands, landscaped medians, closes, eye-brow gardens, and other raised planting beds located in the cartway of the street are permitted.

11. *Driveways.*

A. Driveways shall be provided in accordance with the New Morgan Subdivision and Land Development Ordinance, §22-502.18; however, these requirements shall not have the effect of prohibiting driveway access for any lot.

B. Shared driveways for no more than four single-family dwellings are permitted.

C. Driveways which intersect with rear lanes shall generally be located on the side of the lot furthest from the point of intersection of the rear lane with a street.

D. Except for shared driveways, driveways on lots abutting a residential use shall be set-back at least 1 foot from the lot line.

12. *Garages off of Rear Lanes.* Garages shall be located in one of the following ways:

A. The garage shall open towards the rear lane and be located no closer than 18 feet to the edge of the cartway so as to provide room for a vehicle perpendicular to the rear lane.

B. The garage shall open towards the rear lane and be located at least 9 feet from the edge of cartway so as to provide room for one car parallel to the rear lane.

C. The garage shall open parallel to the direction of the rear lane and be located a minimum of 5 feet from the edge of the cartway. The driveway serving such garage shall be designed to discourage vehicular parking where it will interfere with the safe movement of vehicles in the rear lane in the opinion of the Borough Engineer.

D. Some other location approved by the Borough Engineer.

13. *Courts.* Courts may be used in lieu of cul-de-sacs if the court does not have a

length greater than 300 feet.

(*Ord. 2015-4, 9/8/2015*)

**§27-1226. Sidewalks and Pedestrian Facilities.**

1. Sidewalks, hiking trails, promenades, boardwalks, and other pedestrian facilities shall be designed and built to form a continuous pedestrian network throughout all developed areas within the PRD. The width, materials, and relationship of the pedestrian facility to streets and rear lanes should be carefully considered to fulfill the PRD objectives of this Part. Where sidewalks are built at or to an intersection, the sidewalk shall be designed to meet ADA requirements for access.

2. There shall be a sidewalk in front of all residential uses in a PRD. However, for no more than 2 percent of residential units in a PRD, the applicant may elect not to install a sidewalk as long as the street onto which the residential use fronts is furnished with at least one sidewalk, walking or biking trail or other pedestrian facility for the use of residents.

3. Innovative materials and techniques are encouraged to promote an attractive pedestrian environment or to fulfill the applicant's aesthetic vision for the PRD.

4. The minimum sidewalk width is 4½ feet.

(*Ord. 2015-4, 9/8/2015*)

**§27-1227. Parking and Loading.**

1. The off-street parking and loading requirements contained in Part 13 of this Chapter shall apply to all uses within a PRD except where superseded by the requirements of this Part or unless the applicant demonstrates, at the time of application for tentative plan approval that such specifications are not required in the interest of the residents of the PRD and that the modifications of such specifications are consistent with the stated PRD objectives of this Part. At the time of tentative plan approval, Borough Council shall waive or modify the specifications otherwise applicable where the applicant has made the requisite showing.

2. In areas of the PRD with a mix of uses, shared parking between such uses is encouraged to reduce the number of parking spaces otherwise required. If the applicant believes that shared parking is appropriate, the applicant shall indicate on the development section plan at the time of tentative plan approval those areas where shared parking is anticipated. Because the ability to share parking is highly dependent upon the particular uses proposed, the applicant shall submit, at the time of application for final plan approval of a development section, a shared parking analysis which demonstrates that shared parking principles are applicable and which justifies the specific reduction in overall number of parking spaces sought from the number of parking spaces otherwise required by this Chapter.

3. The design of parking and loading areas shall contribute to a streetscape appearance that is traditional to small towns and boroughs in Pennsylvania. On-street parking is encouraged to serve as an insulator between moving vehicles and pedestrians walking along the adjoining sidewalks. Parking lots shall mainly be located to the rear or sides of buildings; however, where the applicant can demonstrate that that is not possible or desirable, the parking lot shall be designed so that it is not the dominant aspect of the building design and/or the streetscape as viewed from the street; however,

it is not the intent of this Part that parking lots be screened or buffered from streets and surrounding uses.

4. *Required Parking.*

A. Shall not be required to be located on the same lot as the proposed building or use.

B. For nonresidential uses, may be located on-street as long as the on-street space is within 500 feet of the nonresidential use. However, up to 20 percent of the spaces may be located greater than 500 feet but less than 1,000 feet from the nonresidential use.

C. For residential uses, parking spaces may be located on-street as long as the on-street space is located within 250 feet of the dwelling unit. However, single-family detached homes and two-family dwellings shall have at least two off-street parking spaces dedicated to the dwelling.

5. *On-Street Parking.*

A. On-street parallel, perpendicular or diagonal parking is permitted in a PRD. Where on-street perpendicular or diagonal parking is called for, additional cartway width shall be provided beyond the requirements of §27-1225.2 to accommodate the additional depth of the parking space, subject to the review and approval of the Borough Engineer.

B. On-street parking spaces shall not be assigned or owned by any particular building or use.

C. On-street parking shall count towards required parking in keeping with this Part.

6. *Parking Lot Design.*

A. Aisles abutted by perpendicular parking shall be designed in accordance with Part 13 of this Chapter. However, the applicant may be permitted to reduce the width of such aisles by up to 6 feet subject to the approval of the Borough Engineer.

B. Aisles not abutted by perpendicular parking shall be designed in accordance with the street standards described in this Part.

(Ord. 2015-4, 9/8/2015)

**§27-1228. Utilities.**

1. Where practicable, all utilities shall be located within the street or rear lane right-of-way; otherwise, easements or rights-of-way of sufficient width for installation and maintenance shall be provided.

2. Easements for poles, wires, conduits, storm and sanitary sewers, gas, water and heat mains, and/or other utility lines over a lot intended to serve adjacent lots or buildings shall be of sufficient width for access and maintenance. Such easements that are less than 12 feet in width shall be approved by the Borough Engineer and subject to concurrence with the owner of the utility proposed for installation within the easement.

3. Residential buildings shall be set back a minimum of 25 feet from any petroleum products or natural gas transmission line right-of-way. This requirement

shall not apply to distribution lines for such products.

4. *Trench Standards.*

A. Trenches within the cartway area shall be backfilled in layers not exceeding 8 inches in depth with well-compacted soils achieving a 95 percent maximum dry density or other suitable material as determined by a qualified soils engineer through on-site testing. Other suitable material may be used for trench backfill as determined by the Borough Engineer.

B. Frozen material shall not be used for backfill, nor shall any backfilling be done when materials already in the trench are frozen.

5. *Water.* If water is to be provided by means other than by private wells owned and maintained by individual owners of lots within the PRD, the applicant shall present evidence to Borough Council that the PRD is to be supplied by a certified public utility, a bona fide cooperative association, homeowners association, authority or utility. A copy of a certificate of public convenience from the Pennsylvania Public Utility Commission or an application for such certificate, a cooperative agreement, or a commitment or agreement to serve the area in question, whichever is appropriate, shall be acceptable evidence.

6. *Sanitary Sewage Disposal.* Sanitary sewage disposal may be provided to the PRD by public sewer owned and operated by the Borough or other municipality, a certified public utility, a bona fide cooperative association, homeowners association, authority or utility, or a private community system.

A. Notwithstanding any contrary provisions of the New Morgan Sewer Code [Chapter 18], commercial, institutional and/or industrial uses within the PRD need not be connected to the Borough sewer system where topography makes such a connection commercially unreasonable or where the nature and/or type of effluent would be inappropriate or unsafe for the Borough sewer system in the opinion of the Borough Engineer.

B. Notwithstanding any contrary provisions of the New Morgan Sewer Code [Chapter 18], sewage flow for uses within a PRD shall not be calculated based upon the uniform standard of 350 gallons per day per EDU but shall be calculated based upon site specific analysis of the sewage capacity needs for the specific types of uses proposed within the PRD. This flow analysis shall also be the basis for the determination of sewer fees, rents, and other connection charges periodically established by the Borough in conformance with the regulations of the Department of Environmental Protection.

(Ord. 2015-4, 9/8/2015)

**§27-1229. Stormwater Management.**

1. An overall stormwater management system shall be designed for the PRD. To the extent that the land within a PRD is located in more than one watershed, separate stormwater management systems shall be designed for the land within each watershed.

2. Stormwater management facilities shall comply with the requirements of the New Morgan Borough Subdivision and Land Development Ordinance [Chapter 22], and this Chapter, as amended by any applicable Act 167 ordinance adopted by the Borough and in effect at the time of tentative plan approval, and the requirements described in

this Section. However, at the time of tentative plan approval, Borough Council shall waive or modify the specifications otherwise applicable where the applicant demonstrates that such specifications are not required in the interest of the residents of the PRD and that the modifications of such specifications are consistent with the stated PRD objectives of this Part.

3. Each development phase of the PRD shall not be required to independently comply with the stormwater management requirements of this Part, provided that the overall stormwater management system(s) complies with the requirements of this Part on an overall basis.

4. Regional solutions to stormwater management are preferred over fragmentary solutions. Appropriate discharge points should be identified, and areas indicated for regional facilities should be identified. Prior to final plan approval of a given development section, appropriate stormwater management facilities to control the runoff from any proposed development sections will be designed by the applicant and approved by the Borough. These facilities should generally be in the areas indicated on the tentative plans, or if appropriate in the opinion of the Borough Engineer, temporary facilities may be utilized until regional facilities are designed and installed. Temporary or permanent facilities shall be designed to the same standards as required by all applicable Act 167 plans, and all applicable Borough ordinances.

5. Natural drainageways shall be maintained to the greatest extent possible except where disturbance will result in the clean-up of contaminated areas or otherwise better fulfill the PRD objectives of this Part in the opinion of Borough Council.

(Ord. 2015-4, 9/8/2015)

**§27-1230. Lighting.**

1. Lighting shall be sufficient for the intended use and of satisfactory design and location.

2. All lighting shall be effectively shielded so as to protect streets and neighboring properties from direct or indirect glare.

(Ord. 2015-4, 9/8/2015)

**§27-1231. Blocks.**

1. *Length.* Blocks shall not be required to have minimum or maximum lengths. In the design of blocks longer than 1,000 feet, special consideration shall be given to the requirements of satisfactory fire protection.

2. *Crosswalks.* In accordance with the Subdivision and Land Development Ordinance, §22-503.3.

3. *Depth.* In accordance with the Subdivision and Land Development Ordinance, §22-503.4. In addition, irregular blocks containing flag lots, double frontage lots, or three-tiers of lots shall comprise not more than 5 percent of residential lots in a PRD.

4. *Commercial and Industrial Blocks.* In accordance with the Subdivision and Land Development Ordinance, §22-503.5.

(Ord. 2015-4, 9/8/2015)

**§27-1232. Fire Protection.**

In accordance with the Subdivision and Land Development Ordinance, §22-509.1.  
(*Ord. 2015-4, 9/8/2015*)

**§27-1233. Erosion and Sedimentation Control and Guidelines.**

The PRD shall satisfy the requirements of the Pennsylvania Department of Environmental Protection and the Berks County Conservation District with respect to erosion and sedimentation control.

(*Ord. 2015-4, 9/8/2015*)

**§27-1234. Monuments and Markers.**

In accordance with the Subdivision and Land Development Ordinance, §§22-513 and 22-514.

(*Ord. 2015-4, 9/8/2015*)

**§27-1235. Supplementary Regulations.**

1. *Accessory Buildings.* Accessory buildings shall conform to the dimensional requirements associated with the principal use of the lot and the applicable regulations of the homeowners association, if any.

2. *Accessory Uses.* Nothing in this Part shall be construed to limit accessory uses so long as they are clearly accessory to the principal permitted use of the land and do not create a threat to the public health, safety and/or welfare of the residents.

3. *Public Utilities Exempt.* In accordance with the §27-1112.

4. *Home Occupations.* All home occupations shall be clearly secondary to the use of the home as a residential dwelling and shall not involve more than 10 customer, client or patient vehicular trips to or from the premises. A live/work use shall not be construed as a home occupation. The home occupation must satisfy the following requirements:

A. The business activity shall be compatible with the residential use of the property and surrounding residential uses.

B. The business shall employ no more than one employee other than family members residing in the dwelling.

C. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.

D. There shall be no outside appearance of a business use except for one nameplate which shall be mounted on the wall of the building and which shall not exceed 24 inches by 8 inches.

E. The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.

F. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.

G. The business activity shall be conducted only within the dwelling and may

not occupy more than 25 percent of the habitable floor area.

H. The business may not involve any illegal activity.

5. Condominium or fee-simple ownership is permissible for any use.

*(Ord. 2015-4, 9/8/2015)*

**§27-1236. Post Completion Regulations.**

1. No conveyance of lots or buildings, leasehold agreements, or construction of any buildings or development of any nature shall be permitted prior to recording of an approved final plan. The Zoning Officer shall not issue a permit unless the application for the permit is accompanied by evidence of recording. After evidence of recording has been presented to the Zoning Officer, the final plan shall be placed upon the Zoning Map of the Borough.

2. Issuance of permits and all matters pertaining to administration of an approved PRD final plan shall be the responsibility of the Zoning Officer.

3. Upon application of the landowner showing compliance with the requirements of final approval, the Zoning Officer shall issue permits for construction pursuant to the plan, or any section thereof.

*(Ord. 2015-4, 9/8/2015)*

**§27-1237. Abandonment of PRD.**

In the event a final plan is given final approval and thereafter the landowner shall abandon the plan or section thereof and shall notify Borough Council in writing; or the landowner shall fail to commence and carry out the PRD in accordance with the development schedule approved at the time of tentative approval, as annually updated, no development or further development shall take place on the property included in the final plan until after the property is reclassified by enactment of an amendment to this Chapter in the manner prescribed for such amendments in Article VI of the MPC, 53 P.S. §10601 *et seq.*

*(Ord. 2015-4, 9/8/2015)*

**§27-1238. Revision and Amendment of Approved PRD Plan.**

The applicant may amend an approved final plan by submitting the amended plan to Borough Council. Borough Council shall review the amended final plan in the same manner as an initial final plan submission as described in §27-1210 of this Chapter.

*(Ord. 2015-4, 9/8/2015)*

**§27-1239. Interim Uses.**

In the event that an approved PRD is proposed to be developed in sections over a period of years, the portions of the property which are proposed to be developed more than 3 years after the tentative plan is approved by Borough Council may use, or continue to use, those portions of the property for any purpose permitted in the underlying zoning district in which that portion of the property is located; provided, that the applicant obtains all necessary approvals and permits otherwise required for the construction of improvements on that portion of the property.

*(Ord. 2015-4, 9/8/2015)*



**Part 13****Off-Street Parking Requirements****§27-1301. Accessory Off-Street Parking Facilities.**

Shall be required in accordance with the provisions of this Part as a condition precedent to the occupancy of any new building or use so as to alleviate traffic congestion on streets. Facilities shall be provided:

- A. Whenever a building is constructed.
- B. Whenever the use of an existing building is changed to a use requiring more parking facilities.
- C. Whenever an existing building or use is altered or enlarged so as to increase the amount of parking spaces required by this Part.

(Ord. 2015-4, 9/8/2015)

**§27-1302. Continuation of Parking Facilities.**

1. All off-street parking facilities, or those required as accessory to a use of a proposed or altered building, shall continue unobstructed in operation, shall not be used for automobile service or repair, and shall not be reduced below the required size as long as the principal use remains, unless an equivalent number of spaces is provided for such use in another approved location.

2. In order to insure the continued use for parking purposes of any areas established therefore by persons who are not the owners thereof, the Borough Council may require, before approval, evidence in writing that the owner or owners of the land to be included in such parking areas have by covenant agreed to allow the use of such land for the required off-street parking which covenant shall so indicate that said covenant will bind any successors, heirs, or assigns of the owner or owners of the land affected; such covenant may be filed for record with the Berks County Recorder of Deeds. Except for residential uses, all off-street parking spaces shall be provided within 300 feet of the lot line of the principal building or structure.

(Ord. 2015-4, 9/8/2015)

**§27-1303. Standards and Definitions.**

For the purpose of determining accessory off-street parking requirements, definitions and standards shall be as follows:

*Accessory parking space*—an open or enclosed area exclusive of any public right-of-way, accessible from a street for parking of motor vehicles of owners, occupants, employees, customers or tenants of the principal building or use; each parking space shall be sufficient in size to accommodate at least one automobile. Off-street parking spaces may be located in any required yard provided that no parking stall or aisle shall be located within 10 feet of a property line and that a buffer screen is planted and maintained so that no visual evidence of the parking area is apparent.

*Floor area*—the total area of all floors measured from the exterior faces of the

building (except the floor area used for storage or packaging of merchandise may be excluded).

*Seat*—the number of seating units installed or indicated, or each 24 lineal inches of benches, pews or spaces for loose chairs or similar facilities; spacing for rows shall be 30 inches on center.

*Required minimum parking spaces*—minimum number of spaces required by applying the schedule in §27-1305 of this Chapter to a specific building or group of buildings. Where the computation results in a fractional unit, one additional off-street parking space shall be provided.

*Parking space standards*—

- (1) All parking spaces shall be a minimum of 9 feet wide and 19 feet in depth.
- (2) An unobstructed aisle, 24 feet wide for two-way traffic and 12 feet wide for one-way traffic, shall be maintained for vehicular circulation in parking areas.
- (3) Aisle widths may be reduced depending upon the proposed angle of parking. Reference should be made to “Architectural Graphic Standards,” released by the American Institute of Architects.

(Ord. 2015-4, 9/8/2015)

#### **§27-1304. Off-Street Parking and Loading.**

The regulations of this Part for off-street parking and loading shall apply when a building, structure or lot is used or occupied.

A. All parking and loading requirements listed herein shall be provided on the lot containing the use or occupancy. In no case shall parking on public roads, streets or thoroughfares be credited toward meeting the requirements of this Part.

B. In no case shall parking be located in required buffer areas, in wetlands and in floodplain areas.

C. Off-street parking facilities existing at the effective date of this Chapter shall not subsequently be reduced to an amount less than required hereunder for a similar use or occupancy. Off-street parking facilities provided to comply with the provisions of this Chapter shall not subsequently be reduced below the requirements of this Chapter.

D. All parking facilities shall be designed to comply with the requirements of the Commonwealth of Pennsylvania with regard to the Americans with Disabilities Act and the current standards of ANSI 117.1.

E. All parking facilities shall be designed to comply with the requirements of the current Subdivision and Land Development Ordinance of New Morgan Borough [Chapter 22].

F. Residential parking facilities, other than in the R–Residential District, shall be used solely for the parking of passenger automobiles and not more than one commercial vehicle of not more than 2 tons gross vehicle weight. Such vehicle shall be utilized by the occupants of the dwelling.

G. Nonresidential parking spaces and driveways shall be a minimum of 20

feet from any building or structure, except as required for drive-through facilities.

H. All parking spaces, driveway and access aisles provided under this Part shall be all-weather and shall be paved per Borough specifications with the exception of the R-Residential District where only the all-weather requirement shall apply. Six inches of crushed stone on a firm, well drained base or its equivalent shall satisfy the all-weather requirement, subject to the Borough Engineer’s approval.

(Ord. 2015-4, 9/8/2015)

**§27-1305. Schedule of Required Parking.**

The following uses and occupancies shall provide off-street parking in the amounts as indicated below. Parking spaces shall be designed such that each motor vehicle may proceed to and from the parking space provided for it without the possibility of requiring the moving of any other vehicle.

Use/Occupancy	Parking Space Requirement
Bank or financial institution	One space per 200 square feet of floor area.  Institutions with drive through facilities shall provide a minimum of five stacking spaces per service window.
Bowling alley	Five spaces per alley plus one per employee.
Broadcast studio	One space per employee plus requirements of auditorium or theater.
Business, professional, trade and/or technical schools.	One space for each instructor and student.
Car wash	One space per employee plus 20 waiting spaces per washing lane and 1,000 square feet of finishing area per lane.
Church	One off-street parking space for each four seats provided for patron use, or at least one off-street parking space for each 40 square feet of gross floor area intended to be used for service of patrons, guest or members, whichever requires the greatest number of off-street parking spaces, plus one additional space for each full time employee
Clubs and club houses	One space per 150 square feet of gross floor, building and ground area devoted to this use.
Child, adult and senior citizen day centers	Three spaces per 1,000 square feet.
Community center, senior citizen center or other similar facility	Three off-street parking spaces for each 1,000 community square feet of gross floor area.
Contractor, craftsman’s or general	One space per employee, both shop and field, service shop and one per 500 square feet devoted to patron use.
Convenience store	One space per 100 gross square feet of floor area plus one per employee.

Use/Occupancy	Parking Space Requirement
Convention center	One space per room and one per employee for lodging facilities and one per five fixed seats plus one space per 35 square feet of gross assembly area without seating.
Dancing schools	One space per student, calculated on maximum building capacity, as determined by the Fire Marshal.
Dining and lodging facilities	One space per unit plus an additional two per seat or one per 50 square feet of floor space and one per employee, whichever is greater.
Duplex dwellings	Two spaces per dwelling unit.
Electric and communication	One off-street space of sufficient size to substation accommodate the largest anticipated service vehicle.
Garden apartments	Two and one half spaces per dwelling unit.
Golf Course	Ten spaces per hole.
Greenhouse or nursery	Five spaces per 1,000 square feet of indoor and/or outdoor space devoted to patron use and display of stock.
Gymnasiums, stadiums, auditoriums serving educational facilities	One space per five seats.
Hotel or motel	One space per each guest room plus any required additional spaces for permitted uses within the hotel or motel, plus one per employee on the largest shift.
Kindergarten, elementary, middle or junior high school	Three spaces for every 10 students.
Laboratories	One space per 200 square feet of gross floor area.
Libraries or museums	Three off-street parking spaces for each 1,000 square feet of gross floor area.
Lodging facilities	One space per unit plus one per employee.
Major shopping center	Four spaces per 1,000 square feet of gross floor area.
Manufacturing, industrial	One space per employee per largest shift who works either within the facility or who serves as a driver or other outside activity, or one space per 750 square feet of gross floor area, whichever is greater.
Motor vehicle—service station, public garage	One space per employee plus five per service repair shop, bay.
Motor vehicle—sales agency (also items as boats and trailers)	One space per 100 square feet of floor area includes such devoted to office, sales or showroom use plus one per employee.
Municipal buildings	Requirements shall be computed based on the combined uses within the buildings.

Use/Occupancy	Parking Space Requirement
Newspaper publishing	One space per employee per largest shift who works either within the facility or who serves as a driver or other outside activity.
Music schools, professional	One off-street parking space per student or schools per faculty member plus one per student calculated on maximum building capacity, as determined by the Fire Marshal.
Office–business services and professional, including veterinarian	Three spaces per 1,000 square feet of gross floor area.
Office–Professional–Medical	Four spaces per 1,000 square feet of gross floor area.
Park and outdoor/rural recreation	Parking shall be based upon the number and type of playing fields, and any other physical improvements. A percentage of the spaces may be all-weather, as approved by the Borough Engineer. The total number of spaces shall be supported by a parking study that shall be reviewed and approved by the Borough Engineer.
Personal service or custom shops	One space per 100 gross square feet of floor area devoted to patron use and performance of the service.
Rental rooms	Two spaces for resident family plus one for each guest room.
Restaurant, including social club	One space per 80 square feet of gross floor and drive thru area and a minimum stacking lane of five spaces per drive-thru window.
Roadside agricultural stand	Sufficient spaces to accommodate seasonal sale. Surface may be crushed stone in lieu of paving and curbing, at the discretion of the Borough.
Rural inn	Two spaces for resident family plus one for each guest room.
Sanitariums, convalescent homes	One space for every two beds plus one per hospital's maximum number of employees on a shift.
Senior high school, junior college	One off-street parking space per faculty member and employee plus one space per three students calculated on maximum building capacity, as determined by the Fire Marshal.
Single-family detached dwelling	Two off-street parking spaces with independent access and egress.
Special citizens housing	One space per two beds plus one per maximum number of employees on a shift.
Stock, warehousing, piggery or slaughterhouse	One space per employee.
Strip shopping center stores	Five spaces per 1,000 square feet of gross including retail floor area.
Tennis courts	Two spaces per court.

Use/Occupancy	Parking Space Requirement
Theater, auditorium, or other place of public assemblage, excluding churches	One space for every three seats.
Townhouses	Two and one-half spaces per dwelling unit
Used Car lot	One space per employee plus one space per 1,000 square feet of lot area. Such areas shall be marked and reserved for patron use.
Wholesale office and showroom including outside yard for distributing building materials and/or similar materials	One per employee plus five per 1,000 square feet of space devoted to patron use and display stock.

For uses and occupancies not clearly covered by the above table the most current edition of the Institute of Transportation Engineers *Parking Generation Manual* may be used or a study from a traffic engineer may be used to support the proposed parking requirement. In either case the Borough shall have sole authority with respect to establishing the parking requirement. When there are multiple uses on a lot the sum of the requirements for all uses may be reduced by 10 percent.

(Ord. 2015-4, 9/8/2015)

**§27-1306. Reserve Parking.**

As a conditional use, the Borough Council may approve the provision of less than the number of parking spaces required under this Chapter when the following requirements are met:

- A. A parking study prepared by a professional traffic engineer shall be prepared and submitted; it shall support the requested reduction; it shall be reviewed by the Borough; and, it must be accepted.
- B. An area on the site shall be designed to accommodate the reduced number of parking spaces per this Part and that area shall be placed in reserve.
- C. The stormwater system, and any other support feature as determined by the Borough Engineer, shall be designed and constructed to accommodate the required number of parking spaces per this Part.
- D. The property owner shall agree to construct the spaces placed in reserve at any time in the future should the Borough Council determine, in their sole discretion, that the spaces are needed. This agreement shall be in a form satisfactory to the Borough Solicitor.

(Ord. 2015-4, 9/8/2015)

**§27-1307. Landscape Requirements.**

Any parking facility for 10 or more automobiles constructed under the terms of this Part shall meet the following landscape requirements, or the requirements of the Subdivision and Land Development Ordinance [Chapter 22], whichever is greater.

- A. Ten percent of the area of all paving for parking and access driveways

shall be devoted to landscaping within the outer boundaries of the paved area.

B. The landscaped area may incorporate stormwater management facilities and it shall be designed so that the landscaping is distributed throughout the parking area.

C. All aspects of the design of the landscaped area shall be subject to the requirements of the Subdivision and Land Development Ordinance of New Morgan Borough [Chapter 22] and to the approval of the Borough.

*(Ord. 2015-4, 9/8/2015)*

**§27-1308. Off-Street Loading.**

Adequate space shall be provided to accommodate the loading and unloading of trucks, tractors and trailers, including parcel delivery vans, servicing any commercial, industrial, institutional or other use for which there is a need for such facilities. The Zoning Officer in his sole discretion shall determine the need.

A. Loading spaces and loading docks shall not be located between the street and the building.

B. Loading spaces and loading docks shall be screened from view from all streets and all residentially zoned or used properties, as defined in the Subdivision and Land Development Ordinance [Chapter 22].

C. All loading facilities shall be located within the parking setbacks.

D. All loading spaces shall be subject to the review of the Fire Marshal.

*(Ord. 2015-4, 9/8/2015)*

**§27-1309. Trash Facilities.**

Adequate space shall be provided to accommodate the storage and collection of trash and refuse. The Zoning Officer in his sole discretion shall determine the need.

A. The trash facilities shall not be located between the street and the building.

B. The trash facilities shall be designed to be accessible at all times.

C. The trash facilities shall be screened from view from all streets and all residentially zoned or used properties, as defined in the Subdivision and Land Development Ordinance [Chapter 22].

D. All trash facilities shall be located within the parking setbacks.

*(Ord. 2015-4, 9/8/2015)*

**§27-1310. Construal of Provisions.**

Nothing contained in this Part shall be construed to authorize or permit the establishment of a parking, loading or trash facility in conjunction with a commercial, industrial or institutional use in other than a like zoning district.

*(Ord. 2015-4, 9/8/2015)*



**Part 14**

**FPC Floodplain Conservation District**

[See Chapter 8, "Floodplains"]



**Part 15****Conditional Use Criteria****§27-1501. Conditional Uses.**

1. Borough Council may grant approval of a listed conditional use for any district, provided that the standards and criteria set forth in this section are complied with by the applicant for the conditional use. The burden of proving compliance with such standards and criteria shall be on the applicant.

2. The applicant shall establish, by credible evidence, that the use of other subject of consideration for approval complies with the declaration of legislative intent of this Chapter and with any declaration of legislative intent that may apply specifically to the district for which approval is sought.

3. The applicant shall establish, by credible evidence, compliance with conditions of the use enumerated in that section which gives the applicant the right to seek a conditional use.

4. The applicant shall establish, by credible evidence, that the proposed use or other subject of consideration for approval does not adversely affect neighboring land uses in any way and further, that the proposed use or other subject of consideration for approval does not impose upon its neighbors in any way but rather blends in with them in a harmonious manner.

5. The applicant shall establish, by credible evidence, that the proposed use or other subject of consideration for approval will be properly serviced by all existing public service systems. The peak traffic generated by the subject of the approval must be accommodated for in a safe and efficient manner, or improvements made in order to effect the same. Similar responsibility must be assumed with respect to other public service systems, including police protection, fire protection, utilities, parks and recreation.

6. The applicant shall establish, by credible evidence, that the proposed use or other subject of consideration for approval will be properly designed with regard to internal circulation, parking, buffering and all other elements of proper design.

7. The applicant shall provide Borough Council with sufficient plans, studies, or other data to demonstrate that compliance with the permitted uses or with such other regulations as may be the subject of consideration for a conditional use approval is unreasonable or inappropriate for the instance at hand.

8. Borough Council shall impose such conditions as are necessary to ensure compliance with the purpose and intent of this Chapter, which conditions may include planting and buffers, harmonious design of buildings and the elimination of noxious, offensive or hazardous elements.

9. Unless otherwise specified in the decision of Borough Council, a conditional use shall expire if the applicant fails to obtain a permit in connection therewith within one year of the date of the order of the Council or court granting such conditional use. In those instances where land development/subdivision approval is a necessary prerequisite prior to obtaining a building permit, the conditional use shall expire if the applicant fails to make a diligent effort to obtain such approval within 6 months

following the date of approval. Upon receipt of land development approval, the conditional use shall expire if a building permit is not obtained within 6 months of the date of the land development approval.

*(Ord. 2015-4, 9/8/2015)*

**Part 16****Amendments****§27-1601. Amendments.**

1. The regulations, restrictions, boundaries and requirements set forth in this Chapter, including the Zoning District Map, may, from time to time, be amended, supplemented, changed or repealed, through amendment by Borough Council.

A. *Procedure for Amendment.*

(1) No amendment to this Chapter shall be made except after a public hearing held on such proposed amendment. Notice of the time and place and the matters to be considered at such public hearing shall be published by Borough Council in a newspaper of general circulation within the Borough once each week for 2 successive weeks. The first publication shall not be more than 30 days nor less than 7 days from the date of the hearing.

(2) In the event that any amendment to be considered at such a public hearing was not prepared by the Planning Commission, each such amendment shall be submitted by Borough Council to the Planning Commission at least 30 days prior to the date set for the public hearing thereon to provide the Planning Commission an opportunity to submit recommendations.

(3) At least 30 days prior to a hearing on the amendment by Borough Council, the proposed amendment shall be submitted to the Berks County Planning Commission for recommendations.

(4) If, after the public hearing on any proposed amendment, the proposed amendment is revised or further revised to include land not previously affected by the proposed amendment, Borough Council shall hold another public hearing, after notice thereof by publication in the manner provided above in this Section, before proceeding to vote on such revised amendment.

B. *Zoning Amendments Not Originating from Borough Council or Planning Commission.*

(1) *Petition by Property Owners.* Any property owner, or a group of property owners, may apply to Borough Council by a duly acknowledged petition accompanied by the required filing fee, for an amendment, supplement, change, modification or repeal of the regulations herein, including the Zoning District Map, as the same may apply to the land of the applicant(s). It shall be the duty of Borough Council to hold a public hearing thereon, and cause notice thereof to be given in the manner prescribed by law.

(2) *Submission of Curative Amendment by Landowner.* A landowner who desires to challenge on substantive grounds the validity of an ordinance or map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to Borough Council with a written request that his challenge and proposed amendment be in accordance with the PA MPC, 53 P.S. §10101 *et seq.* Borough Council shall commence a hearing thereon within 60 days of the request. The curative amendment shall be referred to the Planning Commission and the

Berks County Planning Commission as provided in paragraph .A of this Section, and notice of the hearing thereon by Borough Council shall be given as provided in that paragraph. The hearing shall be conducted in accordance with the provisions of the PA MPC, 53 P.S. §10101 *et seq.*

(3) *Filing Fee.* In the event any owner or owners of property petition for supplementing or changing the district boundaries or regulations herein established, or a landowner submits a curative amendment, the Zoning Officer shall collect a fee prior to such petition being heard by Borough Council, as established by Borough Council.

(*Ord. 2015-4, 9/8/2015*)

**§27-1602. Amendment of Conflicting Ordinances.**

The Zoning Ordinance of New Morgan Borough of 2014 revised, as amended, is hereby amended; and, all existing ordinances or parts of ordinances, which are contrary to the provisions of this Chapter, are also amended to the extent necessary to give this Chapter full force and effect.

(*Ord. 2015-4, 9/8/2015*)

**Part 17****Nonconformities****§27-1701. Nonconforming Use of Land.**

Any land, the existing lawful use of which at the time of passage of this Chapter or any amendment thereto that does not conform to the use regulations of the zoning district in which it is located shall have such use considered to be a non-conforming use, which may continue on such land subject to the regulations herein below.

*(Ord. 2015-4, 9/8/2015)*

**§27-1702. Nonconforming Lots.**

Any lot the area or dimensions of which were lawful at the time of creation of the lot and prior to the passage of this Chapter or any amendments thereto, but which fails to conform to the present dimensional requirements of the district in which it is located by reason of such passage or amendment, shall be considered a nonconforming lot. Such a lot may be developed or used for any permitted purpose allowed in the zoning district in which it is located provided all other regulations of that district are adhered to.

*(Ord. 2015-4, 9/8/2015)*

**§27-1703. Nonconforming Use of Buildings.**

Any lawful use of any building which at the time of passage of this Chapter or any amendments thereto which does not conform to the use regulations of the zoning district in which it is located shall have such use considered to be a nonconforming use, which may continue in such building subject to the regulations herein below.

*(Ord. 2015-4, 9/8/2015)*

**§27-1704. Nonconforming Buildings.**

Any lawful building existing at the time of passage of this Chapter or any amendment thereto which does not conform to the dimensional requirements, including, but not limited to, height, location as to required yards, size and coverage regulations of the zoning district in which it is located shall have such building considered to be a non-conforming building which may remain as such, subject to the regulations herein below.

*(Ord. 2015-4, 9/8/2015)*

**§27-1705. Change of Nonconforming Use.**

A nonconforming use of a building or land shall be considered as such unless and until the use is changed to a use that complies with the regulations of the zoning district in which it is located. A nonconforming use shall not be changed to any other nonconforming use except upon the granting of a variance from the Zoning Hearing Board.

*(Ord. 2015-4, 9/8/2015)*

**§27-1706. Discontinued Nonconforming Use.**

A nonconforming use of a building or land may be discontinued and resumed at a later date. The abandonment of a nonconforming use shall result in the loss of the nonconforming status of that use of the building or land and thereafter the building or land shall be used in strict conformity with the use regulations of the zoning district in which it is located.

*(Ord. 2015-4, 9/8/2015)*

**§27-1707. Expansion of Nonconforming Uses of Land.**

By special exception, the lawful nonconforming use of land may be expanded so long as that expansion does not exceed 25 percent of the gross area of the lot devoted to the nonconforming use on the date when such use first became nonconforming. In no case may a nonconforming use of land be extended beyond the original lot lines of the property.

*(Ord. 2015-4, 9/8/2015)*

**§27-1708. Expansion of a Nonconforming Use of a Building.**

1. By special exception any lawful nonconforming use of a portion of a building may be extended throughout the building provided the extension does not result in the violation of the parking, or any other regulations of this Chapter.

2. By special exception any lawful non-conforming use of a building may be extended upon the original lot provided that the area of such extension shall not be greater than 25 percent of the area of the original nonconforming building and provided further that the extension shall conform to all requirements of the zoning district in which the building is located and all other applicable requirements of this Chapter.

3. A building or structure which is nonconforming as to the side or rear yard setback requirement in this Chapter may be extended (even though such extension would also be nonconforming as to the pertinent setback requirement), provided that the extension does not involve any further incursion into the setback being violated, does not violate any other setback requirement, is for a single-family residential use and does not increase the gross size of the building by more than 25 percent.

*(Ord. 2015-4, 9/8/2015)*

**§27-1709. Buildings Containing Nonconforming Uses Which Are Destroyed by Fire or Other Casualty.**

If a building containing a nonconforming use is damaged or destroyed by fire, explosion, accident or other casualty, it may be reconstructed and used for the same nonconforming use, provided that the reconstructed building shall not exceed in height, area or volume the building destroyed nor shall the reconstructed building permit a greater intensity of nonconforming use than existed before the damage or destruction and carried on without interruption, there shall be a presumption of abandonment of the nonconforming use, subject to rebuttal by the property owner using clear and convincing evidence.

*(Ord. 2015-4, 9/8/2015)*

**§27-1710. Condemned Buildings.**

A nonconforming building which has been legally condemned shall not be rebuilt or otherwise used except in complete accordance with the provisions of this Chapter.

*(Ord. 2015-4, 9/8/2015)*

**§27-1711. Nonconforming Signs.**

Any sign which is nonconforming by virtue of having been lawfully in existence prior to the passage of this Chapter or any amendment thereto shall be considered a nonconforming sign and may continue as such provided there is no change of any kind to the sign. Any change shall result in the loss of the nonconforming status, the requirement for its removal and requirement that any replacement sign shall conform with all requirements of this Chapter.

*(Ord. 2015-4, 9/8/2015)*



**Part 18****Provisions of Chapter  
Declared to Be Minimum Requirements****§27-1801. Minimum Requirements.**

1. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.

2. No building or other structure shall hereafter be erected or altered:

A. To exceed the height or bulk.

B. To accommodate or house a greater number of families.

C. To occupy a greater percentage of lot area.

D. To have narrower or smaller rear yards, front yards, side yards, or other open spaces, than herein permitted or required.

E. In any other manner contrary to the provisions of this Chapter.

3. No part of a yard, or other open space, or off street parking or loading space required about or in connection with any building for the purpose of complying with this Chapter, shall be included as part of a yard, open space, or off street parking or loading space similarly required for any other building.

4. No yard or lot existing at the time of passage of this Chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Chapter shall meet at least the minimum requirements established by this Chapter.

5. When a specific use is neither permitted nor prohibited in the schedule of district regulations, the Zoning Hearing Board 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.

6. All territory which may hereafter be annexed to the Borough shall be considered to be in the Residential (R) District until otherwise classified.

*(Ord. 2015-4, 9/8/2015)*



**Part 19****Administration, Enforcement and Penalty****§27-1901. Authority of Zoning Officer.**

This Chapter shall be administered and enforced by the Zoning Officer with appropriate assistance as required. The Zoning Officer shall be appointed as provided in the PA MPC, 53 P.S. §10101 *et seq.*, by the Borough Council.

(*Ord. 2015-4, 9/8/2015*)

**§27-1902. Duties of Zoning Officer.**

The Zoning Officer shall function within the parameters of the law as stated in the PA MPC, 53 P.S. §10101 *et seq.*, and shall have the following duties:

- A. Maintain a record of all plans and applications for permits and all permits issued, with notations as to special conditions attached thereto.
- B. To receive and examine all applications for permits.
- C. To issue permits for construction and uses which are in accordance with the provisions of this Chapter.
- D. To revoke, by order, a permit issued under a mistake of fact or contrary to law or the provisions of this Chapter.
- E. To make such report as the Borough Council shall require.
- F. To issue permits for construction and uses which are special exceptions or variances to the provisions of this Chapter only upon the order of the Zoning Hearing Board.
- G. To require that all lots shall have corner stakes set by a registered surveyor, and that the application for a zoning permit and the accompanying plot plan, shall contain all the information necessary to enable him or her to ascertain whether the proposed use, building, construction or alteration complies with the provisions of this Chapter. No zoning permit shall be issued unless the Zoning Officer certifies that the proposed use, building, construction, or alteration complies with the provisions of this Chapter.
- H. To enforce the provisions of this Chapter and to issue violation notices.
- I. To issue certificates of nonconformity.
- J. To perform such other administrative tasks as may be assigned by the Borough Council.

(*Ord. 2015-4, 9/8/2015*)

**§27-1903. Certificates of Uses, Occupancy and Compliance.**

1. No use of vacant land, other than agricultural use, shall be made nor shall any building or structure hereafter constructed, erected or structurally altered by occupied or used, nor shall any existing use of a building, structure or land be changed until a certificate of use, occupancy and compliance has been issued by the Zoning Officer.

2. In the event that a building permit is required for the construction, erection or

structural alteration of any building or structure, an application for a certificate of use, occupancy and compliance shall be made simultaneously with the application for the building permit. The applicant shall notify the Zoning Officer of the date on which such construction, erection or structural alteration shall have been completed in conformity with the provisions of this Chapter, and the Zoning Officer shall examine the building or structure involved within 10 days of the completion thereof. If the Zoning Officer shall find that such construction, erection or structural alteration has been completed in accordance with the provisions of this Chapter, a certificate of use, occupancy and compliance shall be issued.

3. In the event that any existing use of a building, structure or land is to be changed, an application for a certificate of use, occupancy and compliance shall be made prior to the change of such use. The Zoning Officer shall make such examination and investigation as is necessary to determine whether the proposed change in use shall be in compliance with this Chapter within 10 days of the application therefor, and, if such proposed use shall be found to be in accordance with the provisions of this Chapter, a certificate of use, occupancy and compliance shall be issued.

4. A certificate of use, occupancy and compliance issued under this Section shall state that the building, structure or land complies with the provisions of this Chapter. (*Ord. 2015-4, 9/8/2015*)

#### **§27-1904. Temporary Certificate of Use, Occupancy or Compliance.**

The Zoning Officer may issue a temporary certificate of use, occupancy or compliance which may permit the use or occupancy of a building or structure during structural alteration thereof or may permit the partial use or occupancy of a building or structure during its construction or erection; provided, however, that such a temporary certificate of use, occupancy or compliance shall be valid only for a period not exceeding 90 days from its issuance, and shall be subject to such restrictions and provisions as may be deemed necessary by the Zoning Officer to adequately ensure the safety of persons using or occupying the building, structure or land involved. Application for such a temporary certificate of use, occupancy and compliance, and the application for or issuance of such a temporary certificate of use, occupancy or compliance shall in no way affect the obligation to apply for and obtain a certificate of use, occupancy and compliance.

(*Ord. 2015-4, 9/8/2015*)

#### **§27-1905. Application Forms.**

1. All applications for certificates of use, occupancy and compliance shall be made on printed forms to be furnished by the Zoning Officer and shall contain accurate information as to the size of and location of the lot; the size and location of the buildings or structures on the lot; the dimensions of all yards and open spaces; and such other information as may be required by the Zoning Officer as necessary to provide for the enforcement of this Chapter.

2. No building permit or other permit for grading, excavation or for the erection, construction, repair or alteration of a building or structure shall be issued before application has been made for a certificate of use, occupancy and compliance.

(*Ord. 2015-4, 9/8/2015*)

**§27-1906. Life of Permit.**

Every permit issued shall be good only for the period of 6 months from its date, unless it is exercised or used within said period and unless, once commenced, it is continually exercised or used. If work ceases for a period of 6 months, unless such cessation is for cause, the permit shall expire.

*(Ord. 2015-4, 9/8/2015)*

**§27-1907. Schedule of Fees.**

1. Borough Council shall determine a schedule of fees, charges and expenses, as well as a collection procedure for permits, variances, special exceptions, conditional uses, amendments and other matters pertaining to this Chapter by resolution. Said schedule of fees shall be posted in the office of the Borough Secretary and the Zoning Officer.

2. Borough Council shall be empowered to reevaluate the fee schedule from time to time and make necessary alterations to it. Such alterations shall not be considered an amendment to this Chapter, and may be adopted at any public meeting by resolution.

3. All fees collected thereunder shall be paid in to the Borough Treasury.

*(Ord. 2015-4, 9/8/2015)*

**§27-1908. Investigation of Violations.**

1. The Zoning Officer shall take cognizance of a violation of any of the provisions of this Chapter. He or she shall investigate each violation that comes to his or her attention. He or she shall order, in writing, the correction of such conditions as he or she finds to be in violation of any of the provisions of this Chapter. Failure to secure all required permits and certificates under this Chapter, or under a Zoning Hearing Board order, when required, prior to the erection, construction, extension or addition to a building, shall be a violation of this Chapter.

2. Any person alleging a violation of the provisions of this Chapter must do so in writing; the author must be identified and contact information must be provided.

*(Ord. 2015-4, 9/8/2015)*

**§27-1909. Notice of Violation.**

1. When the Zoning Officer observes an actual or apparent violation, or has reasonable grounds to believe there is a violation, of any provision of this Chapter, or a condition imposed as part of any order of the Zoning Hearing Board, or a condition imposed by Borough Council upon the grant of a conditional use, he or she shall prepare a written notice of violation. This notice may be by citation or may be a notice describing the activity or condition deemed to be a violation and specifying time limits within which the violation shall be corrected. If the Zoning Officer elects to proceed by citation, the citation shall be served as provided by the Pennsylvania Rules of Criminal Procedure. If the Zoning Officer elects to proceed by notice of violation, the written notice of violation shall be served upon the owner, or upon a duly authorized agent of the owner, including a contractor or architect, or upon the occupant or other person responsible for the violation. Such notice of violation shall be served in any of the

following ways: by delivering a copy of the same to the person or persons responsible for the violation by the United States Postal Service first class mail to the last known post office address; or by delivering and leaving such notice in the possession of any person in charge of the premises where the violation is believed to be occurring; or by affixing a copy of such notice in a conspicuous place at the entrance door or avenue of access of the premises where the violation is believed to be occurring; and such procedure shall be deemed the equivalent of personal notice.

*(Ord. 2015-4, 9/8/2015)*

**§27-1910. Violations and Penalties; Equitable Remedies.**

1. For a violation of any of the provisions of this Chapter, or of any condition imposed by an order of the Zoning Hearing Board, or of any condition imposed by Borough Council upon the grant of a conditional use, the owner, general agent or contractor of a building or premises where such violation has existed or exists, and/or the lessee or tenant of an entire building or premises in which part such violation has been committed or exists, and/or the general agent, architect, building contractor or any other person who knowingly commits, takes part in or assists in any such violation, or who maintains any building or premises in which any such violation exists, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough, shall pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees, incurred by the Borough as a result thereof. The parties authorized under the statute may utilize all remedies authorized by the PA MPC, 53 P.S. §10101 *et seq.*

2. If any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, if any building, structure or land is used or if any hedge, tree, shrub or other growth is maintained in violation of any of the provisions of this Chapter or of any regulations made pursuant hereto, in addition to other remedies provided by law, any appropriate action or proceedings by authorized legal process may be instituted or taken to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate such violation; to prevent the occupancy of such building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

*(Ord. 2015-4, 9/8/2015)*

**Part 20****Zoning Hearing Board****§27-2001. Appointment; Composition; Removal; Alternates.**

1. The Borough Council may appoint by resolution at least one but no more than three residents of the Borough to serve as alternate members of the Board. The term of office of an alternate member shall be 3 years. When seated as approved by law, an alternate 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 and duties set forth in this Chapter and as otherwise provided by law. Alternates shall hold no other office in the Borough, including membership on the Planning Commission or Zoning Officer. An alternate may participate in any proceeding or discussion of the Board but shall not be entitled to vote as a member of the Board nor be compensated unless designated as a voting alternate member as provided by law.

2. Borough Council shall appoint a Zoning Hearing Board consisting of three members, as provided by law. A member of the Zoning Hearing Board may be removed by cause by Borough Council upon written charges and after a public hearing scheduled not less than 30 days after the member has received notice of the charges.

(Ord. 2015-4, 9/8/2015)

**§27-2002. Powers and Duties.**

The Zoning Hearing Board shall have the following powers and duties:

A. *Appeals.* To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the Zoning Officer in the enforcement of this Chapter.

B. *Special Exceptions.* To hear and decide special exceptions to the terms of this Chapter, in such cases as are herein expressly provided for, in harmony with the general purposes and intent of this Chapter, with the power to impose appropriate conditions and safeguards.

C. *Variances.* To authorize, on appeal, in accordance with the law, variances from the terms of this Chapter.

D. *Challenges to Validity.* To hear all challenges wherein the validity of this Chapter or the Zoning Map presents any issue of fact or interpretation not hitherto property determined at a hearing before another competent agency or body, to take evidence and make a record thereon as hereinafter provided and thereafter to decide all contested questions of interpretations and make findings on all relevant issues of fact which shall become part of the record on appeal to a court.

(Ord. 2015-4, 9/8/2015)

**§27-2003. Special Exceptions; Variances.**

In any instance where the Zoning Hearing Board is required to consider any of those matters itemized in §27-102 the Board shall act in accordance with the following:

A. *Special Exceptions.* The Board may grant approval of a special exception, provided that the following standards and criteria are complied with by the applicant for the special exception. The burden of proof rests with the applicant.

(1) The applicant shall establish, by credible evidence, that the special exception or other subject of consideration for approval complies with the intent of this Chapter.

(2) The applicant shall establish, by credible evidence, compliance with all conditions of the special exception enumerated in that section which gives the applicant the right to seek a special exception.

(3) The applicant shall establish, by credible evidence, that the proposed special exception or other subject of consideration for approval shall not adversely affect neighboring land uses in any way and shall not impose upon its neighbors in any way, but rather shall blend in with them in a harmonious manner.

(4) The applicant shall establish, by credible evidence, that the proposed special exception or other subject of consideration for approval will be properly serviced by all existing public service systems. The peak traffic generated by the subject of the approval must be accommodated for in a safe and efficient manner, or improvements must be made in order to effect the same. Similar responsibility must be assumed with respect to other public service systems, including, but not limited to, police protection, fire protection, utilities, parks and recreation.

(5) The applicant shall establish, by credible evidence, that the proposed special exception or other subject of consideration for approval will be in and of itself properly designed with regard to internal circulation, parking, buffering and all other elements of property design.

(6) The applicant shall provide the Board with sufficient plans, studies or other data to demonstrate that compliance with the permitted uses or other regulations, as may be the subject of consideration for a special exception approval, is unreasonable or inappropriate for the issuance at hand.

(7) The Board shall impose such conditions as are necessary to ensure compliance with the purpose and intent of this Chapter, which conditions may include plantings and buffers, harmonious design of buildings and the elimination of noxious, offensive or hazardous elements.

B. *Variances.* The Board may grant variances, provided that the following findings are made, where relevant:

(1) There are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by this Chapter 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 this Chapter, 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 applicant.

(4) The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property or 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.

In granting any variance, the Board shall attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the law and this Chapter.

*(Ord. 2015-4, 9/8/2015)*

#### **§27-2004. Authority Re Appeals.**

In exercising the powers set forth in this Chapter, the Zoning Hearing Board may reverse or affirm, wholly or in part, or may modify, the order, requirement, decision or determination appealed from and may make such additional order, requirement, decision or determination as ought to be made as may be pertinent or germane, and, to that end, shall have all the powers of the officer from whom the appeal is taken.

*(Ord. 2015-4, 9/8/2015)*

#### **§27-2005. Rules of Procedure; Application.**

The Zoning Hearing Board shall adopt rules of procedure consistent with the requirements of this Chapter as to the manner of filing appeals or applications for special exceptions or for variances from the terms of this Chapter. All appeals and applications made to the Board shall be in writing on forms prescribed by the Board. Every appeal or application shall refer to the specific provision of this Chapter involved and shall specifically set forth the interpretation that is claimed, the use for which the special exception is sought, the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be.

*(Ord. 2015-4, 9/8/2015)*

#### **§27-2006. Meetings; Minutes.**

Meetings of the Zoning Hearing Board may be held monthly as scheduled by the Chairperson of the Board and at such other times as the Board may determine. The Chairperson or, in his or her absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses. All meeting of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be promptly filed in the Township administrative office shall be a public record.

*(Ord. 2015-4, 9/8/2015)*

#### **§27-2007. Decision on Applications.**

The Zoning Hearing Board shall render a written decision or, when no decision is called for, make written findings on an application within 45 days after the last hearing on the application before the Board. Such decision shall be noted in the minutes of the next meeting of the Board. Notice of such decision shall be given to all parties in interest immediately after its announcement. For purposes of this Section, parties in interest shall be limited to the applicant and any Borough resident who indicates by completing an appropriate form provided by the Board, his or her desire to receive notice of the Board's decision.

*(Ord. 2015-4, 9/8/2015)*

**§27-2008. Technical Assistance.**

In considering any matter within its jurisdiction, the Zoning Hearing Board may consult with the Planning Commission, the County Planning Commission or any other specialist or group of specialists having expert knowledge of the matter under consideration, but need not be bound thereby.

*(Ord. 2015-4, 9/8/2015)*

**§27-2009. Notice of Hearings.**

1. Upon the filing with the Zoning Hearing Board of an application for a special exception, variance, appeal from a decision of the Zoning Officer or challenge to the validity of any of the provisions of this Chapter or the Zoning Map, the Board shall fix a reasonable time and place for a public hearing thereon and shall give 7 days notice as follows:

A. By publishing a notice in a newspaper of general circulation published or circulated in the Borough.

B. By mail or personal service to the parties in interest.

C. By mail or personal service to Borough Council.

D. By mail or personal service to the owner, if his or her residence is known, or to the occupier, of every lot on the same street within 500 feet of the lot or building in question and of every lot not on the same street within 150 feet of such lot or building.

E. By posting a notice on the building or lot.

F. By mailing a notice to every resident or residents association registered for the purpose, provided that such registration shall be valid only during the calendar year in which it is filed.

G. By mailing a notice to the Planning Commission.

2. The notices herein required shall state the location of the building or lot and the general nature of the question involved. The advertising requirements set forth in this Section shall not apply to continued or additional hearings on a single application, provided that a date certain for the continued or additional hearing is announced to those persons present at the hearing which is immediately prior to the additional or continued hearing.

*(Ord. 2015-4, 9/8/2015)*

**§27-2010. Expiration of Special Exceptions or Variances.**

Unless otherwise specified by the Zoning Hearing Board, a special exception or variance shall expire if the applicant fails to obtain a permit in connection therewith within 1 year of the date of the order of the Board or court granting such special exception or variance. In those instances where land development/subdivision approval is a necessary prerequisite prior to obtaining a building permit, the special exception or variance shall expire if the applicant fails to make a diligent effort to obtain such approval within 6 months following the date of approval. Upon receipt of land development approval, the special exception or variance shall expire if a building permit is not obtained within 6 months of the date of land development approval. An applicant may make a request to extend the expiration time limit.

*(Ord. 2015-4, 9/8/2015)*

**§27-2011. Appeals from Board Decisions.**

Any person aggrieved by any decision of the Zoning Hearing Board, any taxpayer or any officer of the Borough may, within 30 days after any decision of the Board, appeal to the Court of Common Pleas of the County by petition in such form as may be prescribed or authorized by law.

*(Ord. 2015-4, 9/8/2015)*



**Part 21****Sign Code****§27-2101. Short Title.**

This Part shall be known and may be cited as the “New Morgan Borough Sign Code.”

(Ord. 2015-4, 9/8/2015)

**§27-2102. Legislative Intent.**

This Chapter is made to establish reasonable and objective regulations for all signs within the Borough of New Morgan which are visible to the public, in order to:

A. Control the size, location, illumination and maintenance of signs in order to protect the health, safety, and welfare of the general public and promote pedestrian and traffic safety.

B. Provide and maintain an aesthetically pleasing environment that enhances and protects the scenic and natural physical appearance of New Morgan Borough.

C. To prevent unsightly and detrimental development which has a blighting effect.

D. Protect property values and create a more attractive economic and business climate.

E. Enable the fair and consistent enforcement of these signage regulations.

(Ord. 2015-4, 9/8/2015)

**§27-2103. Applicability.**

1. Signs may be erected, placed, established, created, altered, or maintained only in conformance with the provisions of this Chapter, as well as the Building and Electrical Code requirements adopted as part of the Code and as hereinafter amended, and any and all other ordinances and regulations of New Morgan Borough relating to signs.

2. Sign permits shall be required for the erection, placement, location, creation or alteration of all signs, unless otherwise indicated in this Chapter. No sign shall be erected, placed, located, created, or altered within the Borough without first submitting an application on forms provided by the Borough and obtaining a permit from the Borough and paying the fees as set out in this Part.

(Ord. 2015-4, 9/8/2015)

**§27-2104. Definitions.**

The following words and phrases shall be construed throughout this Chapter to have the meanings indicated below:

*Abandoned sign*—a sign structure that has ceased to be used, and the owner no longer intends to have it used for the display of sign copy, or as otherwise defined by law; a sign located on a property which is vacant and/or unoccupied for a period

of 30 days; a sign which is damaged, in disrepair, or vandalized and not repaired within 90 days; and/or a sign which contains an outdated message for a period exceeding 30 days.

*Address/identification sign*—a sign that shows the name of the occupant, the address, the name of the property, the name of a professional practitioner or any combination thereof, a commodity, recreational area, service or other amenity.

*Animated sign*—signs which incorporate in any manner actual motion or the illusion of motion, including flashing or moving illumination or with illumination which varies in intensity or which varies in color, and signs which have any visible moving part, visible revolving parts, or visible mechanical movement of any description, or other apparent visible movement achieved by electrical pulsations or by action of normal wind currents. Animated signs, which are differentiated from changeable signs as defined and regulated by this Chapter, include the following types:

(1) *Electrically Activated*. Animated signs producing the illusion of movement by means of electronic, electrical, or electromechanical input and/or illumination capable of simulating movement through employment of flashing or patterned illusionary movement.

(2) *Environmentally Activated*. Animated signs or devices motivated by wind, thermal changes, or other natural environmental input. Includes spinners, pinwheels, pennant strings, and/or other devices or displays that respond to naturally occurring external motivation.

(3) *Mechanically Activated*. Animated signs characterized by repetitive motion, revolution and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.

*Awning*—an architectural projection or shelter projecting from and supported by the exterior wall of a building and composed of a covering of rigid or nonrigid materials and/or fabric on a supporting framework that may either be permanent or retractable, including such structures that are internally illuminated by fluorescent or other light sources, with or without copy.

*Banner sign*—a sign with its copy on flexible material such as cloth, plastic, fabric, or paper with no permanent supporting framework, including, but not limited to, retractable or roll up banners, pole banners, tied vinyl banners, feather banners, and flags with advertising copy.

*Billboard* —a sign, the dimensional standards for which are detailed in §27-2112 of this Chapter, which directs attention to a business, commodity, service, entertainment, facility, or other subject matter not located, conducted, sold, or offered upon the premises where such a sign is located or which calls public attention to a candidate, cause, public issue, or other such subject matter and which may be either freestanding or mounted upon the roof or wall of a building or other structure.

*Borough*—the Borough of New Morgan and any duly elected or appointed public official, or employee, of the Borough of New Morgan authorized to enforce the provisions of this Chapter.

*Canopy sign (attached)*—a sign on a rigid multi-sided overhead structure or

architectural projection supported by attachments to a building on one or more sides.

*Canopy sign (freestanding)*—a sign on a rigid, multi-sided overhead structure supported by columns but not enclosed by walls.

*Changeable sign*—a sign that is designed so that its characters, letters, illustrations, or other content can be changed, altered, or rearranged without physically altering the permanent physical face or surface of the sign. This includes manual, electrical, electronic, or other variable message signs. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices; or it may be from an external light source designed to reflect off the changeable component display.

*Construction sign*—a temporary sign identifying individuals or companies involved in design, construction, wrecking, financing or development work when placed upon the premises where that work is under way.

*Copy*—the letters, numbers, figures, symbols, logos, and graphical elements comprising the content or message of a sign, excluding numerals identifying a street address only.

*Directional / informational sign*—an on-premises sign for the convenience of the public giving directions, instructions, maps, facility information, pedestrian or vehicular traffic guidance, or other assistance around a site, such as location of entrances, exits, parking lots, amenities, and housing units, to encourage proper circulation of pedestrian and/or vehicular traffic, that may contain the logo of an enterprise but no other advertising copy.

*Directory sign*—a sign which displays the names and/or addresses of the establishments, housing units, amenities, or uses of a building or group of buildings.

*Freestanding sign*—a sign principally supported by a structure affixed to the ground and on a foundation, and not supported by a building, including signs supported by one or more columns, poles, or braces placed in or on the ground. Also known as a “ground sign.”

*Illuminated sign*—a sign characterized by the use of artificial light, either projecting through its surface(s) (internally illuminated) or reflecting off its surface(s) (externally illuminated), including, but not limited to, neon signs and any sign which has characters, letters, figures, designs, or outlines illuminated by artificial lighting.

*Illegal sign*—a sign which does not meet the requirements of this Chapter or which is not a registered nonconforming sign. This specifically includes a sign that remains standing when the time limits set by the permit are exceeded and any sign not removed after notification from the zoning officer to remove the sign.

*Interior sign*—any sign placed within a building, but not including window signs as defined by this Chapter. Interior signs, with the exception of window signs as defined, are not regulated by this Chapter.

*Marquee*—any sign attached to a covered structure projecting from and supported by a building with independent roof and drainage provisions and which is erected over a doorway or doorways as protection against the weather.

*Menu board*—a freestanding sign oriented to the drive-through lane for a restaurant that advertises the menu items available from the drive-through window and which has no more than 20 percent of the total area for such a sign utilized for business identification.

*Monument sign, single use*—a freestanding sign with a base affixed to the ground, where the length of the base is at least two-thirds the horizontal length of the monument that provides identification or advertisement of a specific business, service, product, person, organization, institution, place or building.

*Monument sign, multiple use*—a freestanding sign with a base affixed to the ground, where the length of the base is at least two-thirds the horizontal length of the monument, that provides identification or advertisement of two or more specific businesses, services, products, persons, organizations, institutions, places or buildings on one parcel or plot controlled by a single owner or landlord, or a residential subdivision, apartment, or condominium development.

*Nonconforming sign*—a sign that met all legal requirements when constructed but is not in compliance with current sign regulations. A registered nonconforming sign is not an illegal sign.

*Off-premises sign*—a permanent sign, graphics, or a display erected, maintained, or used for commercial, industrial, institutional, service, or entertainment purposes in the outdoor environment for the purpose of the display of commercial or noncommercial messages not appurtenant to the use of products sold on, or the sale or lease of, the property on which it is displayed.

*Person*—includes any nongovernmental agent, lessee, individual, firm, partnership, association, corporation, company, or organization of any kind capable of being sued.

*Pole sign*—a freestanding sign with a base supported from the ground by a pole or a similar support structure of narrow width.

*Political sign*—a temporary sign intended to advance a political statement, cause, or candidate for office. A legally permitted outdoor advertising sign shall not be considered to be a political sign.

*Private drive sign*—a sign addressing trespassing or private ownership, with the words “no trespassing” or “private drive” or “private property.”

*Projecting sign*—a sign other than a wall sign that is attached to or projects perpendicular from a building face or wall or from a structure whose primary purpose is other than the support of a sign so that both sides of the sign are visible.

*Real estate sign*—a temporary sign which is used to offer for sale, lease, or rent the premises upon which the sign is located.

*Roof sign*—a sign mounted on, and supported by, the main roof portion of a building, or above the uppermost edge or a parapet wall of a building and which is wholly or partially supported by such a building.

*Sign*—any device visible from a public place that displays either commercial or noncommercial messages by means of graphic presentation of alphabetic, numeric, or pictorial symbols or in representations.

*Sign copy*—those letters, numerals, figures, symbols, logos, and graphic elements comprising the content or message of a sign, exclusive of numerals

identifying a street address only.

*Temporary sign*—a sign or graphic display for either commercial or noncommercial messages of a transitory or temporary nature, including portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground.

*Under canopy sign*—a sign that is attached to the underside of a canopy, awning, overhang, marquee, or other such overhead structure.

*V sign*—signs containing two faces of approximately equal size, erected upon common or separate structures, positioned in a V shape with an interior angle between faces of not more than 45 degrees with the distance between the sign faces not exceeding 5 feet at their closest point.

*Wall sign*—a sign that is in any manner affixed to any exterior wall of a building or structure.

*Window sign*—a sign affixed to the interior or exterior surface of a window with its message intended to be visible to and readable from the public way or from adjacent property.

(Ord. 2015-4, 9/8/2015)

#### **§27-2105. General Provisions.**

1. The Administrator of this Part shall be the Zoning Officer. The Zoning Officer shall have the responsibility and authority to administer and enforce all provisions of this Part, other than those provisions with powers specifically reserved to the Borough Council or the Zoning Hearing Board.

2. *Insurance.*

A. If any sign is suspended over a public property, sidewalk, alley, or other public right-of-way, the owner shall at all times carry liability insurance in such amounts that are reasonable and satisfactory to the Borough, and issued by companies acceptable to the Borough, licensed in the Commonwealth of Pennsylvania naming the Borough as an additional insured on any such policy. Such policy must be written on an “occurrence basis.”

B. The owner will file with the Borough certificates of liability insurance evidencing such insurance coverage. The insurance policies or certificates shall provide that the Borough shall be given 30 days written notice before a cancellation in coverage may occur.

C. If at any time the insurance policy is canceled, the sign shall be immediately removed at the expense of the property owner. In the event that the owner does not remove the sign, the Borough of New Morgan shall have the right to remove the sign and repair the facade at the expense of the property owner.

3. *Erection of Signs.*

A. The maximum height of any sign in the Borough shall be 15 feet. The height of a sign shall be computed as the distance from the base of the sign to the top of the highest attached component of the sign (including the sign face, sign structure, or any other appurtenance).

B. All signs erected, constructed, or maintained must be plainly and

permanently marked with the name of the person erecting, constructing, or maintaining said sign.

C. All existing signs constructed or erected prior to the date when this Chapter becomes effective shall comply with and be subject to all of the provisions of this Chapter with respect to inspections, maintenance, safety and fees upon the passage of this Chapter.

D. With the exception of banners, flags, temporary signs, and window signs conforming in all respects with the requirements of this Chapter, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.

E. All sign provisions shall apply to signs on smokestacks, water towers, and other similar structures.

#### 4. *Placement of Signs.*

A. No sign shall be erected or maintained so as to prevent free ingress and egress to or from any door, window or fire escape.

B. Signs shall not extend beyond the edge of any facade or other surface to which they are mounted.

C. Only instructional design and certification signs shall be attached to a standpipe or fire escape.

D. No signs shall be placed within the sight triangle of any intersection or driveway.

E. No sign shall endanger traffic on a street by obscuring a clear view or by confusion with official street signs or signals, by virtue of position, color, design, sound or light.

F. Any sign in the GC-General Commercial or I-Industrial District must maintain a setback distance from an adjacent residential district as required under this Chapter for business or commercial structures or buildings.

G. No signs, except for public transit signs, whether permanent or temporary, may be placed upon or attached to utility poles or traffic light standards.

H. No sign other than an official traffic sign or similar sign shall be erected within 2 feet of the lines of any street right-of-way, or within any public way, unless specifically authorized by other ordinances or regulations of New Morgan Borough or by specific authorization of the Zoning Officer.

I. No signs except those of a duly constituted governmental body, including traffic signs and similar regulatory notices, shall be allowed within street lines unless specifically authorized by the Borough and in compliance with Commonwealth of Pennsylvania regulations.

J. Signs projecting over public walkways shall be permitted to do so only subject to the projection and clearance limits either defined herein or, if not so defined, at a minimum height of 10 feet from grade level to the bottom of the sign. Signs, architectural projections or sign structures projecting over vehicular access areas must conform to the minimum height clearance limitations imposed by the jurisdiction for such structures.

K. If an establishment has walls fronting on two or more streets, the sign area for each street shall be computed separately and counted towards the total allowable sign area.

L. Any vehicle to which a sign is affixed in such a manner that the carrying of such sign or signs no longer is incidental to the vehicle's primary purpose, but because a primary purpose in itself, shall be considered a free-standing sign and, as such, shall be subject to the provisions regarding free-standing signs in the district in which such vehicle is located.

M. If it ever becomes necessary to relocate a sign located within a street ultimate right-of-way because of road improvements, the relocation shall be the responsibility of the property owner.

5. *Maintenance of Signs.*

A. All signs shall be maintained in good structural and aesthetic condition.

B. The owner of any sign, as defined and regulated by this Chapter, shall properly paint, repair, and maintain the sign in good working condition, as applicable to the type of structure or sign.

C. Any sign copy that no longer advertises or identifies a use conducted on the property on which said sign is erected is considered an abandoned sign by this Chapter and must have the sign copy covered or removed within 30 days after written notification from the municipal zoning official. Upon failure to comply with such notice, the Zoning Officer is hereby authorized to cause removal of such sign copy, and any expense incurred shall be paid by the owner of the building, structure or ground on which the sign is located.

(Ord. 2015-4, 9/8/2015)

**§27-2106. Signs Permitted in All Districts Without a Permit.**

1. The following signs shall be allowed in all zoning districts as defined by this Chapter and shall not require permits and shall not be included in any calculations of total square footage limitations. However, such signs shall conform to all other applicable regulations of this Chapter.

A. *Address/Identification.* Nameplate, street, building number, address signs may be two sided with the area of one side not exceeding 2 square feet in area in the R-Residential District and 4 square feet in area in the GC-General Commercial and I-Industrial Districts. There shall not be more than one such sign installed per dwelling. Signs shall not be internally or externally illuminated in the R-Residential District. Signs in the GC-General Commercial and I-Industrial Districts may be lit internally or externally. Internally illuminated signs may be lit by a single lamp with a maximum power of 40 watts. Externally illuminated signs may be lit on each side by a single lamp with maximum power of 40 watts. Such signs may be freestanding or wall signs.

B. *Private Drive Signs.* Signs that regulate the use of a property, including "no trespassing," "no hunting" and "no fishing," of not more than 1 square foot in sign area in residential districts, and 5 square feet in all nonresidential districts, shall be located no closer than 50 feet apart. Such signs may be reflective but not otherwise illuminated, provided that they conform to all other standards of this

Chapter.

C. Directional/informational signs regulating pedestrian and vehicular traffic, parking (e.g., speed limits, “in-out,” “enter-exit,” “one way,” “do not enter,” “handicapped entrance,” “deliveries in rear”) or other functional subjects such as identifying crosswalks, bus stops, and fire lanes of not more than 6 square feet and a maximum height of 6 feet. Signs must meet traffic safety standards based on the evaluation of the Borough Engineer. No such signs shall bear any commercial advertising.

D. Signs erected by a governmental body or under the direction of such a body and bearing no commercial advertising, such as traffic signs, railroad crossing signs, safety signs, flags, banners, insignia, signs in connection with the identification, operation or protection of any public utility or municipal activity, and signs identifying public schools and playgrounds.

E. Special event signs, banners, pennants, flags, portable signs, or commemorative flags conforming to the following provisions:

(1) The area of the special event sign, banner, pennant, flag, portable sign, or commemorative flag shall not exceed 20 square feet.

(2) The property or business shall display only one special event sign, banner, pennant, flag, portable sign, or commemorative flag at any one time and such signs shall be displayed not more than four times per year for a period of no more than 14 calendar days per occurrence, but not more than 5 calendar days after the end of the event.

(3) Special event signs or banners for public or quasi-public events by nonprofit organizations recognized by the Commonwealth of Pennsylvania or sponsored by a political subdivision or agency thereof shall comply with the following standards:

(a) Such banners shall be affixed to a building or some other appropriate sturdy structure.

(b) The permanent size of any street banner shall be determined on a case-by-case basis by the Zoning Officer.

(c) If the banner is to be strung across a State-owned road, the sponsoring organization must comply with the policies of the Pennsylvania Department of Transportation.

(d) All special event signs or banner shall be installed under the supervision and control of the Borough.

(e) A maximum of two off-premises directional signs, not exceeding 6 square feet in area and 6 feet in height, shall be permitted for any special event, provided that permission has been obtained from the property owner where the sign is to be placed.

F. Garage sale, yard sale, barn sale, and other similar signs, provided that said signs shall be placed no more than 48 hours before the sale and must be removed by the end of the day of the sale.

G. Real estate signs advertising the sale or rental of a premises on which the sign is erected provided that the total area of any one side of such sign on any street frontage of any property in single and separate ownership shall not exceed

6 square feet in the R-Residential District and 12 square feet in the GC-General Commercial and I-Industrial Districts. Such signs are limited to one per street frontage. Signs shall not be illuminated, reflective, or moving. Such signs shall be removed within 14 days of the date of execution of an agreement of sale or lease pertaining to a property.

H. Temporary signs of contractors, mechanics, artisans, erected and maintained on the premises where work is being performed, only during the period when such work is being performed, provided that the area of one side of any sign shall not exceed 6 square feet in the R-Residential District and 12 square feet in the GC-General Commercial and I-Industrial Districts, and provided that not more than one such sign shall be erected on any property in single and separate ownership, and provided that such sign shall be removed immediately upon completion of the work.

I. Signs advertising agricultural products grown or produced on the premises of a farm at least 5 acres in size. The signs shall not exceed 15 square feet and not more than one such sign shall be erected on any one street frontage of any property in single and separate ownership. The signs shall be set back at least 10 feet from the right-of-way.

J. Historic markers approved by the Pennsylvania Historical and Museum Commission or constructed by a private, nonprofit historical preservation or education organization, a governmental agency, or owners of properties recognized on the National Register of Historic Places, provided that:

(1) Such signs employ uniform standards of eligibility for selection.

(2) Such signs commemorate a person, building, place or event of historical, civic, cultural, natural historical, scientific, or architectural significance.

(3) Such signs are constructed of cast metal, cut masonry, painted wood, glass, other metal or other similar durable weatherproof material.

(4) Such signs shall not exceed 6 square feet in area and shall not exceed 10 feet in height.

K. *Temporary Political Signs.*

(1) Political signs may be placed on private property with the permission of the property owner. The maximum area of a sign on private property is 30 square feet. The maximum sign height is 20 feet above grade for a wall sign located on private property. Signs may not be illuminated, reflective, or moving, and signs shall not obstruct regulatory signs, traffic signal controls, or pedestrian and vehicular traffic sight-lines. Signs shall not be placed within the sight triangle of any intersection or driveway.

(2) Political signs may be placed in the Borough right-of-way subject to exceptions to ensure public safety:

(a) Political signs are prohibited from being placed in or on any street median.

(b) Political signs within Borough right-of-way must be freestanding and are prohibited from being attached to or placed on Borough traffic signs, trees or shrubs, utility cabinets and appurtenances.

(c) Political signs within Borough right-of-way shall be placed outside of the sight triangle of any intersection or driveway. Political signs must not obstruct regulatory signs, traffic signal controllers, or driver's view.

(3) Political signs may not be placed on Borough property outside of Borough right-of-way such as parks, buildings, facilities or appurtenant landscape areas.

(4) The maximum area of a sign located in the Borough right-of-way is 12 square feet when located more than 150 feet from an intersection and 3 square feet when located within 150 feet from an intersection.

(5) The maximum height of a political sign in the Borough right-of-way is 6 feet above grade when located more than 150 feet from an intersection and 3 feet above grade when located within 150 of an intersection.

(6) A maximum of one sign per corner, for a total of four signs per intersection, per candidate or ballot measure is permitted.

(7) All political signs must be removed no later than 5 calendar days after an election. Candidates may be charged for costs incurred by the Borough for removal and storage of any signs remaining in Borough right-of-way more than 5 days after an election.

(Ord. 2015-4, 9/8/2015)

#### **§27-2107. Signs Prohibited in All Districts.**

1. *Animated Signs.*

A. Unless specifically provided for in this Chapter, all animated signs are prohibited.

B. Electronic signs which are capable of displaying several messages successively are considered changeable signs and are exempt, provided that the messages do not change more than once every 15 seconds and that they comply with the other provisions of this Section concerning illumination or movement and with all other provisions of this Chapter.

C. Clocks, hanging signs which move with air currents, time and temperature signs and barber poles are exempt, provided they otherwise comply with all other provisions of this Chapter.

2. Flashing, lighted intermittently, moving, reflective, animated, or illuminated signs including LED signs.

3. Beacon lights.

4. Illuminated temporary signs.

5. Non-stationary signs, including revolving or rotating signs.

6. Pole signs and pole banners except those erected by the Borough of New Morgan.

7. Searchlights.

8. Balloons or other inflatable figures, with or without copy, graphics, images, text, or any other advertising.

9. Signs with trilateral display screens that change the sign's display in part or

in its entirety.

10. Roof signs, except such directional devices as may be required by the Federal and State Aviation Authorities.

11. Trailer signs, including commercial vehicles parked on public right-of-ways, public property or private property or in the same vicinity within view of a public street for 14 consecutive days when using the trailer and/or signs for purposes of advertising an establishment, service or product or directing people to a business or activity located on the same or nearby property. Construction trailers are exempt from these provisions.

12. Vehicular signs, including commercial vehicles parked on public right-of-ways public property or private property within view of a public street for 14 consecutive days when using the vehicle and/or signs for purposes of advertising an establishment, service or product or directing people to a business or activity located on the same or nearby property.

13. Signs, pamphlets, flyers, handbills, advertisements, menus or posters tacked, pasted, or otherwise affixed on buildings, barns, sheds, trailers, trees, poles, posts, vehicles, walls, fences or any other structure on a property, excluding “no trespassing,” “no hunting,” “beware of animal” warnings or other legal postings as required by law.

14. Signs that transmit emissions, such as sound or odors.

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

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

17. Strings of lights that outline property lines, sales areas or any portion of a property and are intended to advertise or draw attention to a business or commercial activity, except as follows:

A. Lights used temporarily as holiday decorations.

B. Lights or other devices used on a temporary basis on parcels on which carnivals, fairs or other similarly temporary activities are held.

C. Lights used exclusively for aesthetic purposes.

18. Any type of mirror or mirror effect.

*(Ord. 2015-4, 9/8/2015)*

#### **§27-2108. Permitted Permanent Signs in the Residential District.**

The following types of signs shall be permitted in the residential districts:

A. Signs identifying residential developments with a total of ten or more dwelling units shall be permitted subjected to review and approval as part of the land development/subdivision process.

(1) One entrance sign to identify the name of the project or development on the site shall be permitted at each vehicular entrance to the property. Such signs shall not exceed 25 square feet.

(2) Signs erected off the public right-of-way for the convenience or safety

of the public while on the subject's private property, containing no advertising, not to exceed 4 square feet in area per sign.

B. Signs for recreational areas within the R-Residential District:

(1) One non-illuminated identification sign not exceeding 20 square feet in area.

(2) Other directional or historical signs approved by the Zoning Officer.

C. Signs for schools, colleges, churches, hospitals, sanitariums, municipal buildings, farms, estates, clubs or any permitted use other than a dwelling, not exceeding 24 square feet in area and not exceeding one sign per street frontage. Signs may be illuminated provided that the illumination is white light only, and provided further that the total illumination for any such sign shall not exceed the equivalent of that given by a 100 watt incandescent light source. Internally illuminated signs may be lit by a single lamp with a maximum power of 40 watts; externally illuminated signs may be lit on each side by a single lamp with a maximum power of 40 watts.

D. Professional signs for physicians, dentists, justices, and such other persons whose services in emergencies are customarily considered essential to public health, safety and welfare. Signs may be illuminated provided that the illumination is white light only, properly shaded, and provided further that the total illumination for any such sign shall not exceed 40 watts, and that externally illuminated signs may be lit on each side by a single lamp with a maximum power of 40 watts.

(Ord. 2015-4, 9/8/2015)

#### **§27-2109. Permitted Temporary Signs in the Residential District.**

1. Residential Subdivision sale or development advertising:

A. Signs advertising, on the premises, the sale or construction of homes within a subdivision of four or more homes, provided that the area of any one side of any sign shall not exceed 25 square feet.

B. Signs shall not be illuminated, reflective, or moving.

2. Temporary signs of contractors, mechanics, artisans, erected and maintained on the premises where work is being performed:

A. Only permitted during the period when such work is being performed, provided that the area of one side of any sign shall not exceed 6 square feet and provided that not more than one such sign shall be erected on any property in single and separate ownership, and provided that such sign shall be removed within 14 days of the completion of the work.

B. Signs shall not be illuminated, reflective, or moving.

(Ord. 2015-4, 9/8/2015)

#### **§27-2110. Permanent Signs in the GC-General Commercial and I-Industrial Districts.**

1. *General Provisions.*

A. The maximum total sign area shall be 2 square feet for every 1 linear foot of building frontage, with a maximum area of 200 square feet. For shopping

centers, industrial parks and other multiple occupancy nonresidential buildings, the building face or wall shall be calculated separately for each separate occupancy.

B. For buildings facing more than one street, an additional 1 square foot of sign area shall be permitted for every 1 linear foot of building frontage on the additional side, with a maximum additional sign area of 100 square feet.

C. The sign area calculated for each frontage shall be erected on that frontage only and shall not be increased by the sign area calculated for another frontage.

D. The total sign area as computed by the formulas set forth above may be distributed by the applicant in any percentage among ground signs, wall signs, canopy signs, awning signs and projecting signs.

E. Only one awning sign or projecting sign or wall sign or permanent window sign may be placed on each side of a building which faces a street.

## 2. *Monument Signs.*

A. One monument sign per property per street frontage for identification/address purposes is permitted.

B. Not more than one monument sign may be erected accessory to any single building, structure, or shopping center per street frontage regardless of the number of separate parties, tenants or uses contained therein.

C. Single use monument signs are limited to a maximum of 40 square feet in area, 6 feet in height.

D. Multiple use monument signs are limited to a maximum of 60 square feet in area, 6 feet in height.

E. The maximum height to top of the monument sign shall be 6 feet.

F. Monument signs must be set back a minimum of 20 feet from the curb line of the street or outer edge of the shoulder and outside the legal right-of-way of the street.

G. Monument signs must be set back a minimum of 30 feet from adjoining private property lines.

H. Monument signs must not be located within 100 feet of any residential zoned property, except where permissible in this Section.

I. Monument signs must be located a minimum of 200 feet away from any on premise single-use monument sign or pole sign. Signs located along two abutting streets may be closer than the provisions above if approved by the Zoning Officer.

J. The monument sign shall be located on the same property as the building or use to which it is accessory.

K. Monument signs shall be designed and constructed to withstand a wind pressure of not less than 30 pounds per square foot of area and shall be constructed to receive dead load as required in the Building Code or other ordinances of the Borough. All monument signs shall be placed in concrete bases or footings. Monument signs may be constructed of materials that are noncombustible or slow-burning in the case of plastic inserts and faces. Signs may be supported by noncombustible material only and finished in a presentable manner. All monument signs throughout a center or complex on the site shall be constructed of the same

material and design.

L. Wood and non-painted steel supports are specifically prohibited. Heavy timber and other materials may be used if approved by the Zoning Officer.

3. *Awning, Marquee, and Canopy Signs.*

A. One such sign shall be permitted per street frontage.

B. Such signs located on the second floor or higher shall not be permitted.

C. Awning, marquee, and canopy signs shall not exceed 40 square feet in area, and shall not extend beyond any facade or wall to which it is affixed.

D. The total size of such signs shall not exceed 1½ square feet per linear foot of building frontage. The total square feet of such signs shall be included in the calculations of total allowable wall signage.

E. Such signs shall be a minimum of 8 feet above the surface of the sidewalk or ground area.

F. Such signs shall not project into an alley or truck service driveway more than 2 feet.

G. Such signs shall not project over a public street.

H. Such signs shall be constructed of durable material, maintained to continue its original appearance and provide proper safety to the persons and the property it may affect.

I. Such signs shall be compatible with the architectural integrity of the building to which it is attached.

J. The permanently affixed copy area of awning, marquee, or canopy signs shall not exceed an area equal to 25 percent of the face area of the awning, canopy, marquee or architectural projection upon which such sign is affixed or applied.

K. Neither the background color of such a sign, nor any graphic treatment or embellishment thereto such as striping, patterns, or valences, shall be included in the computation of sign copy area.

4. *Projecting Signs.*

A. Projecting signs shall be permitted in lieu of freestanding signage on each street frontage, limited to one sign per occupancy along any street frontage with public entrance to such an occupancy, except that no such sign shall exceed an area of 12 square feet.

B. In multi-tenant buildings each tenant shall be permitted to have one such sign and signs shall be spaced no less than 10 feet apart.

C. Projecting signs may be placed on the side or front building which faces a street and shall not exceed 12 square feet on each side for a total for 24 square feet.

D. The sign shall project no more than 7 feet from the building wall; outermost portion shall be no closer than 5 feet from the curb line or shoulder of a public street or parking area; there shall be a minimum of 8 feet clearance between the bottom of the sign and a public sidewalk or walkway.

E. No projecting sign shall project into an alley or truck service driveway more than 2 feet.

F. No such sign shall extend vertically above the sign height line of the

building facade upon which it is mounted.

G. No such sign shall extend over a sidewalk in excess of the width of the sidewalk.

5. *Under Canopy Signs.*

A. Under canopy signs shall be limited to no more than one such sign per public entrance to any occupancy.

B. Such signs shall be limited to an area not to exceed 12 square feet.

C. Such signs shall maintain a clear vertical distance above any sidewalk or pedestrian right-of-way a minimum of 8 feet and may not unreasonably obstruct the view of any neighboring signs.

D. Under canopy signs shall be thoroughly secured to the building by a single concealed mounting method.

6. *Wall Signs.*

A. Wall signs shall be placed on the main public or primary entrance to the building and shall be limited to one per occupant.

B. Such signs shall be applied or attached parallel to the wall of the building shall not extend more than 12 inches.

C. Such signs shall not exceed 24 square feet in area.

D. Such signs shall be placed no less than 8 feet above grade and shall not extend beyond any facade to which they are attached.

E. If a wall of the building which does not have a public entranceway is adjacent to a public right-of-way, one wall sign not exceeding 12 square feet in area is permitted. This sign will be included in the total calculation of signage.

7. *Window Signs.*

A. The total area of all window signs for each occupant shall not exceed 20 percent of the window area on which such signs are displayed. Window panels separated by muntins or mullions shall be considered as one continuous window area. Window signage includes signage affixed to the interior or the exterior of the windows and/or glass doors.

8. Menu boards, for drive-in, drive-through, or park-and-eat restaurants.

A. One free-standing or wall-mounted menu board per business is permitted.

B. Maximum sign height shall not exceed 6 feet.

C. Maximum area shall not exceed 20 square feet and shall be counted in the total aggregate sign area of the premises.

D. Such sign shall be located not less than 45 feet from the street line.

E. A decorative landscaped area shall be located immediately adjoining the base of the free-standing sign and extending a minimum of 4 square feet for each square foot of sign area.

9. *Indoor Illuminated "Open" Window Signs.*

A. No permit is required for such signs, provided that they adhere to all other provisions of this Chapter.

B. Such signs shall only be located on the interior of the building window.

C. Such signs may be illuminated only while the business is open to the public and shall not flash, blink oscillate, rotate, intermittently turn on and off, or otherwise vary in illumination, color or intensity.

(Ord. 2015-4, 9/8/2015)

**§27-2111. Temporary Signs in the GC-General Commercial and I-Industrial Districts.**

1. *“A” Type Sandwich Signs.*

A. Such signs must be of A-frame construction with a minimum base spread of 2 feet and a maximum height of 4 feet.

B. Permitted for use on sidewalks by businesses in the GC-General Commercial District but must be located no more than 3 feet from the facade of the establishment for which the advertisement is being displayed, unless otherwise approved by the Borough. Such signs shall not obstruct pedestrian traffic or impede maintenance and/or snow and ice removal.

C. The signs may only be displayed during the regular business hours of the establishment and shall not exceed 8 square feet in area on each side.

D. Such signs shall be constructed in such a way as to be able to withstand normal wind and weather conditions. It shall be constructed of a material that allows for copy to be written in wet or dry erasable markers or chalk only. No plastic changeable lettering or permanent letters are permitted.

E. Such signs shall not be illuminated by any means and shall not have any moving parts.

F. Signs are to be displayed at the location noted on the permit application. Any changes to the sign location shall require the submission of a new permit application.

G. Only one such sign shall be permitted per each ground-floor business.

H. Such signs may only be in place during the commercial establishment's business hours.

I. The owner of such signs shall carry at all times liability insurance in such amounts as are reasonable and satisfactory to the Borough, licensed in the Commonwealth of Pennsylvania naming the Borough as an additional insured on any such policy. Such policy must be written on an “occurrence basis.” The owner will file with the Borough certificates of liability insurance evidencing such insurance coverage. The insurance policies or certificates shall provide that the Borough shall be given 30 days written notice before a cancellation in coverage may occur.

J. If at any time the insurance policy is canceled, the sign shall be immediately removed at the expense of the property owner. In the event that the owner does not remove the sign, the Borough of New Morgan shall have the right to remove the sign and repair the facade at the expense of the property owner.

2. Temporary signs of contractors, mechanics, artisans, erected and maintained on the premises where work is being performed, only during the period when such work is being performed, provided that the area of one side of any sign shall not exceed 6 square feet and provided that not more than one such sign shall be erected on any

property in single and separate ownership, and provided that such sign shall be removed immediately upon completion of the work. These signs shall not require a permit provided that they abide by all other provisions of this Chapter.

3. *Temporary Banner Signs.*

A. Only one such sign may be displayed by any occupant at any one time.

B. No such sign may exceed 20 square feet of area.

C. Such shall not be erected for more than 2 weeks during any 3-month period. Signs shall be removed promptly at the end of the display period provided above, unless torn or damaged at which time the sign shall be removed immediately.

D. No such sign shall be strung across any public right-of-way except under the conditions stated in this Chapter.

E. No such sign shall extend beyond the property line.

F. No such sign will obstruct any door, window, fire escape, or ventilation opening.

G. Any temporary banner sign found by the Zoning Officer to be in an unsafe condition must be removed by the owner within 3 days after his receipt of notice to do so by the administrator.

(Ord. 2015-4, 9/8/2015)

**§27-2112. Off-Premises Signs, Including Billboards and Outdoor.**

1. *Advertising Signs.*

A. *Erection and Placement of Signs.*

(1) Off-premises signs are allowed only upon the granting of a special exception of the Zoning Hearing Board in compliance with the regulations in this Chapter.

(2) Off-premises outdoor advertising signs are permitted only along I-176 and only within the I-Industrial District.

(3) No outdoor advertising sign shall be erected within 1 mile in any direction of any other outdoor advertising sign on the same street, road, highway, or alley as measured along the center line of the abutting roadway.

(4) No outdoor advertising sign shall be located within 1,000 feet of any interchange, within 1,000 feet of any right-of-way of any underpass, overpass, or bridge or within 1,000 feet of any street intersection.

(5) No outdoor advertising sign shall be erected within 1,000 feet of any existing residential dwelling or residential zoning district.

(6) No outdoor advertising sign shall be erected within 500 feet of any existing freestanding on-premise sign.

(7) No outdoor advertising sign shall be erected less than 6 feet and not more than 30 feet from a street right-of-way line.

(8) No outdoor advertising sign shall be erected within a 300-foot circumference of the nearest property line of any of the following: historic site, school, church or other religious institution, retirement or nursing home,

cemetery government building, community center or public park, playground or recreational area.

(9) No off-premises or outdoor advertising sign shall be erected along or within 300 feet of the outermost edge of the right-of-way of all roads and waterways of an established scenic area. No off-premises or outdoor advertising sign shall be permitted outside of any such scenic area that is primarily oriented towards and is designed or situated to be observed from any established scenic area.

(10) Trees greater than 4 inches in diameter removed for the construction of the sign shall be replaced on-site at a ratio of one replacement tree for each removed tree using native species no less than 3 inches in diameter.

*B. Construction of Signs.*

(1) No part or foundation or support of any outdoor advertising sign shall be placed on, in or over any private property without the written agreement of the property owner. The agreement shall be presented as part of the application for said sign permit with consideration or price figures bargained between the private parties allowed for “white out” or redaction.

(2) The display area of the sign structure (i.e., that part of the structure exclusive of support posts, bracing and lighting) in the GC-General Commercial District and the I-Industrial shall not exceed 300 square feet.

(3) When two sign faces are utilized in the back-to-back arrangement, they shall be parallel and directly opposite sign faces oriented in opposite directions located not more than 15 feet apart.

(4) When the V-type sign arrangement is used for two sign faces, the sign shall be located on the unipole-support so that when viewed from above, their faces are oriented in different positions forming the letter “V.” The sign faces shall not be located more than 15 feet apart at the closest point nor shall the interior angles be greater than 45 degrees.

(5) All outdoor advertising signs shall be constructed on a steel unipole or steel I-beams meeting the industry-wide standards as established by the Outdoor Advertising Association of America and the Institute of Outdoor Advertising.

(6) Illumination of all outdoor advertising shall be by external illumination only. In no event shall any sign have flashing or intermittent lights, nor shall the lights be permitted to rotate or oscillate. No direct ray of light shall extend beyond the face of the sign. An outdoor advertising sign or its structure shall only be illuminated from dusk until midnight.

(7) A decorative landscaped strip shall be located immediately adjoining the supporting structure of the outdoor advertising sign and extending a minimum of 5 feet from the sign in all directions. A hedge or other durable planting of at least 2 feet in height shall extend the entire length and breadth of the required landscape strip.

(8) The rear side of a single-face outdoor advertising sign shall be of one neutral color.

(9) All outdoor advertising signs shall be maintained in good and safe

structural condition. The painted frame of the outdoor advertising sign shall be kept in good condition and free from chipping, fading, graffiti, or any other unsightly condition.

(10) The general area in the vicinity of all outdoor advertising signs on undeveloped property shall be kept free and clear of all debris.

(11) All outdoor advertising signs shall be identified on the structure with the name and address of the owner of each sign. The signs within an area regulated by 67 Pa.Code, Chapter 445, shall further be identified with a permit number or tag issued by the Pennsylvania Department of Transportation.

(12) All newly erected outdoor advertising signs shall conform to all applicable Federal, State and local laws, rules and regulations.

(13) All billboards shall be subject to a fee in any amount set by the Borough Council, by resolutions, for changing the copy on the billboard. Such change of copy shall require a permit application to be submitted, reviewed, and approved prior to the change of copy.

*(Ord. 2015-4, 9/8/2015)*

**§27-2113. Nonconforming Signs.**

1. Signs legally in existence at the time of the adoption of this Chapter which do not conform to the requirements of this Chapter shall be considered nonconforming signs.

2. All such nonconforming signs shall be removed or altered so as to be in conformity with the standards contained herein at such time when:

A. New Morgan Borough receives an application for a sign permit in cases where a nonconforming sign is to be significantly altered. All significant alterations require a sign permit. Changes to the sign copy or the replacement of a sign panel of an existing establishment's nonconforming sign shall not be considered a significant alteration.

B. More than 50 percent of a nonconforming sign is damaged. Repairs and replacements of such signs shall conform to all relevant provisions of this Chapter.

C. The property in which the nonconforming sign is located submits a subdivision or land development application requiring Borough review and approval.

D. The property in which the nonconforming sign is located undergoes a change of land use requiring the issuance of either a use and occupancy permit or a change of use and occupancy permit by New Morgan Borough.

*(Ord. 2015-4, 9/8/2015)*

