

**Mifflintown Borough**

**Zoning Ordinance**

Chapter 27 of the  
Mifflintown Borough  
Code of Ordinances

**Preserving the Past and Protecting the Future**

## **LIST OF OFFICIALS**

### **Mifflintown Borough, Juniata County**

#### **Mifflintown Borough Council**

Edward E. Singer, President  
Teresa A. Nearhood, Vice President  
R. Richard Fisher  
Richard R. Zimmerman, Jr.  
Donald W. Quigley, Jr.  
Richard B. Singer  
Andrew S. Lauver

Nancy L. Zimmerman, Borough Secretary

Randall E. Zimmerman, Solicitor

# Mifflintown Borough Zoning Ordinance

## Table of Contents

### **Article I – Short Title, Purpose and Community Development Objectives**

101	Title.....	I-1
102	Purpose .....	I-1
103	Community Development Goals and Objectives.....	I-2

### **Article II - Definitions**

201	Interpretation .....	II-1
202	Specific Words and Phrases.....	II-2

### **Article III – Designation of Districts**

301	Zones and Boundaries .....	III-1
302	Use Adjustment on District Boundaries.....	III-2
303	Application of District Regulations.....	III-3
304	Uses Not Provided For.....	III-4
305	Performance Standards.....	III-4
306	Use Regulations.....	III-4

### **Article IV – Low Density Residential**

a)	Purpose.....	IV-1
b)	Description of Zone.....	IV-1
c)	Permitted Uses.....	IV-1
d)	Conditional Uses.....	IV-2
e)	Lot Area and Width.....	IV-2
f)	Accessory Uses, Buildings, and Structures.....	IV-3
g)	Off-Street Parking.....	IV-3
h)	Environmental Protection Overlay District.....	IV-3
i)	Performance Standards.....	IV-3
j)	Signs.....	IV-3

**Article V – Medium Density Residential**

a)	Purpose.....	V-1
b)	Description of Zone.....	V-1
c)	Permitted Uses.....	V-1
d)	Conditional Uses.....	V-2
e)	Lot Area and Width.....	V-3
f)	Accessory Uses, Buildings, and Structures.....	V-3
g)	Off-Street Parking.....	V-4
h)	Environmental Protection Overlay District.....	V-4
i)	Performance Standards.....	V-4
j)	Signs.....	V-4

**Article VI – Downtown Commercial**

a)	Purpose.....	VI-1
b)	Description of Zone.....	VI-1
c)	Permitted Uses.....	VI-1
d)	Conditional Uses.....	VI-2
e)	Lot Area and Width.....	VI-2
f)	Accessory Uses and Structures.....	VI-3
g)	Use Standards.....	VI-3
h)	Off-Street Parking.....	VI-4
i)	Environmental Protection Overlay District.....	VI-4
j)	Performance Standards.....	VI-4
k)	Signs.....	VI-4

**Article VII – Environmental Protection Overlay District**

700	Environmental Protection Overlay District.....	VII-1
701	Stream Protection Overlay District.....	VII-1
702	Hillside and Slope Protection Overlay District.....	VII-4
703	Wetlands Protection Overlay District.....	VII-6
704	Flood Plain Protection Overlay District.....	VII-8

**Article VIII – Performance Standards**

800	Accessory Buildings and Structures.....	VIII-1
801	Temporary Structures for Dwelling Purposes.....	VIII-2
802	Water Supply and Sewerage Facilities Requires.....	VIII-2
803	Exceptions.....	VIII-2

804	Corner Lots.....	VIII-3
805	Through Lots.....	VIII-4
806	Driveways.....	VIII-4
807	Prohibited Uses in All Districts.....	VIII-4
808	Fences and Walls.....	VIII-5
809	Landscaping and Screening.....	VIII-5
810	Private Outdoor Swimming Pools.....	VIII-6
811	Illumination.....	VIII-7
812	Storm water Management and Drainage.....	VIII-9
813	Outdoor Storage.....	VIII-9
814	Noise.....	VIII-10
815	Satellite Dish Antenna.....	VIII-11
816	Minimum Habitable Floor Area.....	VIII-12
817	Occupancy Permit and Inspection.....	VIII-13
818	Demolition.....	VIII-13
819	Division of Built On Lots.....	VIII-14
820	Lots of Record.....	VIII-14
821	Status of Subdivision and Land Development Plans.....	VIII-14

**Article IX – Supplemental Use Standards**

900	Requirements of Specific Standards.....	IX-1
901	Business Conversion.....	IX-1
902	Cemeteries.....	IX-2
903	Commercial Day Care Center.....	IX-2
904	Conversion Apartment.....	IX-3
905	Family Day Care Home.....	IX-3
906	Heavy Storage Service.....	IX-3
907	Commercial and Indoor Recreational Establishment.....	IX-4
908	Kennel and Animal Hospitals.....	IX-4
909	Laundry and Dry Cleaning Establishments.....	IX-5
910	Mini-warehouse.....	IX-5
911	Mixed Uses.....	IX-6
912	Multiple Dwelling Structures.....	IX-7
913	No Impact Home Based Business.....	IX-8
914	Places of Worship.....	IX-8
915	Private Day Care Center of Nursery School.....	IX-9
916	Public Utility Buildings.....	IX-9

**Article X – Off Street Parking Standards**

1000	Parking.....	X-1
1001	Loading.....	X-8

**Article XI – Sign Regulations**

1100	General Standards.....	XI-1
------	------------------------	------

**Article XII – Conditional Use Standards**

1200	Conditional Uses.....	XII-1
1201	Specific Uses.....	XII-6
1202	Adult Bookstores and Adult Theaters.....	XII-6
1203	Bed and Breakfast.....	XII-9
1204	Cellular Communication Towers and Antennas.....	XII-9
1205	Conversion Apartments.....	XII-15
1206	Manufactured Home Parks.....	XII-16
1207	Salvage/Junk Yard.....	XII-16
1208	Home Business.....	XII-16

**Article XIII – Nonconforming Uses, Buildings and Structures, and Non-Conforming Lots**

1300	General.....	XIII-1
1301	Nonconforming Uses.....	XIII-1
1302	Nonconforming Buildings and Structures.....	XIII-3
1303	Nonconforming Lots.....	XIII-4
1304	Documentation of the Nonconformity.....	XIII-5

**Article XIV – Zoning Hearing Board**

1400	Jurisdiction.....	XIV-1
1401	Zoning Hearing Board Creation and Appointment.....	XIV-2
1402	Organization of the Zoning Hearing Board.....	XIV-3
1403	Expenditures for Services.....	XIV-4
1404	Hearings of the Zoning Hearing Board.....	XIV-4
1405	Zoning Hearing Board – Functions.....	XIV-8
1406	Parties Appellant before Zoning Hearing Board.....	XIV-9
1407	Time Limitations.....	XIV-9
1408	Stay of Proceedings.....	XIV-10

**Article XV – Administration and Enactment**

1500	Permits.....	XV-1
1501	Enforcement – Zoning Officer.....	XV-2
1502	Amendments.....	XV-5
1503	Fees.....	XV-7
1504	Appeals.....	XV-7
1505	Repealer.....	XV-7
1506	Interpretation.....	XV-7
1507	Violations.....	XV-8
1508	Penalties.....	XV-8
1509	Procedure to Obtain Preliminary Opinion.....	XV-9
1510	Validity.....	XV-9
1511	Effective Date.....	XV-10

**Appendix A – Diagrams**

**Maps – Mifflintown Borough Zoning Map**

# Article I

## Short Title, Purpose and Community Development Objectives

### Section 101 Short Title

This Ordinance shall be known and may be cited as the “Mifflintown Borough Zoning Ordinance.”

### Section 102 Purpose

The purpose of these regulations is to provide for the harmonious development of the Borough by facilitating:

- a) Public health, safety, morals, and general welfare.
- b) Coordinated and practical community development and proper density of population.
- c) Emergency management preparedness and operations.
- d) National defense.
- e) Provisions for adequate light and air.
- f) Vehicle parking and loading spaces.
- g) Water and Sewerage needs for domestic, commercial, or industrial uses.
- h) Recreational facilities and public grounds.
- i) Preservation of the natural, scenic, and historic values in the environment, and wetlands and floodplains.

## Section 103 Community Development Objectives

This Ordinance is enacted as part of the overall plan for the orderly growth, preservation and development of Mifflintown Borough. As such, this Ordinance is based upon the expressed or implied community development objectives as determined by the governing officials of Mifflintown Borough in conjunction with observation of the community as a whole and may be summarized as follows:

- a) The prevention of overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers.
- b) To provide for the use of land within the municipality for residential housing of various dwelling types encompassing all basic forms of housing.
- c) To accommodate reasonable overall community growth and opportunities for development of a variety of residential dwellings and nonresidential uses.

## **Article II**

### **Definitions**

#### Section 201 Interpretation

For the purpose of this Ordinance, the terms and words listed in this Section, and supported by the diagrams in Appendix A, shall have the meaning herein defined. Words not herein defined shall have the meanings given in Webster's Unabridged Dictionary and shall be interpreted so as to give this Ordinance its most reasonable application. For the purpose of this Ordinance, the following rules of interpretation shall apply:

- a) Words in the present tense include the future tense.
- b) Words in the singular include the plural and words in the plural include the singular.
- c) The words "used" and "occupied" shall be construed to include the words "or intended, arranged or designed to be used or to be occupied, or offered for occupancy".
- d) The term "such as" shall be considered as introducing a typical or illustrative designation of items, and shall not be interpreted as constituting a complete list.
- e) The words "person" and "owner" shall be deemed to include a corporation, unincorporated association and a partnership, or other legal entity, as well as an individual.
- f) The words "building" and "structure" shall be construed as if followed by the phrase "or part thereof".
- g) The word "lot" includes the words "plot" and "parcel".
- h) The word "watercourse" includes channel, creek, ditch, dry run, spring, stream and river.
- i) The word "erect" shall mean to build, construct, alter, repair, display,

relocate, attach, hang, place, suspend, affix or maintain any structure or building and shall also include the painting of exterior wall signs.

- j) The words "should" and "may" are permissive; the words "shall" and "will" are mandatory and directive.

## Section 202 Specific Words and Phrases

Unless otherwise stated, the following words and phrases shall be construed throughout this Ordinance to have the meanings indicated in this Section.

ACCESSORY USE – SEE “USE, ACCESSORY” ALTERATIONS - As applied to a building or structure, any change or rearrangement in the total floor area, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

ALTERATIONS, STRUCTURAL - Any change in the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

AMUSEMENT ARCADE - A commercial establishment which provides as a principal use, amusement devices and/or games of skill or chance (e.g. pinball machines, video games, skeetball, electronic or water firing ranges and other similar devices). This definition does not include the use of two (2) or less such devices as an accessory use.

ANIMAL HOSPITAL - A building used primarily for the treatment, by a veterinarian, of small domestic animals such as dogs, cats, rabbits, birds, reptiles, and exotic pets.

ANTENNA HEIGHT - The vertical distance measured from the ground level to the highest point on a Communications Tower, including antennas mounted on the tower.

APARTMENT - Any dwelling unit which is located within a single structure along with at least one (1) other dwelling unit or with a non-residential use, each having a separate location within such structure.

APARTMENT, CONVERSION - A multi-family dwelling constructed by

converting an existing building into independent dwelling units for more than one family, without substantially altering the exterior of the building.

APPLICANT – A landowner or developer, as hereafter defined, who has filed an application for development including his heirs, successors and assigns.

BASEMENT - A story having part but not more than one-half (1/2) of its height below the average level of the adjoining ground.

BED AND BREAKFAST INN - A single-family residence or portion thereof containing not more than two guest rooms which are used by no more than five guests where rent is paid in money.

BUFFER AREA - A landscaped area intended to be used as a means of limiting the effects created by a use on adjoining properties, streets and uses.

BUILDING - Any structure or edifice designed or intended for use as an enclosure, a shelter, or for protection of persons, animals or property.

DETACHED - A building that has no party wall.

SEMI-DETACHED - A building which has only one party wall in common.

ATTACHED - A building that has two or more party walls in common.

BUILDING, ACCESSORY - A detached subordinate building, the use of which is incidental and subordinate to that of the principal building, and which is located on the same lot as that occupied by the principal building.

BUILDING, PRINCIPAL - A building which is enclosed within exterior walls or fire walls, built, erected, and framed of component structural parts, designed for housing, shelter, enclosure, and support of individuals, and is the main structure on a given lot.

BUILDING AREA - The total area of outside dimensions on a horizontal plane at ground level of the principal building and all accessory buildings.

BUILDING HEIGHT – The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of ceiling at the top story in the case of a flat roof, to the deck line of a mansard roof

and to the average height between the plate and ridge of a gable, hip, or gambrel roof. The grade shall not be altered for the purpose of increasing the elevation of an object.

BUILDING LINE - The actual line of that face of the building nearest an adjacent right of way or street line. This face includes sun parlors and covered porches, whether enclosed or unenclosed, but does not include steps.

BUSINESS CONVERSION- The conversion of all or a portion of an existing residential or nonresidential building for business use.

CELLAR - A story partly underground and having more than one-half (1/2) of its clear height below the average level of the adjoining ground.

CEMETERY - Land used or intended to be used for the burial of the deceased, including columbariums, crematoria, mausoleums, and mortuaries when operated in conjunction with the cemetery and within the boundaries thereof.

CENTER FOR LOCAL GOVERNMENT SERVICES – The Governor’s Center for Local Government Services located within the Department of Community and Economic Development.

CHANGE OF USE - An alteration of a building or a change of existing use within a building or on a lot to a new use that imposes other provisions of the Zoning Ordinance.

CLUB - An organization catering exclusively to members and their guests or premises or buildings for social, recreational and administrative purposes which are not conducted for profit, provided they are no vending stands, merchandising or commercial activities except as required for the membership of such club. Clubs shall include, but not be limited to, service and political organizations, labor unions, as well as social and athletic clubs.

COMMERCIAL RECREATION FACILITY - An activity operated as a business, open to the public, for the purpose of public recreation or entertainment, including but not limited to, bowling alleys, drive-in motion picture facilities, swimming pools, health clubs, miniature golf courses, museums, etc. This does not include adult-related uses or amusement arcades, as defined herein.

COMMUNICATIONS ANTENNA - Any device used for the transmission or

reception of radio, television, wireless telephone, pager, commercial mobile radio service or any other wireless communications signals, including without limitation omnidirectional or whip antennas and directional or panel antennas, owned or operated by any person or entity licensed by the Federal Communications Commission (FCC) to operate such device. This definition shall not include private residence mounted satellite dishes or television antennas or amateur radio equipment including without limitation ham or citizen band radio antennas.

COMMUNICATIONS EQUIPMENT BUILDING - An unmanned building or cabinet containing communications equipment required for the operation of Communications Antennas and covering an area on the ground not greater than 250 square feet.

COMMUNICATIONS TOWER - A Structure other than a building, such as a monopole, self supporting or guyed tower, designed and used to support Communications Antennas.

CONDITIONAL USE – A use permitted in a particular zoning district pursuant to the provisions of this ordinance and the Pennsylvania Municipalities Planning Code, as amended.

CONSISTENCY – An agreement or correspondence between matters being compared which denotes a reasonable rational, similar, connection or relationship.

CONVALESCENT OR NURSING HOME - Any structure containing sleeping rooms where persons are housed or lodged and furnished with meals and nursing care.

CONVENIENCE STORE - Any retail establishment offering for sale prepackaged food products, household items, newspapers and magazines, sandwiches and other freshly prepared foods for off-site consumption, and other goods commonly associated with the same.

COUNTY – Juniata County and the Juniata County Planning Commission.

COUNTY COMPREHENSIVE PLAN – Juniata County Comprehensive Plan.

DAY CARE FACILITY, CHILD OR ADULT - Any dwelling, building, or portion thereof, including any on-site outdoor play area, where regularly scheduled child or adult day care services other than the following are provided. Where applicable,

said facility shall be licensed by the Commonwealth of Pennsylvania, and shall not provide overnight accommodations.

- a) The temporary or occasional care of any number of children or adults not related to the person giving care which takes place at the home of the person giving care.
- b) The temporary or occasional care of any number of children or adults not related to the person giving care which takes place at the home of the person receiving care.
- c) Child and adult day care facilities shall be further differentiated by the following two classifications:

COMMERCIAL DAY CARE FACILITY - A facility which provides care for (1) a combined total of seven or more children or adults per day, where the child or adult care areas are being used as a family residence or (2) any number of children or adults per day, where the child or adult care areas are not being used as a family residence.

FAMILY DAY CARE HOME - Any premises or dwelling unit, other than the home of the child or adult being provided care, where the day care areas are being used as a family residence, operated for profit or not for profit, in which day care is provided at any one time to up to six non-dependent children or adults per day.

DENSITY - The number of dwelling units per acre.

DENSITY, GROSS - The number of dwelling units in relation to an area of land actually in use or proposed to be used for residential purposes, exclusive of exterior public rights-of-way.

DENSITY, NET - The number of dwelling units in relation to the land area actually in use or proposed to be used for residential purposes, exclusive of public rights-of-way, streets, sidewalks, parks, playgrounds, common open spaces, floodplains or wetlands.

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

DEVELOPMENT - See “LAND DEVELOPMENT”.

DEVELOPMENT PLAN - The provisions for development including a planned residential development, a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways and parking facilities, common open space and public facilities. The phrase "provisions of the development plan" when used in this Ordinance shall mean the written and graphic materials referred to in this definition.

DRIVEWAY - A minor vehicular right-of-way, other than a street, which provides access between a street and a parking area or garage within a lot or property (often referred to as an access drive).

DRIVE-IN BUSINESS - A commercial establishment, including a drive-in eating establishment, offering articles or services which are either purchased or consumed on the premises and which has a greater area devoted to the purchase and consumption of such articles and services on the outside than on the inside of the building.

DWELLING - Any building or portion thereof designed and used exclusively for residential occupancy, including those listed below, but not including hospitals, hotels, boarding, rooming and lodging houses, institutional houses, tourists courts, and the like, offering overnight accommodations for guests or patients. All dwellings shall be properly connected to approved and permanently designed sewer, water, electrical and other utility systems.

- a) SINGLE-FAMILY DETACHED - A freestanding building containing one dwelling unit for one family, and having two (2) side yards, one (1) front yard, and one (1) rear yard; in the case of a corner lot, the building will have two (2) front and (1) side and rear yards. Mobile homes can be considered single-family detached dwellings if, in addition to the requirements listed for all dwellings, the mobile home is securely anchored to the permanent foundation, and all of the apparatuses used to transport the unit shall be removed, including the towing hitch. Recreational vehicles shall not be construed as dwellings. Modular homes can be considered single-family detached dwellings so long as they comply with the general requirements of a dwelling.

- b) SINGLE-FAMILY, ATTACHED (TOWNHOUSE OR ROW HOUSE) - A building used by one family and having two party walls in common with other dwellings, except in the case of an end-of-row unit which only has one side wall which is a party or lot-line wall.
- c) DUPLEX - (two-family; single-family semi-detached) - A freestanding building containing two dwelling units for two families, arranged in a side-by-side or over-and-under configuration. Those units placed on common grounds shall have one front and rear yard and two side yards. Those units constructed on individual lots shall have one front, side and rear yard.
- d) MULTIPLE FAMILY - A building containing three or more dwelling units, at least one of which must be located above or below the remaining units.
- e) TOWNHOUSE - See Dwelling, Single Family, Attached (Townhouse or Row House)

DWELLING UNIT - Any structure or part thereof, designed for occupancy by not more than one family for living purposes and having complete housekeeping facilities.

EASEMENT - A limited right of use granted on private land for public use or private use by another party or parties and within which the owner of the property shall not erect any permanent structures.

EATING ESTABLISHMENT - Any public eating place where food is prepared and sold for consumption either on or off the premises.

FAMILY – A single individual living alone as a separate housekeeping unit and doing his/her own cooking, or a collective body of people living together in a domestic relationship which may or may not be based upon birth, marriage, custodianship, adoption, domestic employee employed by an adult individual living in the home, or other domestic bond as a single housekeeping unit based on an intentionally structured relationship providing organization and stability and doing their own cooking with or without assistance from others. This definition does not include persons occupying a hotel, dormitory, or lodge.

FLOOD - A general and temporary condition of partial or complete inundation of normally dry land areas from the overland flow of watercourses, or from the unusual and rapid accumulation or runoff of surface waters from any source.

FLOODPLAIN – A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source. Flood plain areas include, but are not necessarily limited to, those areas identified as being flood prone on the Flood Hazard Boundary Map for Mifflintown Borough as issued by the Federal Insurance Administration.

FLOOD-PRONE AREA - A relatively flat or low land area adjoining a stream, river, or watercourse which is subject to partial or complete inundation; or any 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 that reduce or eliminate flood damage to lands, water and sanitary facilities, structures, and contents of buildings.

FLOODWAY - The channel of a river or other watercourse and the adjacent land areas required to carry and discharge a flood of a given magnitude. For the purposes of this Ordinance the floodway shall be capable of accommodating a flood of the one hundred (100) year magnitude, without increasing the water surface elevation of that flood more than one (1) foot at any point.

FLOOR AREA, GROSS - The sum of the gross horizontal areas of the several floors of a building and its accessory buildings on the same lot, excluding cellar, basement and attic floor areas are not devoted to the residential use, but including the area of roofed porches and roofed structures. All dimensions shall be measured between exterior faces of walls.

FLOOR AREA, HABITABLE - The aggregate of the horizontal areas of all rooms used for habitation, such as living room, dining room, kitchen, bedroom, bathroom, closets, hallways, stairways, but not including cellars or attics, or service rooms or areas such as utility rooms, nor unheated areas such as enclosed porches, and further defined in Section 815. Earth-sheltered dwellings, designed as such, shall include the aggregate of area used for habitation as defined above whether or not all or a portion is below ground level.

FUNERAL HOME - A building devoted to the care, embalming, and holding of services for the deceased, including the sale of funeral equipment as an accessory activity.

GENERAL CONSISTENCY – That which exhibits consistency.

GOVERNING BODY – Mifflintown Borough Council.

GREENHOUSE, NURSERY - A use primarily involved in horticulture, which may include the sale of plants grown on the premises and goods and materials used in their production.

GROUP HOME - A dwelling shared by handicapped persons, including resident staff, who live together as a single housekeeping unit and in a long-term, family-like environment in which staff persons provide care, education and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible to meet their maximum potential.

As used herein, the term "handicapped" shall mean having:

- a) a physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently;
- b) a record of having such an impairment; or
- c) being regarded as having such an impairment.

However, "handicapped" shall not include current illegal use of a controlled substance, nor shall it include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals. The term "group home" shall not include alcoholism or drug treatment centers, work release facilities for convicts or ex-convicts, or other housing facilities serving as an alternative to incarceration. An alcoholism or drug treatment center shall be defined as structures and/or land where treatment is provided for alcohol or other drug abuse to one or more individuals who do not reside at the location. Group homes will maintain all the appearances normally associated with a single family residence. Activities that create the semblance of a business or which create additional traffic in the neighborhood are prohibited.

GUEST ROOM - A room which is intended, arranged, or designed to be occupied or which is occupied by one or more guests but in which no provision is made for cooking and not including dormitories for sleeping purposes. Residential noncommercial guestrooms shall be within or attached to the principal residence and shall be part of the residential utility (sewer, electronic, etc.) service line.

HOME BUSINESS - An occupation, profession, activity or use conducted within a single-family detached dwelling unit or existing accessory building by the residents thereof and not more than two non-resident employees. Home business uses are intended to be of a service nature and may involve the incidental purchase and/or sale of goods on the premises. The use shall be clearly incidental and secondary to the use of the dwelling unit for dwelling purposes and the exterior appearance of the structure and premises shall remain residential in character. There shall be no external evidence of the home business except a permitted sign, and the use shall cause no offensive noise, vibration, smoke, dust, odor, heat or glare. Since the use may be of such nature that may require regular visits by customers and/or deliveries, adequate off-street parking space shall be required in addition to the spaces required for the residential use.

HOSPITAL - A place for a diagnosis, treatment, or other care of humans and having facilities for in-patient care.

HOTEL - A building containing rooms intended or designed to be used or which are used, rented or hired out to be occupied or are occupied for sleeping purposes by guests and where only a general kitchen and dining room are provided within the building as an accessory use.

IMPERVIOUS AREA - Any portion of a lot covered by material impenetrable by precipitation, including, but not limited to, buildings, structures, paved and non-paved parking lots and parking areas, pools, and other paved areas.

IMPERVIOUS COVERAGE – The percent of a lot covered by an impervious surface.

IMPERVIOUS SURFACE - Those surfaces which do not absorb precipitation. All buildings (including roof overhangs), parking areas, driveways, roads, sidewalks, and concrete, asphalt and stoned areas shall be considered impervious surfaces within this definition.

INDUSTRIAL USE –

- a) GENERAL INDUSTRIAL USE - Manufacturing or storage uses which, because of their shipping, storage and other requirements should not be located in close proximity to residential areas.
- b) LIGHT INDUSTRIAL USE - Manufacturing or storage uses which are characterized by uses of large sites, attractive buildings and inoffensive processes, and which can be compatible with neighboring residential uses.

JUNK - Any discarded materials or articles, including but not limited to, waste paper, rags, metal, building materials, house furnishings, machinery, vehicles, or parts thereof, with or without the dismantling, processing, salvage, sale, or other use or disposition of the same. It shall not include, however, refuse or garbage kept in a proper container for the purpose of prompt disposal.

JUNK YARD - Any unlicensed place where junk, as herein defined, is stored, accumulated, or disposed of. (SEE SALVAGE YARD). The deposit or storage on a lot (other than in a licensed salvage yard) of one or more unlicensed, wrecked, or disabled vehicles, or the major part thereof, shall be deemed to constitute a "junk yard." (A disabled vehicle is a vehicle intended to be self-propelled that shall not be operable under its own power for any reason, or a vehicle that is required to and does not have a valid current registration plate or a certificate of inspection which is more than 60 days beyond the expiration date.)

KENNEL - Any building or buildings and/or land used for the boarding, breeding or training of a combined total of four or more dogs, cats, fowl or other small domestic animals at least four months of age and kept for purposes of profit, show, hunting or as pets but not to include riding stables or cases involving animals raised for agricultural purposes.

LAND DEVELOPMENT - Any of the following activities:

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

- 2) the division or allocation of land or space, whether initially or cumulatively, between or among two (2) or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
- b) A subdivision of land.
  - c) Excluded from this definition of land development are the following:
    - 1) the conversion of an existing single-family detached dwelling or single-family semidetached dwelling into not more than three residential units, unless such units are intended to be a condominium;
    - 2) the addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building; or
    - 3) the addition or conversion of buildings or rides within the confines of an enterprise that would be considered an amusement park. For the purposes of this subclause, an amusement park is defined as a tract or area used principally as the location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved by proper authorities.

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

LANDSCAPING - Landscaping shall include, but not be limited to, grass and other plantings such as trees, shrubs, and bushes, and may also include mulch and/or decorative stone.

LAUNDRY, SELF-SERVICE - A business that provides home-type washing, drying and/or ironing machines for hire to be used by customers on the premises.

LOADING SPACE - An off-street space suitable for the loading or unloading of goods having direct usable access to a street or alley.

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

- a) LOT, CORNER - A lot at the point of intersection of and abutting two or more intersecting streets, and which has an interior angle of less than 135 degrees at the intersection of the two street lines. Front yards are required on all street frontages. One yard other than a front yard shall be deemed a rear yard, and the other, or others, side yards.
- b) LOT, INTERIOR - A lot other than a corner lot, the sides of which do not abut a street.
- c) LOT, REVERSE FRONTAGE - A lot extending between and having frontage on a major street and a minor street with vehicular access solely from the minor street.
- d) LOT, THROUGH - An interior lot having frontage on two parallel or approximately parallel streets.

LOT AREA - The area contained within the property lines of an individual lot, excluding any area within a street right-of-way whether existing or future, but including the area of any easement.

LOT DEPTH - The mean horizontal distance of a lot measured between the street right-of-way line and the closest rear property line. On corner and through lots, the depth shall be measured from the street right-of-way line of the street of address to the directly opposite property line.

LOT WIDTH - The horizontal distance measured between side property lines. On corner lots, lot width shall be measured between the right-of-way line for the non-address street and the directly opposite property line. Unless otherwise specified, lot width shall be measured at the street right-of-way line.

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

MEDICAL OR DENTAL CLINIC - Any building or group of buildings occupied by medical practitioners and related services for the purpose of providing health services to people on an outpatient basis.

MINIWAREHOUSE - A building and/or series of buildings divided into separate storage units for personal property and/or property associated with some business or other organization. These units shall be used solely for dead storage and no processing, manufacturing, sales, research and development testing, service and repair, or other non-storage activities shall be permitted.

MIXED USE - Occupancy of a building for more than one (1) use.

MANUFACTURED 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 homes placed in parks shall meet the requirements for Mobile Home Parks listed in the Juniata County Subdivision and Land Development Ordinance. Mobile homes placed on individual lots shall be considered single-family-detached dwellings, and be bound by the requirements there imposed.

MANUFACTURED 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.

MANUFACTURED HOME PARK - A parcel or contiguous parcels of land which has been so designated and improved that it contains two (2) 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 living units with direct outside access, designed primarily for transient vehicle travelers, and provided with accessory off-street parking facilities. The term includes buildings designed as tourist courts, motor lodges, auto courts, and other similar appellations, but shall not be construed to include mobile home parks.

MULTI-FAMILY OR TWO-FAMILY CONVERSION - A multi-family or two-

family dwelling constructed by converting an existing building into apartments for more than one family, without substantially altering the exterior of the building.

MUNICIPAL ENGINEER – A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for a municipality.

MUNICIPAL USE - Any use owned or operated by the Borough or an authority created by the Borough.

NO-IMPACT HOME-BASED BUSINESS – A home-based business as defined by the Pennsylvania Municipalities Planning Code, as amended.

NONCONFORMITY - A use, structure, or lot in conflict with the regulations of this Ordinance, (1) existing on the effective date of this Ordinance, or (2) existing at any subsequent amendment of this Ordinance, or (3) created by variance. Specially, the following types of nonconformities are distinguished:

- a) NONCONFORMING LOT - A lot the area or dimension of which was lawful prior to the enactment to this Ordinance of any amendment heretofore or hereafter enacted, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption or amendment.
- b) NONCONFORMING STRUCTURE - A structure or part of a structure manifestly not designed to comply with the applicable use provisions in this Ordinance or any amendment heretofore to hereafter enacted, where such structure lawfully existed prior to the enactment of this Ordinance or amendment or prior to the application of this Ordinance or amendment to its location by reasons of annexation. Such nonconforming structures include, but are not limited to, conforming signs.
- c) NONCONFORMING USE - A use, whether of land or of a structure, which does not comply with the applicable use provisions in this Ordinance or any amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of this Ordinance or amendment, or prior to the application of this Ordinance or amendment to its location by reason of annexation.

NONCONFORMITY, DIMENSIONAL - Any aspect of a land use that does not comply with any size, height, bulk, setback, distance, landscaping, coverage, screening, or any other design or performance standard specified by this Ordinance, where such dimensional nonconformity lawfully existed prior to the adoption of this Ordinance or amendment thereto.

OWNER - The owner of record of a parcel of land.

PA DEP - Pennsylvania Department of Environmental Protection

PA DOT - Pennsylvania Department of Transportation

PARCEL - A unit of land that meets all of the following criteria:

- a) Owned by the same owner or owners on (adoption date).
- b) Obtained by its owner or owners at the same time and by the same instrument (deed, will, etc.).
- c) Is contiguous - land shall be considered contiguous even though separated by public or private roads.

PARK, PLAYGROUND OR RECREATION AREA - An open air recreational facility which is not accessory to any other use on the same or any other lot, but excluding amusement parks.

PARKING GARAGE - A building where passenger vehicles may be stored for short-term, daily, or overnight off-street parking.

PARKING LOT - An open lot where passenger vehicles may be stored for short-term, daily, overnight off-street parking.

PARKING SPACE - An off-street space available for the parking of one (1) motor vehicle and having direct usable access to a street or alley.

PARTY WALL - A wall, used jointly by two (2) parties under easement agreement, erected upon a line separating two (2) parcels of land, each of which is a separate real estate entity.

PERSONAL SERVICE BUSINESS - Personal service businesses shall include

barber and beauty shops, radio and television repair, repair shops for home appliances and tools, bicycles, guns, locks, shoes and watches, tailor and dressmaking shops are any other similar establishment providing personalized service to customers.

PLACE OF WORSHIP - A nonprofit use of land or a building or buildings as a place of worship, convent, monastery or similar religious institution, including rectory and parish houses for an organization solely or primarily used as a religious institution when located on the same premise.

PLANNING CODE - The Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P.L. 805, Act 247, as amended.

PROFESSIONAL OR BUSINESS OFFICES - An office which generally operation an appointment basis. Business offices shall include advertising agencies, optician's office, personnel agencies, photographer's studio, and travel and ticket agencies. Professional offices shall include offices of accountants, actuaries, architects, attorneys, clergy, dentists, designers engineers, insurance and bonding agents, manufacturing representatives, physicians, real estate agents, teachers, and miscellaneous consulting, services. Also included are offices of a governmental agency, social service organization, district justice or justice of the peace, notary, public or private utility or political organization; or an office of a bank, savings and loan association, credit or loan company, collection agency, or stock and bond broker.

PUBLIC - Owned, operated or controlled by a government agency (Federal, State or Local including a corporation created by law for the performance of certain specialized government functions and the Board of Education).

PUBLIC BUILDING - A building owned, operated or controlled by a governmental agency (Federal, State or Local) including a corporation created by law for the performance of certain specialized governmental functions, and the Board of Education.

PUBLIC GROUNDS - includes the following:

- a) parks, playgrounds, trails, paths and other recreational areas and other public areas;
- b) sites for schools, sewage treatment, refuse disposal and other publicly

owned or operated facilities; and

- c) publicly owned or operated scenic and historic sites.

PUBLIC HEARING - A formal meeting held pursuant to public notice by the governing body or planning agency, intended to inform and obtain public comment, prior to taking action on zoning related matters.

PUBLIC MEETING - A forum held pursuant to notice under the act of July 3, 1986 (P.L. 388, No. 84), known as the Sunshine Act.

PUBLIC NOTICE - Notice published once each week for two successive weeks in a newspaper of general circulation in the municipality. 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 seven days from the date of the hearing. Public notice for rezoning, special exception, conditional use and/or variance requests shall also include the posting of a sign at conspicuous locations along the perimeter of the subject property; these sign(s) shall be posted at least one week prior to the required public hearing.

PUBLIC SEWER - A municipal sanitary sewer system or a comparable common or package sanitary facility approved and permitted by the Pennsylvania Department of Environmental Protection.

PUBLIC USES - Includes public and semi-public uses that are specifically established to offer some public welfare, health, safety, recreation or educational services to the residents, businesses and landowners of Mifflintown Borough. Such uses can include schools, parks, fire stations, municipal buildings and garages, and etc. Churches are not included in this definition.

PUBLIC UTILITIES - Use or extension thereof which is operated, owned or maintained by a public utility corporation, municipality or municipal authority or which is privately owned and approved by the Pennsylvania Public Utility Commission for the purpose of providing public sewage disposal and/or treatment; public water supply, storage and/or treatment; or for the purpose of providing the transmission of energy or telephone service.

PUBLIC WATER - A municipal water supply system or a comparable common water facility approved and permitted by the Pennsylvania Department of

Environmental Protection. Such systems are capable of serving multiple users.

RECREATION, ACTIVE - Leisure time activities, usually of a more formal nature and performed with other individuals, often requiring equipment and taking place at prescribed places, site or fields. Such areas usually require physical alteration to the area before they can occur and are intensively used, such as playgrounds, ball courts and swimming pools.

RECREATION, PASSIVE - Leisure time activities, usually of an informal nature and which can be carried out with no alteration or disruption to the area in which they occur, such as hiking and picnicking.

RECREATIONAL VEHICLE - Tent trailers, campers, travel trailers, and motor homes which provide for eating and/or sleeping for one or more persons are classified as recreational vehicles. These vehicles or units shall have a fixed maximum width of eight (8) feet or less and a maximum length of thirty-two (32) feet or less.

RETAIL STORE OR SHOP - Any shop or store whose primary activities involve the sale or lease of amusements and games, antiques, art, books, beverages, carpets and rugs, ceramics and glass, confections, drugs, dry goods, flowers, food, furniture, gifts, garden supplies, hobbies, hardware, household appliances, household pets and supplies, leather goods, musical supplies and equipment, notions, paint, periodicals, photographs and photographic equipment, radio-television and sound equipment, sporting and camping goods, stationery, tobacco, toys and wearing apparel. The wholesale distribution or manufacture of the foregoing products are not included herein and are permitted only as provided in other appropriate sections of this Ordinance. Among the uses not to be interpreted as retail stores or businesses are uses specifically provided for elsewhere in this Ordinance, including, but not limited to, gasoline and motor vehicle service stations, vehicular sales and rental, restaurants, taverns, business offices, contractors offices, mills and lumber yards.

ROADWAY - The portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the sidewalk or shoulder. Often referred to as "cartway."

SALVAGE YARD - A lot, land or structure, or part thereof, properly licensed by the Commonwealth of Pennsylvania, which is used primarily for the collecting, storage and sale of waste paper, rags, scrap metal, building materials, house

furnishings, machinery, vehicles, or parts thereof, or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition, and for the sale of parts thereof (See “JUNK YARD”).

SATELLITE DISH ANTENNA - Any accessory structure capable of receiving radio or television signals from a transmitter or transmitter relay located in planetary orbit.

SCHOOL - A place of instruction, either public or private, other than a commercial school.

- a) SCHOOL, COMMERCIAL - A school conducted for profit for such special instruction as business, art, music, trades, handicraft, dancing, or riding.
- b) SCHOOL, ELEMENTARY - Any school licensed by the Commonwealth of Pennsylvania and which meets the requirements for elementary education.
- c) SCHOOL, NON-PUBLIC - A private place of instruction other than a commercial school.
- d) SCHOOL, NURSERY - Any place licensed by the Commonwealth of Pennsylvania and which is authorized to provide regular instruction and daytime care for two or more children under the age of elementary school.
- e) SCHOOL, SECONDARY - Any school licensed by the Commonwealth of Pennsylvania and which is authorized to award diplomas for secondary education.

SCREEN PLANTING - A vegetative material of sufficient height and density to conceal from the view of adjacent property owners the structures and uses on the premises on which the screen planting is located.

SERVICE STATION - See “VEHICLE SERVICE STATION”.

SETBACK - The minimum required horizontal distance between a setback line and a property or street line.

- a) SETBACK, FRONT - The distance between the street right-of-way line and the required front setback line projected the full width of the lot.
- b) SETBACK, REAR - The distance between the rear lot line and the required rear setback line projected the full width of the lot.
- c) SETBACK, SIDE - The distance between the side lot line and the required side setback line projected from the front yard to the rear yard.

SETBACK LINE - A line within a property and parallel to a property or street line which delineates the required minimum distance that must be provided between a structure or building and an adjacent street line and/or property line.

SIGN - Any structure, device, fixture or placard that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

STORY - That portion of a building, excluding cellars, included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between any floor and the ceiling next above it.

STORY, HALF - A story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor.

STREET - A strip of land, including the entire right-of-way, intended primarily as a means of vehicular and pedestrian travel. Street includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct and any other ways used or intended to be used by vehicular traffic or pedestrians whether public or private.

STREET GRADE - The officially established grade of the street upon which a lot fronts or in its absence the established grade of other streets upon which the lot abuts at the midway of the frontage of the lot thereon. If there is no officially established grade, the existing grade of the street at such midpoint shall be taken as the street grade.

STREET LINE - A line defining the edge of a street right-of-way and separating the street from abutting property or lots. Commonly known as the street “right-of-way line.”

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

- a) ACCESSORY - A subordinate structure or a portion of the principal structure on a lot, the use of which is customarily incidental to that of the principal structure.
- b) PERMANENT - A structure which cannot readily be removed.
- c) TEMPORARY - A structure which can readily be removed.

SUBDIVISION - The division or re-division of a lot, tract or parcel of land by any means into two (2) or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development; Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten (10) acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

SWIMMING POOL - Any pool or open tank containing, or normally capable of containing, water to a depth at any point greater than one and one-half (1 1/2) feet. Farm ponds and/or lakes are not included, provided that swimming was not the primary purpose for their construction.

TAVERN - An establishment whose primary function is to dispense alcoholic beverages incidental to the fact that food is available for sale. This definition shall include those establishments which do not meet the criteria set forth by the Pennsylvania Liquor Control Board regarding eligibility for a Sunday sales permit (that is, where alcoholic beverage sales exceed 40 percent of the establishment's income).

TELEVISION ANTENNA - Any device used for receiving video transmissions.

USE - The specific purpose for which land or a structure is designed, arranged, intended, occupied or maintained.

- a) ACCESSORY USE - A use customarily incidental and subordinate to the principal use or building and located on the same lot with this principal use or building.
- b) PRINCIPAL USE - The main or primary use of property or structures, measured in terms of gross floor area, or where no gross floor area exists, measured in terms of net land area.

USE AND OCCUPANCY PERMIT - A permit issued by the Zoning Officer certifying a use's compliance with information reflected on the zoning permit and the Zoning Ordinance.

VARIANCE - The permission, granted by the Zoning Hearing Board, following a public hearing that has been properly advertised, for a particular modification to some regulation or provision of the Zoning Provisions of this Ordinance which, if strictly adhered to, would result in an unnecessary hardship, and where the permission granted would not be contrary to the public interest, and would maintain the spirit and intent of the Ordinance.

VEHICLE BODY SHOP - A building or structure on a lot that is used for the repair or painting of bodies, chassis, wheels, fenders, bumpers and/or accessories of automobiles, trucks and other vehicles for conveyance.

VEHICLE PARKING LOT OR GARAGE - A lot or building or portion thereof, other than an automobile sales lot used for the storage or parking of six or more motor vehicles for a consideration, where service or repair facilities are not permitted. Such parking lot or garage shall not be considered an accessory use; nor shall it be used for the storage of dismantled or wrecked motor vehicles, parts thereof, or junk.

VEHICLE REPAIR GARAGE - A building or structure on a lot designed and/or used primarily for mechanical and/or body repairs, storage, or servicing to automobiles, trucks and similar vehicles.

VEHICLE SERVICE STATION - A building or lot or part thereof supplying and selling gasoline or other equivalent fuel for motor vehicles at retail direct from pumps and storage tanks and which may include accessory facilities for rendering vehicle services such as lubrication, washing and minor repairs.

VEHICLE WASH - A building on a lot, designed and used primarily for the washing and polishing of motor vehicles and which may provide accessory services as set forth herein for Vehicle Service Stations.

WATERCOURSE - Any channel of conveyance of surface water having a defined bed and banks, whether natural or artificial, with perennial or intermittent flow.

YARD - An area between the permitted structures and the property lines.

- a) YARD, FRONT - The area contained between the street right-of-way line and the front face or wall of the principal structure.
- b) YARD, REAR - The area contained between the rear property line and the rear face or wall of the principal structure. On corner and through lots, the rear yard shall be considered that area between the principal structure and the property line directly opposite the street of address.
- c) YARD, SIDE - The area(s) between any side face or wall of a principal structure and any side lot line(s). On corner lots, the side yard shall be considered those areas between the principal structure and the property lines directly opposite the streets.

ZONING - The designation of specified districts within a community or Borough, reserving them for certain uses together with limitations on lot size, heights of structures and other stipulated requirements.

ZONING DISTRICT - A portion of the Borough or adjacent municipality(s) within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Ordinance (or the adjacent municipality's Zoning Ordinance).

ZONING HEARING BOARD - The Zoning Hearing Board of and for the Borough of Mifflintown.

ZONING MAP - The Zoning Map of Mifflintown Borough adopted hereunder, together with all amendments thereto subsequently adopted.

ZONING OFFICER - The duly constituted municipal official designated to administer and enforce this Ordinance. The Zoning Officer shall administer the

Zoning Ordinance in accordance with its literal terms. The Zoning Officer may be the Building Inspector and serve both offices of the Borough.

ZONING PERMIT - A written statement issued by the zoning officer, authorizing buildings, structures or uses consistent with the terms of this Ordinance and for the purpose of carrying out and enforcing its provision.

# Article III

## Designation of Districts

### Section 301 Zones and Boundaries

- a) **Establishment of Zones:** The Borough of Mifflintown is divided into zones identified below and shown on the map entitled “Zoning Map of Mifflintown Borough” which map is part of this Ordinance.

i) Base Districts

R1 Low Density Residential

R2 Medium Density Residential

DC Downtown Commercial District

ii) Overlay Districts

Floodplain District

Slope Protection District

Stream Protection

Wetland Protection

- b) The boundaries of said base districts shall be shown upon the attached zoning map and made part of this ordinance. The provisions of the overlay district shall apply where those conditions that are regulated by the overlay district occur in the Borough. A copy of the zoning map, indicating the latest amendments, shall be displayed for the use and benefit of the public at the Mifflintown Borough Administration Building.
- c) **Boundaries of Zones:** Where uncertainty exists as to the boundaries of the zones as shown on the zoning map, the following rules shall

apply:

- 1) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.
- 2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- 3) Boundaries indicated as approximately following municipality limits shall be construed as following municipality limits.
- 4) Boundaries indicated as approximately following the centerlines of streams, rivers or other bodies of water shall be construed to follow such centerlines.
- 5) Boundaries indicated as parallel to or extensions of features indicated in Sub-section (1) through (4) shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- 6) Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map or in circumstances not covered by Sub-section (1) through (5), the Zoning Officer shall interpret the district boundaries.

### Section 302 Use Adjustment on District Boundaries

In unsubdivided land where a district boundary line divides a lot held in single and separate ownership, the following rules shall apply:

- a) The use in a less restricted district may extend over the portion of the lot in the more restricted district, a distance of not more than fifty (50) feet beyond the district boundary line providing such extension does not extend the frontage of the use along a street in the more restricted district.
- b) The frontage of the use in a less restricted district may extend over the

portion of the lot in the more restricted district, a distance of not more than fifty (50) feet beyond the district line, providing a variance is granted by the Zoning Hearing Board.

- c) Where a district boundary divides a lot, the permitted use of either district may extend not more than 50 feet into the other district.

### Section 303 Application of District Regulations

The regulations set by this Ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

- a) No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected constructed, reconstructed, moved, or structurally altered unless in conformity with all the regulations herein specified for the district in which it is located.
- b) No building or other structure shall hereafter be erected or altered except in conformance with the provisions of this Ordinance.
- c) No part of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Ordinance shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.
- d) No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein except in conformance with the provisions of this Ordinance. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

### Section 304 Uses Not Provided For

In any district established by this ordinance, when a specific use is neither permitted nor denied, the Zoning Hearing Board shall make a determination in accordance with Article XIII, Jurisdiction of the Zoning Hearing Board as to the similarity or compatibility of the use in question to the permitted uses in the district. No zoning permit shall be issued by the Zoning Officer for any unspecified use until this determination has been made.

### Section 305 Performance Standards

No land or building in any District in the Borough shall be used or occupied in such a manner so as to create any dangerous or objectionable elements in such amount as to adversely affect the surrounding area or premises. All uses of land or building shall initially and continuously comply with all applicable performance standards established by Federal and State agencies.

### Section 306 Use Regulations

- a) Uses Permitted: The uses permitted in the zones established by this Ordinance and the permitted extent of these uses are as shown in Articles IV, V, and VI. The uses shown as permitted and conditional in each zone are the only uses permitted in that zone. Unless otherwise noted, the use or dimensional standards are the requirements for each use. However,
  - 1) Additional supplemental provisions are set forth in Article IX.
  - 2) Standards for Conditional Uses are set forth in Article XII.
- b) Accessory Buildings and Structures: Accessory uses and structures shall be permitted in conjunction with the principal uses permitted by this Ordinance and shall be further subject to the requirements for accessory uses and structures as set forth in Article VIII.
- c) No more than one principal use is permitted per lot, except in the case of permitted "mixed use" buildings.

# Article IV

## Low Density Residential

### Section 400 Low Density Residential Zone

- a) **Purpose:** The purpose of the Low-Density Residential classification is to accommodate and encourage low-density development, primarily residential in nature, consistent with the characteristics of the prevailing open environment of the Borough. Development is restricted to low-density, single-family residential development and related compatible uses designed to serve the residential community, and to prevent the overcrowding of land through the application of maximum housing densities, and to exclude any activities not compatible with residential development.
  
- b) **Description of Zone:** The Low Density Residential Zone of Mifflintown Borough shall be defined as all areas within the Borough East of Cross Street and South of Washington Avenue from its point of intersection with Cross Street; all areas of East of Courtney Lane lying between North Street and Manbeck Lane; and all areas North of the centerline of North Street between its intersection with Third Street and Seventh Street.
  
- c) **Permitted Uses:** The following principal uses are permitted:
  - 1) Single-family Detached Dwelling
  - 2) Public Park and Recreation Areas
  - 3) Places of Worship in accordance with Section 914
  - 4) General Gardening
  - 5) No Impact Home Based Businesses in accordance with Section 913
  - 6) Family Day Care Home in accordance with Section 905

- 7) Cemeteries in accordance with Section 902
  - 8) Community Activity Buildings
  - 9) Public Libraries
  - 10) Public Buildings and Facilities
  - 11) Crop and Tree Farming, and Horticulture
  - 12) Group Homes
- d) **Conditional Use:** The following principal uses shall be permitted as a Conditional Use when approved by the Borough Council. The Borough Council shall hear and decide requests for such uses according to criteria established in Article XII of this Ordinance.
- 1) Bed and Breakfast Inn in accordance with Section 1203
  - 2) Public and Private Schools, and other Educational Institutions
  - 3) Home Business in accordance with Section 1208
- e) **Lot Area and Width:** Lot area and lot width not less than the following dimensions shall be provided for each principal use hereafter established in this zone. All uses in the Low Density Residential District shall be connected to Public Water and Public Sewerage.

Use (6)	Lot Requirements			Minimum Building Setbacks (2)				Max. Building Height
	Min. Lot Area	Min. Lot Width (4)	Maximum Impervious Coverage	Front (g)	Each Side (3)	Total Sides	Rear	
All Uses (1)	7,500 sq. ft.	60'	45%	15'	10'	20'	15'	35'
(1) – All uses in the Low Density Residential District shall be connected to Public Water and Public Sewer. (2) – In case of condominium projects, building setbacks shall act as separation distances between buildings. (3) – Existing lots of less than fifty (50) feet of road frontage shall be permitted to reduce required side yard setbacks to five (5) feet with a total of ten (10) feet for total sides. (4) – Measured at the right-of-way line, or ultimate right-of-way for streets with substandard right-of-ways. (5) – Front yard may be reduced in accordance with Section 803.b). (6) – These standards represent minimum requirements unless specified elsewhere in this ordinance.								

f) **Accessory Uses and Structures**

The following customary accessory uses and structures incidental to any permitted uses shall be permitted:

- 1) Uses and structures which are customarily associated with the permitted uses such as storage buildings, outdoor storage areas, yards, gardens, play areas and parking areas.
  - 2) Garden house, tool house, playhouse, wading pool, or swimming pool incidental to the residential use of the premises and not operated for gain.
  - 3) Private garages.
  - 4) The keeping of no more than three household pets and/or domestic animals in a safe, healthy, and humane manner, but excluding the commercial breeding or keeping of same. All such household pets or domestic animals shall not be penned or housed within the applicable minimum yard requirements of any lot.
  - 5) Applicable provisions governing Accessory Buildings and Structures in accordance with of Article VIII.
- g) **Off-Street Parking:** Off-Street Parking shall be provided in accordance with Article X.
- h) **Environmental Protection Overlay District:** Development shall meet the requirements of the Environmental Protection Overlay District in accordance with Article VII.
- i) **Performance Standards:** Development shall meet the requirements of the performance standards in accordance with Article VIII.
- j) **Signs:** Signs are permitted in accordance with Article XI.

# Article V

## Medium Density Residential

### Section 500 Medium Density Residential Zone

- a) **Purpose:** The purpose of the Medium Density Residential classification is to promote the development of a variety of housing types in areas where necessary municipal services and other amenities are available and commercial facilities are located nearby. All new development in this classification shall be connected public water and public sewerage facilities.
  
- b) **Description of Zone:** The Medium Density Residential Zone of Mifflintown Borough shall be bounded by the centerline of Cross Street through its intersection with the centerline of Washington Avenue; the centerline of Washington Avenue through its intersection with the centerline of Courtney Lane; the centerline of Courtney Lane through its intersection with the centerline of North Street; the centerline of North Street through its intersection with the centerline of Banks Lane; the centerline of Banks Lane from North Street through its intersection with Lemon Street; the centerline of Minnick Lane from its intersection with Moist Run through its intersection with the centerline of Bridge Street; and from the intersection of the centerline of Minnick Lane with Moist Run on a straight line to the intersection of said straight line with the said centerline of Cedar Street; thence East along the centerline of Cedar Street to its intersection with the centerline of Cross Street; thence along the centerline of Cross Street from its intersection with Cedar Street to its intersection with the center line of Jefferson Street.
  
- c) **Permitted Uses:** The following principal uses are permitted:
  - 1) Single-family Detached Dwelling
  - 2) Single-family Semidetached Dwelling
  - 3) Multiple Dwelling Structures in accordance with Section 912

- 4) Conversion Apartments in accordance with Section 904
  - 5) Public Park and Recreation Areas
  - 6) Places of Worship in accordance with Section 914
  - 7) General Gardening
  - 8) No Impact Home Based Businesses in accordance with Section 913
  - 9) Family Day Care Home in accordance with Section 905
  - 10) Cemeteries in accordance with Section 902
  - 11) Community Activity Buildings
  - 12) Public Libraries
  - 13) Public Buildings but not Facilities
  - 14) Crop and Tree Farming, and Horticulture
  - 15) Home Business in accordance with Section 913
  - 16) Group Homes
- d) **Conditional Use:** The following principal uses shall be permitted as a Conditional Use when authorized by the Borough Council. The Borough Council shall hear and decide requests for such uses according to criteria established in Article XII of this Ordinance.
- 1) Public and Private Schools, and other Educational Institutions
  - 2) Manufactured Home Parks in accordance with Section 1206
  - 3) Bed and Breakfast in accordance with Section 1203
  - 4) Home Business in accordance with Section 1208

5) Convalescent or Nursing Home

- e) **Lot Area and Width:** Lot area and lot width not less than the following dimensions shall be provided for each principal use hereafter established in this zone. All uses in the Medium Density District shall be connected to Public Water and Public Sewerage.

Use (1)	Lot Requirements (7)			Minimum Building Setbacks (3,7)				Max. Building Height
	Min. Lot Area per unit/lot	Min. Lot Width (5)	Maximum Impervious Coverage	Front (6)	Each Side (4)	Total Sides	Rear	
Single Family-Detached	7,500 sq. ft.	60'	45%	15'	7'	14'	15'	35'
Single –Family Semi-Detached	7,000 sq. ft.	40'	20%	15'	7' (2)	14' (2)	15'	35'
Townhouse	4,000 sq. ft.	18'	20%	15'	7' (2)	14' (2)	15'	35'
Multi-Family Dwellings	4,000 sq. ft.	80'	20%	15'	7'	14'	15'	35'
All other Uses	10,000 sq. ft.	60'	45%	25'	15'	30''	15'	35'

(1) – All uses in the Medium Density Residential District shall be connected to Public Water and Public Sewer.  
(2) – Yard requirements apply to unattached sides of buildings.  
(3) – In case of condominium projects, building setbacks shall act as separation distances between buildings.  
(4) – Existing lots of less than fifty (50) feet of road frontage shall be permitted to reduce required side yard setbacks to five (5) feet with a total of ten (10) feet for total sides.  
(5) – Measured at the right-of-way line, or ultimate right-of-way for streets with substandard right-of-ways.  
(6) – Front yard may be reduced in accordance with Section 803.b).  
(7) – These standards represent minimum requirements unless specified elsewhere in this ordinance.

f) **Accessory Uses and Structures**

The following customary accessory uses and structures incidental to any permitted uses shall be permitted:

- 1) Uses and structures which are customarily associated with the permitted uses such as storage buildings, outdoor storage areas, yards, gardens, play areas and parking areas.
- 2) Garden house, tool house, playhouse, wading pool, or swimming pool incidental to the residential use of the premises and not operated for gain.
- 3) Private garages.

- 4) The keeping of no more than three household pets and/or domestic animals in a safe, healthy, and humane manner, but excluding the commercial breeding or keeping of same. All such household pets or domestic animals shall not be penned or housed within the applicable minimum yard requirements of any lot.
- 5) Applicable provisions governing Accessory Buildings and Structures in accordance with of Article VIII.
- g) **Off-Street Parking:** Off-Street Parking shall be provided in accordance with Article X.
- h) **Environmental Protection Overlay District:** Development shall meet the requirements of the Environmental Protection Overlay District in accordance with Article VII.
- i) **Performance Standards:** Development shall meet the requirements of the performance standards in accordance with Article VIII.
- j) **Signs:** Signs are permitted in accordance with Article XI.

# Article VI

## Downtown Commercial

### Section 600 Downtown Commercial Zone

- a) **Purpose:** The Downtown Commercial Zone is designed to establish a sense of place among the commercial nodes of the Borough, and enhancement and protection of the “central commercial core” supported by permitting a mix of residential uses and nonresidential uses that will offer consumer goods and services appropriate for a “Downtown Area.” Rehabilitation of existing buildings and facades shall be considered a priority to razing any building within the Downtown Commercial area.
- b) **Description of Zone:** The Downtown Commercial District shall be defined as all areas of the borough West of Minnick Lane and Banks Lane and all areas West of Main Street for its entire length.
- c) **Permitted Uses:** The following principal uses are permitted:
  - 1) Single-family Detached Dwelling
  - 2) Single-family Semi Detached Dwelling
  - 3) Retail Store or Shop
  - 4) Personal Service Business
  - 5) Professional or Business Offices
  - 6) Eating Establishments
  - 7) Parking Lot or Parking Garage
  - 8) Tavern
  - 9) Funeral Home

- 10) Public Buildings but not Facilities
- 11) Public Utility Building
- 12) Private Day Care Center or Nursery School in accordance with Section 915
- 13) No Impact Home Based Business in accordance with Section 913

d) **Conditional Use:** The following principal uses shall be permitted as a Conditional Use when authorized by the Borough Council. The Borough Council shall hear and decide requests for such uses according to criteria established in Article XII of this Ordinance.

- 1) Conversion Apartments
- 2) Business Conversion
- 3) Home Business in accordance with Section 1208

e) **Lot Area and Width:** Lot area and lot width not less than the following dimensions shall be provided for each principal use hereafter established in this zone:

Use (1)	Lot Requirements (7)			Minimum Building Setbacks (3,7)				Max. Building Height
	Min. Lot Area per unit/lot	Min. Lot Width (5)	Maximum Impervious Coverage	Front (6)	Each Side (4, 8)	Total Sides	Rear	
Single Family-Detached	7,500 sq. ft.	60'	45%	15'	7'	14'	15'	35'
Single –Family Semi-Detached	7,000 sq. ft.	40'	35%	15'	7' (2)	14' (2)	15'	35'
All other Uses	10,000 sq. ft.	60'	85%	15'	7'	14''	15'	35'

- (1) – All uses in Downtown Commercial District shall be connected to Public Water and Public Sewer.
- (2) – Yard requirements apply to unattached sides of buildings.
- (3) – In case of condominium projects, building setbacks shall act as separation distances between buildings.
- (4) – Existing lots of less than fifty (50) feet of road frontage shall be permitted to reduce required side yard setbacks to five (5) feet with a total of ten (10) feet for total sides.
- (5) – Measured at the right-of-way line, or ultimate right-of-way for streets with substandard right-of-ways.
- (6) – Front yard may be reduced in accordance with Section 803.b).
- (7) – These standards represent minimum requirements unless specified elsewhere in this ordinance.
- (8) – Zero lot line development in accordance with Section 803.c).

f) **Accessory Uses and Structures**

The following customary accessory uses and structures incidental to any permitted uses shall be permitted:

- 1) Uses and structures which are customarily associated with the permitted uses such as storage buildings, outdoor storage areas, yards, gardens, play areas and parking areas.
- 2) Garden house, tool house, playhouse, wading pool, or swimming pool incidental to the residential use of the premises and not operated for gain.
- 3) Private garages.
- 4) All storage accessory to any permitted use, other than off-street parking and loading areas, shall be carried on in completely enclosed buildings.
- 5) Applicable provisions governing Accessory Buildings and Structures in accordance with of Article VIII.

g) **Use Standards**

Uses permitted in the Downtown Commercial District shall be subject to the following conditions:

- 1) Parking, loading, or service areas used by motor vehicles shall be physically separated from all streets by a suitable barrier against unchanneled motor vehicle access or egress. All roads, driveways, parking areas and walks shall be paved and maintained in good condition with hard surface materials.
- 2) All access roads or driveways shall be located not less than one hundred (100) feet from the intersection of any street right-of-way lines, and shall be designed in a manner conducive to safe ingress and egress.
- 3) Illumination. All illumination shall comply with the

requirements of Article VIII. When lot lines lie within 35 feet of a Residential District boundary or any lot in residential use, any illumination or floodlighting shall be arranged so there will be no glare of lights on such lot or District boundary line.

- 4) Landscaping. The entire lot shall be landscaped pursuant to Article VIII (except for those areas that are covered by buildings or surfaced as parking or service areas). All landscaping shall be properly maintained throughout the life of any use on any lot.
  - 5) Along each property line which is adjacent to a Residential District or lot in residential use, the owner shall be required to maintain a buffer strip ten (10) feet wide which shall be planted with a hedge, evergreen shrubbery or suitable vegetation to provide appropriate screening against noise, glare, fumes, dust, and other harmful effects. Said buffer strip shall be consistent with any existing vegetation and the permitted use of the adjacent residential property.
- h) **Off-Street Parking:** Off-Street Parking shall be provided in accordance with Article X.
  - i) **Environmental Protection Overlay District:** Development shall meet the requirements of the Environmental Protection Overlay District in accordance with Article VII.
  - j) **Performance Standards:** Development shall meet the requirements of the performance standards in accordance with Article VIII.
  - k) **Signs:** Signs are permitted in accordance with Article XI.

## **Article VII**

### **Environmental Protection Overlay District**

#### Section 700 Environmental Protection Overlay District

- a) The Juniata County Comprehensive Plan has provided an inventory of important natural and cultural features that include wetlands, floodplains, watersheds, streams, soils, historic sites and buildings. The Borough recognizes the interrelationship between its natural resources and the health, safety and general welfare of the community, and that these resources have a major role in the quality of life in the community and must be protected and preserved for future generations. Recognizing that the County's Comprehensive Plan promotes the preservation and protection of these important features, this section provides appropriate standards and regulations for the following purposes:
  - 1) To protect streams from development impacts.
  - 2) To minimize negative impacts from development on hillside and slope areas.
  - 3) To protect water features from development impacts.
  - 4) To minimize impacts of wetlands.
- b) This overlay district shall include but not be limited to all areas in the borough located within 100 yards of Moist Run for its entire length as it traverses the borough and to all areas West of the center line of Front Street for its entire length.

#### Section 701 Stream Protection Overlay District (SPOD)

- a) Streams and the natural areas around them serve as important hydrological and environmental assets. It is the intent of this section to provide appropriate standards for delineating and preserving natural

and man-made waterways. These regulations are provided to protect wildlife; reduce exposure to high water and flood hazards; preserve existing vegetation along waterways; minimize the negative effects on waterways from development related erosion; and protect water quality by reducing and cleaning storm water runoff. An SPOD is hereby established as a district which overlays other zoning districts of this ordinance.

- b) Establishment of district boundaries. The SPOD shall consist of a strip of land on each side of a perennial stream. The SPOD boundary shall be based on an investigation of critical environmental features that are related to the waterway. The total extent of the critical areas adjacent to the perennial stream shall be considered in determining the boundaries of the SPOD. Where critical areas do not exist, a minimum buffer of at least 25 feet on each side of the waterway shall be established.
- c) Determining the critical areas. The total extent of the critical areas adjacent to the perennial stream shall be considered in determining the boundaries of the SPOD. Critical areas include the following:
  - 1) Alluvial soils. All alluvial soils adjacent to the perennial stream.
  - 2) Wet soils. All wet soils immediately adjacent to or bordering within 50 feet of the perennial stream. For the purpose of this ordinance, these areas are considered hydrologically related to the waterway. Wet soils include springs and other intermittent drainage areas.
  - 3) Steep slopes. Where the base of a steep slope is 50 feet or less from the stream or drainage way or if the stream or drainage way is in a ravine, the critical area shall extend to the top of the steep slope(s) or ravine plus an additional 20 feet of moderate or lesser slope. (Steep slope equals 25% or greater.)
  - 4) Wooded areas. Where forested land having a predominance of trees of four-inch caliper or greater exists within 50 feet of the stream or drainage way.
- d) Permitted uses. The following shall be permitted uses in the SPOD,

provided that they are in compliance with the provisions of the underlying district and are not prohibited by another ordinance, and provided that they do not require building(s), fill or storage of materials and equipment:

- 1) Common open space
  - 2) Educational or scientific use, not involving buildings or structures
  - 3) Fishing, swimming, boating and hunting.
  - 4) Trail access to the stream or drainage way and trails in linear parks
  - 5) Passive recreational areas not involving structures
  - 6) Accessory residential uses such as gardens, play areas or fences
  - 7) Accessory commercial uses such as picnic areas, storm water facilities or fences
  - 8) Wildlife preserves
  - 9) Underground public utilities
- e) Standards
- 1) The SPOD shall be established at the time of subdivision or land development or the application for a zoning permit if there is no subdivision or land development proposed.
  - 2) In all subdivision and land development applications, the SPOD shall be described by metes and bounds. A conservation easement covering the SPOD shall be provided around the SPOD.
  - 3) In all zoning permit applications, the SPOD shall be shown on a drawing indicating the location and measurements of the district in accordance with the above standards.

- 4) All subdivision and land development plans shall comply with the provisions of this Ordinance and the Juniata County Subdivision and Land Development Ordinance.

Section 702 Hillside and Slope Protection Overlay District (HSPOD)

- a) Steep slopes and hillsides areas are fragile and susceptible to erosion, landslides, mudslides, degradation of their natural vegetation and increased flooding. It is the intent of this Section to provide reasonable standards for hillside development that guide development away from steep areas; minimize grading and other site preparation in steep areas; provide safe means for ingress and egress while minimizing scarring from hillside construction; preserve the natural conditions in steep areas; and prevent flooding and the deteriorating effects of erosion to streams and drainage areas. An HSPOD is hereby established as a district which overlays other zoning districts of this Ordinance.
- b) Establishment of district boundaries. The HSPOD shall consist of all land which has 25% slope or more. The HSPOD boundary shall be based on a topographic investigation of critical sloped areas. The average natural slope of an area shall be determined by dividing the horizontal run of the slope into the vertical rise of the same slope and converting the resulting figure into a percentage value. The sloped area shall be measured at right angles to the natural contours.
- c) Permitted uses. The following uses shall be permitted in the HSPOD, provided that they are in compliance with the provisions of the underlying district and are not prohibited by another ordinance, and provided that they do not require structures, grading, fill or storage of materials and equipment:
  - 1) Common open space
  - 2) Educational or scientific use, not involving buildings or structures

- 3) Trail access
  - 4) Passive recreational areas not involving structures
  - 5) Accessory residential uses such as gardens, play areas or fences
  - 6) Accessory commercial uses such as picnic areas or fences
  - 7) Wildlife preserves
  - 8) Underground public utilities
- d. Standards
- 1) The HSPOD shall be established at the time of subdivision or land development or the application for a zoning permit if there is no subdivision or land development proposed.
  - 2) In all subdivision and land development applications, the HSPOD shall be described by metes and bounds. A conservation easement covering the HSPOD shall be provided.
  - 3) In all zoning permit applications, the HSPOD shall be shown on a drawing indicating the location and measurements of the district in accordance with the above standards.
  - 4) All subdivision and land development plans shall comply with the provisions of this Ordinance and the Juniata County Subdivision and Land Development Ordinance.
- e) Up to 1/4 of the land with slopes greater than 25%, may be removed or altered only when such slopes are isolated, small or otherwise occur as knolls which do not adversely affect the design of the plan or building activity.
- f) Land with slopes greater than 25%, on a single lot development may be removed or altered only when such slopes are small and do not adversely affect the design of the plan or building activity.

## Section 703 Wetland Protection Overlay District (WPOD)

- a) Wetland areas are indispensable and fragile hydrological natural resources that provide habitat for fish, wildlife and vegetation; water-quality maintenance and pollution control; flood control; erosion control; open space; scientific study opportunities; and recreational opportunities. Damaging or destroying wetlands threatens public safety and the general welfare. Because of their importance, wetlands are to be protected from negative impacts by development and other activities. It is the intent of this section to require planning to avoid and minimize damage of wetlands whenever prudent or feasible; require that activities not dependent upon wetlands be located to other upland sites; and allow wetland losses through proper mitigation only where all practical or legal measures have been applied to reduce these losses that are unavoidable and in the public interest. A WPOD is hereby established as a district which overlays other zoning districts of this Ordinance.
- b) Establishment of WPOD. The WPOD shall apply to all lands in or within 25 feet of a non-tidal wetland located within the Borough. The WPOD shall be based on a wetland investigation by the applicant, and shall be performed in accordance with the procedures of the PADEP as specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands and any subsequent amendments thereto. Wetland mitigation shall be permitted. Wetland mitigation shall be approved by the PADEP. Wetlands proposed to be mitigated shall not be considered part of the WPOD.
- c) Verification of wetland delineation. Where the applicant has provided a determination of the WPOD, the Zoning Officer, and if requested by the Borough, the Borough Engineer or hydrologist, shall verify the accuracy of, and may render adjustments to, the boundary delineation. In the event that the adjusted boundary delineation is contested, the applicant may appeal to the Zoning Hearing Board for a variance
- d) Permitted uses. The following uses shall be allowed within the WPOD to the extent that they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance, provided that they do not require structures, fill or storage of materials

and equipment, and provided that a permit is obtained from the PADEP and the United States Army Corps of Engineers, if applicable.

- 1) Common open space.
  - 2) Educational or scientific use not involving buildings or structures
  - 3) Fishing, swimming, boating and hunting
  - 4) Trail access to the stream or drainage way and trails in linear parks
  - 5) Passive recreational areas not involving structures
  - 6) Accessory residential uses such as gardens, play areas, fences or storm water/drainage facilities.
  - 7) Accessory commercial uses such as picnic areas, fences or storm water/drainage facilities
  - 8) Wildlife preserves
  - 9) Underground utilities
- e) Standards
- 1) The WPOD shall be established at the time of subdivision or land development or the application for a zoning permit if there is no subdivision or land development involved. The wetland delineations shall be performed in accordance with the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands and any subsequent amendments thereto.
  - 2) In all subdivision and land development applications, a wetland investigation shall be required. A conservation easement covering the WPOD shall be provided which shall be described by metes and bounds, indicating the location and measurements of the district.

- 3) In all zoning permit applications, the WPOD shall be shown on a drawing he location and measurements of the district.  
(Wetland delineations shall be performed in accordance with the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands and any subsequent amendments thereto.
- 4) All subdivision and land development plans shall comply with the provisions of this Ordinance and the Juniata County Subdivision and Land Development Ordinance.

Section 704 Flood Plain Protection Overlay District (WPOD)

- a) **Purpose:** The purpose of this zone is to prevent the loss of property and life, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:
  - 1) Regulating uses, activities, and development which, acting alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities and frequencies.
  - 2) Restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding.
  - 3) Requiring all those uses, activities, and developments that do occur in flood-prone areas to be protected and/or floodproofed against flooding and flood damage.
  - 4) Protecting individuals from buying lands and structures that are unsuited for intended purposes because of flood hazards.
- b) **Warning and Disclaimer of Liability:** The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable

engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jam's and bridge openings restricted by debris. This ordinance does not imply that areas outside the flood plain zone, or land uses permitted within this zone will be free from flooding or flood damages.

This ordinance shall not create liability on the part of Mifflintown Borough or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

c) **Establishment of the Flood Plain Zone**

- 1) Description of Zone: The identified Flood Plain Zone shall be any area of Mifflintown Borough subject to the one hundred (100) year flood, which is identified as a Special Flood Hazard Area (Zone A) on the Flood Hazard Boundary Map (FHBM) as issued by the Federal Insurance Administration dated December 6, 1974.
- 2) Determination of the One Hundred (100) Year Flood Elevation: For the purposes of this Ordinance, the one hundred (100) year flood elevation shall be used as the basis for regulation. To determine the one hundred year flood elevation, the elevation at a given point on the boundary of the identified floodplain area which is nearest the construction site in question will be used. In helping to make this necessary elevation determination, other sources of data, where available, shall be used such as:
  - Corps of Engineers - Flood Plain Information Reports.
  - U.S. Geological Survey - Flood Prone Quadrangles.
  - USDA, Soil Conservation Service - County Soil Surveys (Alluvial Soils) or P.L. 566 Flood Information.
  - Pennsylvania Department of Environmental Protection - Flood Control Investigations.

- Known Highwater Marks from Past Floods.
- Other sources acceptable by the Borough Engineer.

In lieu of the above, the Borough may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or other of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by the Borough.

- 3) **Overlay Concept:** The aforementioned Flood Plain Zone shall be an overlay to the existing underlying zones as shown on the Official Zoning Map, and as such, the provisions for the Flood Plain Zone shall serve as a supplement to the underlying zone provisions.

Where there happens to be any conflict between the provisions or requirements of the Flood Plain Zone and those of any underlying zone, the more restrictive provisions and/or those pertaining to the Zone Plain Zone shall apply.

In the event any provision concerning the Flood Plain Zone is declared inapplicable as a result of any legislative or administrative actions of judicial discretion, the basic underlying zone provisions shall remain applicable.

- 4) **Inclusion in Zoning Map:** The boundaries of the Flood Plain Zone are established as shown on the Flood Hazard Boundary Map, dated December 6, 1974, prepared by the Federal Insurance Administration. The said map is hereby incorporated into and made a part of the Official Zoning Map of Mifflintown Borough. A copy of said map shall be kept on file at the Borough office and be available for inspection during regular office hours.
- 5) **Zone Boundary Changes:** The delineation of the Flood Plain

Zone may be revised by Borough Council where natural or man-made changes have occurred and/or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers, or other qualified agency or individual documents the advisability for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA) or its successor agency.

6) Interpretation of Zone Boundaries: Initial interpretations of the boundaries of the Flood Plain Zone shall be made by the Zoning Officer. Should a dispute arise concerning the boundaries of the zone, the person questioning or contesting the location of the zone boundary shall be given a reasonable opportunity to present his case to the Borough Zoning Hearing Board and to submit his own technical evidence if he so desires. Should the person choose to seek a variance to the zoning regulations to accommodate his development, he must follow the procedures to present his case to the Zoning Hearing Board. Should the person choose to have the zone boundary changed to reflect more accurate flooding data, he must follow the procedures to present his case to Borough Council for a zoning amendment.

d) **Zone Provisions:** All uses, activities, land filling and development occurring within the flood plain zone shall be undertaken only in strict compliance with the provisions of this ordinance and with all other applicable Borough codes and ordinances.

Under no circumstances shall any use, activity, land filling and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system. Prior to any proposed alteration or relocation of any stream, watercourse, etc. within the municipality, a permit shall be obtained from the Pennsylvania Department of Environmental Protection, Dams and Encroachment Division. Further, notification of the proposal shall be given to all affected adjacent municipalities. Copies of such notifications shall be forwarded to both the Federal Insurance Administration or its successor agency and the Pennsylvania Department of Community and Economic Development.

**Special Flood Hazard Zone:** In the Special Flood Hazard Area Zone no development, use or activity (including fill, grading and/or substantial improvements to structures, etc.) permitted in the underlying zone shall be permitted unless the applicant of the proposed development, use or activity has demonstrated that the proposed undertaking when combined with all other existing and anticipated development, uses and activities, will not increase the water surface elevation of the one hundred (100) year flood more than one (1) foot at any point. Increases in flood heights shall be calculated by means of current, generally accepted engineering methods.

e) **Development Which May Endanger Human Life**

- 1) In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community Affairs as required by the Act, any new or substantially improved structure which will be used for the production or storage of any of the following dangerous materials or substances or which will be used for any activity requiring the maintenance of a supply (more than 550 gallons or other comparable volumes or any amount of radioactive substances) of any of the following dangerous materials or substances on the premises, shall be subject to the provisions of this section, in addition to all other application provisions:
  - Acetone
  - Ammonia
  - Benzene
  - Calcium carbide
  - Celluloid
  - Hydrochloric acid
  - Hydrocyanic acid

- Magnesium
- Nitric acid and oxides of nitrogen
- Petroleum products (gasoline, fuel, oil, etc.)
- Phosphorus
- Potassium
- Sodium
- Sulfur and sulfur products
- Pesticides (including insecticides, fungicides, and rodenticides)
- Radioactive substances, insofar as such substances are not otherwise regulated

2) Where permitted within any Special Flood Hazard Area (Zone A) any new or substantially improved structure of the kind described in Subsection 1) above shall be:

- i) elevated or designed and constructed to remain completely dry up to at least one and one-half (1 1/2) feet above the one hundred (100) year flood and,
- ii) designed to prevent pollution from the structure or activity during the course of a one hundred (100) year flood.

Any such structure, or part thereof, that will be built below the Regulatory Flood Elevation shall be designed and constructed in accordance with the standards for completely dry flood-proofing contained in the publication "Flood-Proofing Regulations (U.S. Army Corps of Engineers, June 1972), or with some other equivalent watertight standard.

3) Within any Special Flood Hazard Area (Zone A), any structure

of the kind described in Subsection 1) above shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.

f) **Special Requirements for Mobile Homes**

- 1) Where permitted within any Special Flood Hazard Area (Zone A), all mobile homes and any additions thereto shall be:
  - i) Anchored to resist flotation, collapse, or lateral movement by providing over-the top and frame ties to ground anchors in accordance with the American National Standards as specified in the Standard for the Installation of Mobile Homes Including Mobile Home Park Requirements (NFPA No. 501A-1974 (ANSI A119.3-1975)) as amended for Mobile Homes in Hurricane Zones or other appropriate standards such as the following
    - over-the-top ties shall be provided at each of the four (4) corners of the mobile home, with two (2) additional ties per side at intermediate locations for units fifty (50) feet or more in length, and one (1) additional tie per side for units less than fifty (50) feet in length.
    - frame ties shall be provided at each corner of the mobile home, with five (5) additional ties per side at intermediate locations for units fifty (50) feet or more in length, and four (4) additional ties per side for units less than fifty (50) feet in length.
    - all components of the anchoring system shall be capable of carrying a force of four thousand eight hundred (4800) pounds.
  - ii) Elevated in accordance with the following requirements:
    - the strands or lots shall be elevated on compacted fill, or on pilings so that the lowest floor of the mobile

home will be one and one-half (1 1/2) feet or more above the elevation of the one hundred (100) year flood.

- adequate surface drainage is provided.
- adequate access for a hauler is provided.
- where pilings are used for elevation, the lots shall be large enough to permit steps; piling foundations shall be placed in stable soil no more than ten (10) feet apart; reinforcement shall be provided for pilings that will extend for six (6) feet or more above the ground level.

- 2) Within any Special Flood Hazard Area (Zone A), mobile homes shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.

g) **Prohibited Uses and Activities**

The following uses and activities are prohibited if located completely or partially within any of the areas identified as being subject to the one hundred (100) year flood

- 1) The commencement of any of the following activities, or the construction, enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:
  - Hospitals
  - Nursing homes
  - Jails or prisons
- 2) The commencement of, or any construction of, a new mobile home park or mobile home subdivision, or substantial improvement to an existing mobile home park or mobile home subdivision.

h) **Special Exceptions and Variances - Factors to be Considered:** In passing upon applications for Special Exceptions and Variances the

Zoning Hearing Board shall consider all relevant factors and procedures specified in other sections of the Zoning Ordinance and:

- 1) The danger of life and property due to increase flood heights or velocities caused by encroachments. No special exception or variance shall be granted for any proposed use, development, or activity that will cause any increase in flood levels during the one hundred (100) year flood.
- 2) The danger that materials may be swept onto other lands or downstream to the injury of others.
- 3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- 4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- 5) The importance or the service provided by the proposed facility to the community.
- 6) The requirements of the facility for a waterfront location.
- 7) The availability of alternative locations not subject to flooding for the proposed use.
- 8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- 9) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
- 10) The safety of access of the property in times of flood of ordinary and emergency vehicles.
- 11) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwater expected at the site.

- 12) Such other factors which are relevant to the purposes of this ordinance.

The Zoning Hearing Board with approval of Borough Council may refer any application and accompanying documentation pertaining to any request for a special exception or variance to any engineer or other qualified person or agency for technical assistance in evaluating the project in relation to flood heights and velocities, and the adequacy of the plans for protection and other related matters.

Special exceptions and/or variances shall only be issued after the Zoning Hearing Board has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extra-ordinary public expense, (d) the creation of nuisance, (e) any fraud or victimization of the public, or (f) any conflict with local laws or ordinances.

- i) **Existing Structures in the Flood Plain Zone:** A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions may be continued subject to the following conditions:

- 1) Existing structures and/or uses located in the Flood Plain Zone shall not be expanded or enlarged unless such expansion or enlargement meets the requirements of all applicable Borough ordinances and the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying improvements.
- 2) Any modifications, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any flood plain zone to an extent or amount of less than fifty (50) percent or its market value, shall be elevated and/or incorporated flood-proofing measures regardless of its location in the Flood Plain Zone. However, minor repairs shall be exempt from this provision provided that no structural changes or modifications are involved. Minor repairs shall include the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep; but shall not

include any addition, change or modification in construction, exit facilities, and permanent fixtures or equipment.

- 3) The modifications, alternation, repair reconstruction, or improvement of any kind to a structure and/or use located in a flood plain zone to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with the provisions of this any other applicable ordinance.

## **Article VIII**

### **Performance Standards**

The provisions of this Ordinance shall be subject to such exceptions, additions or modifications as herein provided by the following performance standards:

#### **Section 800 Accessory Buildings and Structures**

- a) No accessory building or structure shall project nearer to the street on which the principal building fronts than such principal building.
- b) Where such side or rear yard is along an alley, the accessory building or structure shall be located not less than five feet from the alley right-of-way.
- c) Where such side or rear yard is adjacent to another lot, the accessory building or structure shall be located not less than three feet from any lot line, including the building roof overhangs. Accessory buildings and structures associated with non-residential uses shall be located a minimum of ten feet from side and rear lot lines.
- d) When an accessory building or structure is erected within the side or rear yard adjacent to a side street on a corner lot, the accessory building or structure shall not be less than the required front building setback from the right of way line.
- e) An accessory building or structure shall not exceed the gross floor area of the principal building.
- f) Accessory buildings or structures shall be limited to a height of fifteen feet.
- g) Any and all chimneys erected within the borough shall be no less than two (2) feet higher than any structure located within seventy five (75)

feet thereof.

- h) Because of the deleterious effect of outdoor wood burning stoves and other devices the same shall be prohibited in all areas of the borough hereafter and further within two (2) years from the date of adoption of this Ordinance all existing wood burning stoves shall have chimneys that are no less than two (2) feet higher than the building that they serve or be removed from service permanently. Additionally, should any outdoor wood burning stoves become inoperable after the date of the ordinance they may not be replaced.

#### Section 801 Temporary Structures for Dwelling Purposes

No tent, cabin, mobile home, garage, basement or other temporary structure, whether of a fixed or mobile nature, may hereafter be erected or established for any dwelling purpose for any length of time exceeding fourteen days unless approval for temporary use is granted by the Borough Council

#### Section 802 Water Supply and Sewerage Facilities Required

In the interest of protecting the public health, safety and welfare, every premise, used in whole or in part for dwelling, commercial or recreational business or industrial purposes shall be provided with both a safe and sanitary water supply, a minimum of one bathroom per premise, and a safe and sanitary means of collection and disposal of commercial and industrial waste. Such facilities shall conform to the minimum requirements set forth by the Pennsylvania Department of Environmental Protection.

#### Section 803 Exceptions

- a) **Height Exceptions:**

The height limitations of this Ordinance shall not apply to church spires, silos, belfries, cupolas, and domes not used for human

occupancy nor to chimneys, ventilators, skylights, water tanks, bulkheads and similar features, and necessary mechanical appurtenances usually carried above the roof level. Such features, however, shall be erected only to such height as is necessary to accomplish the purposes that they are to serve and then only in accordance with any other government regulations.

b) **Front-yard Exception**

Where at least two adjacent buildings within one hundred feet of a property are setback a lesser distance than that required or permitted, the average of the lesser distances becomes the required front setback for the property.

c) **Zero Lot Line**

In the Downtown Commercial and General Highway Commercial Districts no side yard shall be required between two or more commercial uses that adjoin side to side, when the two buildings are proposed to be attached to each other. Where zero lot line development is proposed, the property line shall act as a dividing wall between the two buildings and shall be constructed to National Fire Protection and or applicable building codes standards. A written agreement shall be signed by both property owners recognizing the zero lot line development and such agreement shall be recorded in the Juniata County Recorders' Office prior to issuance of a zoning permit, or recordation of a land development plan.

Section 804 Corner Lots

- a) At all street and alley intersections in all Districts, no obstructions to vision exceeding 30 inches in height above the edge of the street shall be erected or maintained on any lot within the triangle formed by the centerline of the roadways and a line drawn between points along such centerlines lines 75 feet distant from their point of intersection.
- b) On a corner lot, front yards are required on all street frontages, and one yard other than the front yards shall be deemed to be a rear yard

and the other or others, side yards.

#### Section 805 Through Lots

Where a lot extends through from street to street, the applicable front yard regulations shall apply on both street frontages.

#### Section 806 Driveways

All driveways shall be located and constructed in accordance with the requirements of The Pennsylvania Department of Transportation for state roadways.

#### Section 807 Prohibited Uses in All Districts

- a) Amusement parks and circuses and similar activities, except for a temporary period not to exceed ten (10) days.
- b) Dump or waste disposal site, except a waste disposal site duly licensed as a refuse site by the Pennsylvania Department of Environmental Protection.
- c) Because of the deleterious effect of outdoor wood burning stoves and other devices the same shall be prohibited in all areas of the borough hereafter and further within two (2) years from the date of adoption of this Ordinance all existing wood burning stoves shall have chimneys that are no less than two (2) feet higher than the building that they serve or be removed from service permanently. Additionally, should any outdoor wood burning stoves become inoperable after the date of the ordinance they may not be replaced.

## Section 808 Fences and Walls

- a) Fences and walls (including retaining walls) may be erected, altered, and maintained within all yards.
- b) No wall, fence, sign or other structure shall be erected or altered and no hedge, trees, shrubs or other growth shall be maintained or permitted which may cause danger to traffic on a street or public road by obscuring the minimum required sight distance.
- c) No fence, wall or other structure shall be erected or maintained within the right-of-way of any street or drainage easement. If a fence is erected in such a right-of-way or easement and needs to be removed for maintenance or repair by the Borough, the owner shall have sole responsibility for the replacement of the fence.
  - 1) Any fence or wall in the front yard shall not exceed three and one half feet in height.
  - 2) Any fence or wall in the side yard or rear yard may be six feet or more in height, provided that any fence or wall exceeding six feet in height shall contain openings therein equal to 50% of the area of that portion of the fence or wall exceeding six feet.

## Section 809 Landscaping and Screening

### a) **Landscaping**

Any part or portion of a site which is not used for buildings or other structures, loading and parking spaces and aisles, sidewalks and designated storage areas shall be planted and maintained with landscaping.

### b) **Planting Strip**

All commercial, industrial and nonresidential uses, excluding No Impact Home Based Businesses, shall be separated from all side and

rear property lines and all street right-of-way lines by a planting strip having a minimum width of ten (10) feet measured from the property line or right-of-way line. The planting strip may be included in the required yard space.

- 1) Said planting strip shall be planted in a combination of grass, shrubbery, trees or other plant material to form a visual buffer between uses, but in no case shall these areas be paved or covered by an impervious surface.
- 2) Said planting strip shall only be broken by approved driveway entrances or exits.

c) **Screening**

Screening requirements shall be applicable under the following circumstances:

- 1) Where a proposed commercial, industrial, or institutional use abuts an existing residential use or residential district.
- 2) Where any proposed multi-family residential use abuts an existing single family detached, single-family semi-detached, two-family detached or two family semi-detached dwelling.
- 3) Any other instances where screening is required by this Ordinance or by the Borough.

Section 810 Private Outdoor Swimming Pools

Every private outdoor swimming pool must conform to all applicable requirements of state law and in addition, the installation or construction of a private outdoor swimming pool with a surface area of one hundred fifty (150) square feet or more or a depth in excess of two (2) feet must comply with the following requirements:

- a) The pool shall be completely surrounded by a fence or wall not less

than four (4) feet nor greater than eight (8) feet in height and be constructed as not to have openings, holes or gaps that a sphere with a diameter of four inches cannot pass through, except for doors and gates. All gates or doors opening through said fence or wall shall be erected, maintained and provided with a self-closing, self-latching gate to prevent unauthorized use of the pool and to prevent accidents. However, if the top of the pool wall is more than three and one-half feet (3'-6") above the finish grade level, then a fence is not required, provided that all points of access to said pool are adequately protected, and any access ladder shall be fold-up type or removable.

- b) Pools and pumps can be installed in the rear yard building setback, but not in the front yard, or the side yard building setback.
- c) Except as provided for in d) below, pools and pumps may encroach on the required rear yard setback to a point not less than ten (10) feet from the property line. This shall apply to both in-ground and above-ground pools.
- d) Appurtenances, if at or below ground level, may extend to the rear property line or right-of-way line. Diving boards may encroach into the required rear yard setback to a point of not less than five (5) feet from the property line.
- e) All lighting fixtures for a private swimming pool shall be installed so as to comply with all applicable safety regulations and shall be shielded so as to prevent any direct beam of light from shining on any adjoining property.
- f) No overhead utility lines shall be carried across any swimming pool or wading area.

### Section 811 Illumination

The following standards shall apply to all exterior light fixtures within the Borough, except street lighting and associated traffic devices provided by a public

utility or governmental entity within a public right-of-way.

- a) The light from any luminary shall be directed downward and shaded, shielded or directed to prevent direct light from being cast beyond an angle of 35 degrees from a downward vertical axis, and to prevent glare or other objectionable problems to surrounding areas. Unshielded lamps, bulbs and tubes are not permitted, except for residential base-mounted lamps and driveway post lamps utilizing 60 watt or lesser wattage light bulbs (specifically not including spotlight or floodlights).
- b) Lighting shall be designed so that the illumination does not exceed one-tenth (0.10) footcandles beyond the property line from which the lighting originates.
- c) Except for public street lights and traffic lights, freestanding lighting fixtures shall not exceed thirty (30) feet in height. Security or floodlighting may exceed this height requirement when attached to a building provided that such lighting shall be arranged and installed to deflect and focus lights away from adjacent properties.
- d) No luminaries shall have any blinking, flashing or fluttering lights or other illuminating device that has a changing light intensity, brightness or color, nor will any beacon lights be permitted, except for temporary holiday lighting.
- e) Neither the direct or reflected light from any luminary shall create a disabling glare causing traffic hazards to motor vehicle operators or public thoroughfares.
- f) Parking areas shall be lighted using support poles; lighting standards and luminaries, or building mounted lights. The fixtures shall be located within or adjacent to parking areas, in raised traffic islands, parking bay separators, adjacent landscape areas, or on the exterior side and rear walls of buildings. Poles, standards or luminaries shall be located so as not to be damaged by automobiles being parked (front overhang - minimum 39 inches; rear overhang - minimum 60 inches).
- g) Levels of lighting in pedestrian and vehicular use areas should adhere to the following standards:

<u>Type of Development</u>	<u>Minimum Average Foot-candle Level</u>
Pedestrian Walkways and Sidewalks	0.2 - 0.4
Residential Streets	0.4 - 0.6
Multi-Family Developments	0.6 - 0.8
Signs required to be Illuminated	0.6 - 1.2
Recreational/Institutional Activity	1.0 - 1.2
Industrial/Office Campus Areas and Parking Lots	0.5 - 1.0
Commercial Areas and Parking Lots	0.5 - 1.0

- h) Where possible, short post lighting should be incorporated to reduce glare. Any divergence from the above quantities shall still remain within the limits of the Standards of the (I.E.S.).

#### Section 812 Storm water Management and Drainage

Storm water management and drainage facilities shall be located and constructed in accordance with the requirements of the Juniata County Subdivision and Land Development Ordinance.

#### Section 813 Outdoor Storage

- a) No storage shall be permitted within the front yard of any lot.
- b) Outside storage of raw materials and/or finished products shall be permitted only within the buildable area of the lot to the rear of the front building wall of the principal building, and shall not exceed ten (10) feet in height in residential districts and twenty (20) feet in height in other districts.
- c) No flammable or explosive liquids, solids or gases shall be stored in bulk (in quantity greater than 275 gallons) above ground, except for tanks of fuel (1) directly connected to energy or heating devices or (2) used in conjunction with active agricultural, commercial or construction activities. A list of such liquids, solids or gases stored on

site shall be supplied to the appropriate fire companies serving the Borough.

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

Section 814 Noise

- a) For all preliminary subdivision plans, and land development plans, and all uses and activities, unless elsewhere regulated, the sound-pressure level for shall not exceed the decibel limits in the octave bands designated in the following table and shall comply with the following standards:

**Permitted decibel levels:** At no point at or beyond the property line shall the measured sound level exceed the maximum permitted sound levels designated in the table below:

Maximum Permitted Sound Level in  
Decibels along the Property Line

<u>Octave Band Cycles Per Second</u>	<u>Residence Districts</u>	<u>Nonresidential Districts</u>
0 to 75	67	73
75 to 150	62	68
150 to 300	58	64
300 to 600	54	60
600 to 1,200	49	55
1,200 to 2,400	45	51
2,400 to 4,800	41	47
Over 4,800	37	43

- b) **Measurement.** Sound levels shall be measured with a sound-level meter and associated octave band filter manufactured in accordance with the American National Standards Institute (ANSI). Noises capable of being measured shall be those noises that cause rapid fluctuations of the sound-level meter with a variation of no more than plus or minus two decibels. Noises incapable of being measured, such as those of irregular and/or intermittent nature, shall be controlled so as not to become a nuisance to adjacent uses.
  
- c) **Exemptions.** The following activities or sources are exempt from these noise standards:
  - 1) Aircraft operations
  - 2) Construction or routine maintenance of public service utilities
  - 3) Church bells or chimes
  - 4) The emission of sound for the purpose of alerting persons of an emergency, or the emission of sound in the performance of emergency work
  - 5) Occasionally used safety signals, warning devices and emergency pressure relief valves
  - 6) Activities covered by the following: stationary signaling devices, domestic power tools, air-conditioning and air-handling equipment for residential purpose, operating motor vehicles, and refuse collection vehicles.
  - 7) The un-amplified human voice.

#### Section 815 Satellite Dish Antenna

Any accessory structure capable of receiving, for the sole benefit of the principal use, radio or television signals from a transmitter or transmitter relay located in planetary orbit shall be subject to the following constraints:

- a) Such devices shall not be placed within any required setback area.
- b) Satellite dish antenna must be located in a side or rear yard only.
- c) No ground-mounted dish antenna on any residential lot can exceed an overall diameter of twelve (12) feet or an overall height of fifteen (15) feet.
- d) Only one antenna is permitted per building lot.
- e) Satellite dish antenna's less than twenty-four (24") in diameter are exempt from these provisions.

#### Section 816 Minimum Habitable Floor Area

All dwelling units must conform to the minimum habitable floor area as follows:

- a) Single Family Detached Structures: Six Hundred (600) square feet per dwelling unit.
- b) Structures with two (2) or more dwelling units: In the case of structures containing dwelling units with one (1) bedroom, the minimum habitable floor area shall be four hundred (400) square feet. In the case of structures containing dwelling units with more than one (1) bedroom, the minimum habitable floor area of such dwelling unit shall be increased by not less than one hundred (100) square feet for each additional bedroom.
- c) No more than two (2) occupants and generally having one (1) but not more than two (2) rooms, shall have a floor area not less than three hundred (300) square feet, which includes an enclosed area for a water closet, lavatory, and a bathtub or shower. Also, the apartment must provide a cooking unit, baking unit, sink, refrigerator, storage cupboards with shelving for utensils, and closets for food and clothing. An additional one hundred (100) square feet of floor area is required for each occupant over two living in an efficiency apartment.

- d) Upon implementation of the Uniform Construction Code, minimum habitable floor area shall be governed by the uniform Construction Code.

### Section 817 Occupancy Permit and Inspection

Any owner of a dwelling unit, apartment, or apartment conversion, for which rent is charged for any use thereof or which is being used by any non-owner thereof shall hereafter be required to obtain an occupancy permit on an annual basis commencing on January 1 of the year immediately following the adoption of this ordinance on forms to be provided by the Borough Council of Mifflintown. The annual cost of the occupancy permit shall initially be \$50.00 per unit per year payable in advance and future changes in the charges imposed hereunder shall be made by resolution of the Borough Council of Mifflintown.

Any owner of a dwelling unit, apartment, or apartment conversion, for which rent is charged for any use thereof or which is being used by any non-owner thereof shall hereafter be required to notify Mifflintown Borough of the names and addresses of all tenants and/or occupants within thirty (30) days of said tenants or occupants use of said unit. Failure to comply with this notice provision shall be considered a violation of this section of the Ordinance and shall subject the landlord to a fine of \$100.00 per day for each day after the thirty (30) days above that said landlord fails to provide the information required hereby.

In addition, any and all habitable portions of all dwelling unit, apartments or apartment conversions in the Borough of Mifflintown shall be inspected by a duly designated agent of Mifflintown Borough at least every three years after the date of adoption of this ordinance so as to determine and verify the existence of smoke detectors; appropriate avenues of access and regress by both occupants and fire and medical personnel; and the unsafe accumulation of combustible material. The charge for each inspection shall be \$50.00 per dwelling unit inspected. In addition, any unsafe conditions reported by the duly designated agent to the Borough Council must be addressed by the owner within thirty (30) days of written notice of the condition being given to the land owner and failure to rectify the condition within said thirty (30) day period shall result in a fine of \$100.00 per day being imposed upon the land owner for each and every day thereafter that the violation or condition is permitted to exist. In addition the land owner shall be responsible for

any and all attorneys fees and other costs incurred by the borough in the enforcement of this provision.

Any owner of a dwelling unit, apartment, or apartment conversion for which rent is charged for any use thereof or which is being used by any non-owner thereof shall hereafter be required to permit the aforesaid inspection upon receiving written notice from the Borough demanding the same and should any such owner fail to provide access to the premises for this purpose within thirty (30) days of delivery of the written notice aforesaid said landowner shall be subject to a fine of \$100.00 per day for each and every day after said thirty (30) day period that he continues to fail to make the property available for the inspection. In addition said landowner shall be responsible for any and all attorneys fees and other costs incurred by the Borough in the enforcement of this provision.

Mifflintown Borough expressly states that its limited inspections above are designed solely to ensure the safety of firemen and medical personnel and are not designed by ensure or establish the safety or adequacy of any structure or component thereof and all occupants, owners or users thereof are put on notice that they shall not rely upon the limited inspections for these purposes in any way, shape or form.

Mifflintown Borough by its limited inspections is making no representations concerning the safety and/or adequacy of any structure's electric, heating or any other component thereof.

#### Section 818 Demolition

Demolition of any structure must be completed within three (3) months of the issuance of a permit. Completion consists of tearing the structure down to grade, filling any resulting cavity to grade and removing all resulting materials from the lot. A structure may be partly demolished only if a building remains and the demolition of the part is completed as required in the previous sentence. All evidences of the structure that was demolished must be removed from the exterior surfaces of the remaining building.

### Section 819 Division of Built On Lots

No lot may be formed from part of a lot occupied by a building unless each newly-created lot will meet all the applicable provisions of this Ordinance.

### Section 820 Lots of Record

On a lot held in single and separate ownership on the effective date of this Ordinance or any amendment thereto, which does not fulfill the regulations for the minimum lot area and/or lot width for the zone in which it is located, a building may be erected, altered and used and the lot may be used for a conforming (permitted) use providing the setback requirements are not less than the minimum specified herein for the zone in which the lot is located.

### Section 821 Status of Subdivision or Land Development Plan

From the time an application for approval of a subdivision or land development plan, whether preliminary or final, is duly filed as provided in the Juniata County Subdivision and Land Development Ordinance, and while such application is pending approval or disapproval, no enactment or amendment of the Zoning Ordinance shall affect the decision on such applications adversely to the applicant and the applicant shall be entitled to a decision in accordance with the provision of the Zoning Ordinance as it stood at the time the application was duly filed. In addition, when a preliminary application has been duly approved, the applicant shall be entitled to final approval in accordance with the terms of the approved preliminary application as hereinafter provided. However, if an application is properly and finally denied, any subsequent application shall be subject to the intervening change in the Zoning Ordinance.

When a preliminary or final subdivision or land development plan has been approved or approved subject to conditions acceptable to the applicant, no subsequent enactment or amendment in the Zoning Ordinance or plan shall be applied to affect adversely the right of the applicant to commence and to complete any aspect of the approved development in accordance with the terms of such

approval within five (5) years from such approval. Where final approval is preceded by preliminary approval, the five (5) year period shall be counted from the date of the preliminary approval.

# Article IX

## Supplemental Use Standards

### Section 900 Requirement of Specific Standards

It is the intent of this Article to provide special controls and regulations for particular uses that may be permitted by right within the various zoning districts established in this Ordinance. Where applicable, the following sets forth standards that shall be applied to each individual use. These standards must be satisfied prior to approval of any development application and/or issuance of a zoning permit. The applicant shall be required to demonstrate compliance with these standards and must furnish whatever evidence is necessary to demonstrate such compliance. All uses must comply with the standards expressed within the underlying zone, unless those standards expressed for the selected use specify different standards; in such cases, the supplemental use standards shall apply.

### Section 901 Business Conversion

- a) **Permitted Uses.** Conversion of an existing residential structure to a non-residential use or an existing non-residential use to another non-residential use. The conversion can be a total conversion from residential use or a conversion of a portion of the premises, with the retention of one or more dwelling units. (As in the case of a first-floor retail or office use with apartment(s) on the second and higher floors.)
- b) **Area and Bulk Regulations.** All area and bulk regulations of the prevailing zoning district shall apply.
- c) **Parking Requirements.** Off-street parking spaces shall be provided on said lot for each distinct use located on it, in accordance with Article X.

## Section 902 Cemeteries

- a) All burial plots or facilities shall be located at least 10 feet from all property or street lines.
- b) No burial plots or facilities are permitted in flood plain.
- c) Buffers and screens shall be provided as necessary to adequately protect neighboring properties.
- d) Pet cemeteries must meet all of the above applicable requirements.

## Section 903 Commercial Day Care Center

- a) An outdoor play area shall be provided, at a rate of one hundred (100) square feet per individual enrolled. Off-street parking compounds shall not be used as outdoor play areas. Outdoor play areas shall not be located within the front yard and must be setback twenty five (25) feet from all property lines. Outdoor play areas shall be completely enclosed by a six-foot-high fence, and screened from adjoining residentially occupied or residentially zoned properties. Any vegetative materials located within the outdoor play areas shall be of a non-harmful type (poisonous, thorny, allergenic, etc.).
- b) Passenger "drop-off" and "pick-up" areas shall be provided on site and arranged so that the passengers do not have to cross traffic lanes on or adjacent to the site; and
- c) One off-street parking space shall be provided for each six (6) students enrolled.
- d) All commercial day care centers shall furnish a valid Registration Certificate for the proposed use, issued by the PA Department of Public Welfare.

## Section 904 Conversion Apartments

### a) **Permitted Uses**

Conversion of an existing single family detached dwelling to provide one or more additional dwelling units.

### b) **Supplemental Regulations**

- 1) Each apartment shall be provided with off-street parking in accordance with Article X.
- 2) Each apartment shall be provided with complete kitchen and bathroom facilities.
- 3) There shall be no evidence of change in the building.
- 4) Fire escapes shall be provided for each unit and shall be located at the rear or an exterior side of the building.

## Section 905 Family Day Care Home

- a) All family day care homes shall be conducted within a detached single-family dwelling.
- b) All family day care homes with enrollment of more than three (3) minors shall furnish a valid Registration Certificate for the proposed use, issued by the PA Department of Public Welfare.
- c) Passenger "drop-off" and "pick-up" areas shall be provided on site and arranged so that passengers do not have to cross traffic lanes on or adjacent to the site.

## Section 906 Heavy Storage Service

- a) The area shall be enclosed by a wall or fence, screened from view of

adjoining properties whenever outdoor storage is required.

- b) Satisfactory provision shall be made to minimize harmful unpleasant effects (noise, odors, fumes, glare, vibration, and smoke).
- c) No known or suspected toxic or hazardous materials may be stored on any property.
- d) A buffer yard 25 feet wide must be located on the site in all instances where the site adjoins a residential use or zone. The buffer yard shall be naturally landscaped, have no impervious cover and shall not be used for building, parking, loading or storage.

#### Section 907 Commercial and Indoor Recreational Establishment

- a) All activities shall take place within a wholly enclosed building.
- b) Required parking shall be based upon the requirements of Article X of this Ordinance. When deemed necessary, the Borough may require an unimproved grassed overflow parking area for peak period use, located and designed in a manner which prohibits vehicles from crossing adjoining properties and directly accessing adjoining roads.
- c) All entrances to the commercial recreation facility shall be designed so that vehicle back-up on abutting roads does not occur.
- d) The applicant must furnish evidence as to how the use will be controlled as to not constitute a nuisance due to noise or loitering outside the building.
- e) A working plan for the clean up of litter shall be furnished and implemented by the applicant.

#### Section 908 Kennel and Animal Hospital

- a) All buildings, animal runs, fenced enclosures and similar structures

shall be located at least thirty (30) feet from all property and street lines.

- b) All animals must be housed within a structure.
- c) The facility shall be properly licensed by the Pennsylvania Department of Agriculture. A copy of applicable licenses and inspection reports shall be forwarded to the Borough.

### Section 909 Laundry and Dry Cleaning Establishment

Satisfactory evidence must be presented to show that adequate disposal of toxic materials will be provided in a manner that will not be a public health hazard or a public nuisance.

### Section 910 Mini-warehouse

- a) Parking shall be provided by parking/driving lanes adjacent to the buildings. These lanes shall be at least twenty-six (26) feet wide when cubicles open onto one side of the lane only and at least thirty (30) feet wide when cubicles open onto both sides of the lane.
- b) Required parking spaces may not be rented as, or used for, vehicular storage or the storage of partially dismantled, wrecked, or inoperable vehicles. However, additional external storage area may be provided for the storage of privately-owned travel trailers and/or boats, so long as such external storage area is screened from adjoining residentially occupied or residentially-zoned land and adjoining roads, and is located behind the minimum front yard setback line. This provision shall not be interpreted to permit the storage of partially dismantled, wrecked, or inoperative vehicles;
- c) All storage shall be kept within an enclosed building except that the storage of flammable, highly combustible, explosive or hazardous chemicals shall be prohibited. Any fuel tanks and/or machinery or other apparatuses relying upon such fuels shall be stored only in an

external storage area as described above;

- d) Because of the danger from fire or explosion caused by the accumulation of vapors from gasoline, diesel fuel, paint, paint remover, and other flammable materials, the repair, construction, or reconstruction of any boat, engine, motor vehicle, or furniture is prohibited;
- e) No door openings for any mini-warehouse storage unit shall be constructed facing any residentially occupied or residentially-zoned property;
- f) Mini-warehouses shall be used solely for the storage of property. The following lists examples of uses expressly prohibited upon the site:
  - 1) Auctions, commercial wholesale or retail sales, or garage sales;
  - 2) The servicing, repair, or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances, or other similar equipment;
  - 3) The operation of power tools, spray-painting equipment, table saws, lathes, compressors, welding equipment, kilns, or other similar equipment;
  - 4) Any use that is noxious or offensive because of odors, dust, noise, fumes, or vibrations.
  - 5) The applicant shall adequately demonstrate that all mini-warehouses rental and/or use contracts shall specifically prohibit these uses.

### Section 911 Mixed Uses

When two (2) or more principal uses occupy the same building on the same lot, all parking, lot area and building area requirements pertaining to each use shall be met in full.

## Section 912 Multiple Dwelling Structures

- a) Permitted Uses
  - 1) Apartment Dwellings
  - 2) Row or Attached Dwellings
  - 3) Townhouse Dwellings
  
- b) In the case of a multi-dwelling or group of townhouses where individual dwelling units are located on a single lot and share with other units a common yard area (e.g., garden apartments, rental townhouses), the following requirements shall apply:
  - 1) Density - the maximum density shall be eight (8) dwelling units per acre of lot area.
  - 2) Public sewer and public water must be utilized.
  - 3) Distance between buildings - where two or more multi-family dwellings are located on a single lot or parcel, the minimum distance between principal buildings shall be 40 feet.
  - 4) All parking areas shall be located at least ten (10) feet from any property line or street line.
  - 5) Buffers and screens shall be provided as necessary to adequately protect neighboring properties. This includes but is not limited to fences, walls, planting and open spaces.
  
- c) In the case of a townhouse (single family attached dwelling) development where individual dwelling units are located on separate lots, the following requirements shall apply:
  - 1) There shall not be more than six (6) dwelling units in any one row.
  - 2) Public sewer and public water must be utilized.

- 3) Density - the maximum density shall be twelve (12) dwelling units per acre for the tract.

#### Section 913 No Impact Home Based Business

- 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 that creates noise, vibration, glare, fumes, odors or electrical interference, including interference with radio or television reception, which is detectable in the neighborhood.
- f) The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
- g) The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area.
- h) The business may not involve any illegal activity.

#### Section 914 Places of Worship

- a) Permitted Uses

- 1) Places of worship include churches, synagogues, temples, chapels, and similar uses as determined by the Zoning Officer.
  - 2) Recreation buildings when accessory to worship activity.
  - 3) Parish house, manor, convent, and similar uses as determined by the Zoning Officer.
- b) Area and Bulk Regulations. The following area and bulk regulations shall apply:
- 1) The minimum lot area shall be in accordance with the prevailing zoning district.
  - 2) The following building setbacks shall apply:
    - i. Front – Fifteen (15) feet
    - ii. Side – Twenty (20) Feet
    - iii. Rear – Twenty-five (25) feet

Section 915 Private Day Care Center or Nursery School

- a) The use shall meet all requirements for certification by the State of Pennsylvania where required.
- b) Outdoor play areas shall be sufficiently screened so as to protect the neighborhood from inappropriate noise and other disturbances.
- c) At least one parking space for each person employed plus one space for every 2 children to be served by the facility shall be provided.

Section 916 Public Utility Building

- a) Unhoused equipment shall be enclosed with a fence or wall not less than six feet in height that shall be so constructed as not to have openings, holes or gaps larger than six inches in any dimension.

- b) Housed equipment - When the equipment is totally enclosed within a building, no fence or screen planting shall be required and the yard shall be maintained in conformity with the zone in which the building is located.

Section 917 Certain landlords required to designate authorized agents

Any Landlord owning or managing property within Mifflintown Borough, Juniata County, Pennsylvania, after the date hereof which is occupied by or in which any tenant(s) may reside shall be required to provide to Mifflintown Borough annually in writing the name, address and telephone number of an agent authorized by said Landlord to address any and all conditions, claims or disputes concerning said property that may arise during any tenancy. This provision shall only apply to those Landlords who reside or maintain their principal office more than twenty (20) miles from the intersection of Main and Bridge Streets in Mifflintown Borough, Juniata County, Pennsylvania. Failure to provide this written designation on or before February 1<sup>st</sup> of each year hereafter shall be considered a violation of this Ordinance and subject to the penalties provided for herein.

# Article X

## Off Street Parking Standards

### Section 1000 Parking

- a) **Size of Parking Space:** The minimum parking space shall be ten feet in width by twenty feet in depth (10' x 20').
- b) **Aisle Width:** Minimum aisle width shall be twenty-four (24) feet wide for two way traffic, and eighteen (18) feet wide for one way traffic.
- c) **Spaces Required:** Off-street parking spaces must be provided for each building erected or enlarged in accordance with the following schedule. When the computation to determine the number of required parking spaces results in a requirement of a fractional space, any fraction up to and including one-half (0.5) shall be disregarded, and fractions over one-half (0.5) shall equal one (1) space.

Type of Use	Minimum Number of Parking Spaces
<b><u>Parking Requirements for Residential Uses</u></b>	
Single Family Detached and Semi-detached Residential Dwellings and Conversion Apartments	Two (2) parking spaces for each dwelling unit.
Multiple Dwelling Structures	The total number of parking or garage spaces shall be not less than two (2) times the number of dwelling units in the building. A garage accessory to an apartment house shall provide only for the storage of vehicles of the owner, tenants, and employees.
Residential Group Homes	Minimum of two (2) parking spaces, plus one for each employee on a maximum shift and one for each bedroom.

<b>Parking Requirements for Commercial Uses</b>	
Beauty shops and barber shops	Three (3) parking spaces for each chair to be utilized in the business. If, however, the beauty shop or barber shop is legally part of a residence, two (2) spaces for each chair provided there are two (2) parking spaces for the residents.
Bowling Alley	At least five (5) spaces per bowling lane
Commercial Kennels	One (1) space per employee plus three (3) spaces for customer parking.
Commercial Recreation	One (1) space per five (5) seats or similar accommodation; or one (1) space per two (2) lockers or similar accommodation, whichever yields the larger parking requirement.
Dance Halls, Roller Rinks, Clubs, Lodges, and Other Similar Places	At least one (1) parking space for each one hundred (100) square feet of floor area.
Department/Variety Stores	Not less than one (1) parking space per every two hundred (200) square feet of Gross Leaseable Area, or fraction thereof.
Drive-through Restaurants or similar establishments	At least two (2) spaces for each fifty (50) square feet of building area.
Food Stores and Pharmacies	At least one (1) space for every one hundred (100) square feet of sales area.
Funeral Homes, Mortuaries and Undertaking Establishments	At least one (1) parking space for each three (3) seats for public use. Such space shall be in addition to employee parking needs, and service area for mobile equipment such as hearses and ambulances.
Home Businesses	One (1) space per non-resident employee plus two (2) spaces for customer parking.
No Impact Home Business	See Single Family Detached and Semi-detached Residential Dwellings and Conversion Apartments.
Hotels, Motels and Bed and Breakfast Inns	At least one (1) parking space for each guest room, plus one additional space for every two (2) full-time employees. If a restaurant in connection with the above is open to the public, the off-street parking facilities shall be not less than those required for restaurants, in addition to those required for guest rooms.
Medical, Dental and Veterinary Offices and	At least four (4) parking spaces per

Clinics	practitioner.
Office Building	One (1) space per 300 sq. ft. of gross floor area.
Open Areas Used For Commercial Purpose	At least one (1) parking space for each one thousand five hundred (1,500) square feet of area, or fraction thereof.
Personal service establishments	One (1) space for each one hundred (100) square feet of floor space or fraction thereof devoted to such use plus one (1) space per employee.
Restaurants, Taverns, and Bars	At least one (1) parking space for each four (4) customer seats, plus one (1) additional space for every two (2) full-time employees.
Retail Stores	At least one (1) parking space for each two hundred (200) square feet of gross floor area, exclusive of areas not used for sale or display of merchandise.
Self-Service Laundries	One (1) space per every 1.5 washing machines.
Vehicle Sales and Service or Vehicle Body Shops and Repair Garages	At least two (2) parking spaces for each two hundred (200) square feet of floor area devoted to sales, repairs, or service facilities, in addition to display and storage spaces.
Vehicle Service Stations	At least one (1) parking space for every three (3) service bays plus every two (2) fuel pumps, or fraction thereof. In no case shall the spaces for permitted motor vehicles be less than five (5).
Vehicle Washes	No less than four (4) spaces per wash lane.
All other commercial uses	As determined by the American Planning Association's most recent recognized parking standards for the proposed use.
<b>Parking Requirements for Industrial Uses</b>	
Trucking Terminals	At least one (1) parking space for each employee on the largest shift, plus one space for each loading area. Loading areas cannot be counted as a required space.
Manufacturing, Printing or Publishing, and other Industrial Establishments	At least one (1) parking space for each employee on the largest shift, or each five thousand (5,000) square feet of gross floor area, whichever is greater.
Wholesale Sales, Storage or Distribution	At least one (1) space for each employee on the 2 largest shifts, or each five thousand

	(5,000) square feet of gross floor area, whichever is greater.
<b>Parking Requirements for Public and Quasi-Public Uses</b>	
Auditorium, Church, Theater & Other such places of Public Assembly	One (1) space per 4 seats.
Clubs, Lodges and Other similar places	One (1) space per 100 sq. ft. of gross floor area.
Day Care Centers and Nursery schools	One (1) space per employee plus three (3) spaces.
Elementary School	Two and one half (2.5) spaces for each classroom plus one (1) space for each five (5) seats in any auditorium or other place of public assembly.
Hospitals, Nursing or Convalescent Homes	Parking space shall be provided for visitors at the rate of at least one (1) parking space for each three (3) accommodations (beds) for patients, plus one (1) space for each employee on largest shift.
Miniature Golf Courses	At least two (2) parking spaces per hole.
Secondary Schools and Similar Educational Establishments	Four (4) spaces for each classroom plus one (1) space for each five (5) seats in any auditorium or other place of public assembly.
Swimming pools	Where a swimming pool is the principal use at least one (1) parking space for each four (4) persons based upon the designed capacity of the pool.
All Other Uses	For other uses that do not fit into one of the above categories, determination of the required number of off-street parking spaces shall be determined by the American Planning Association's most recent recognized parking standards for the proposed use.

- d) **Location:** The parking area must be on the same or nearby premises. If on nearby premises --
- 1) The nearest point of the parking lot shall be not further than the following distances to the nearest point of the property served: 100 feet in the case of a commercial use, 200 feet in the case of a residential use, and 300 feet in the case of an industrial use.
  - 2) The parking area must remain under control of the owner or

operator of the use to which the parking area is appurtenant.

- e) **Layout:** Parking areas must be arranged so there will be no need for motorists to back over:
  - 1) Local streets, except in the case of residential uses.
  - 2) Major thoroughfares.
- f) **Parking Area Adjacent to Street:** For multi-family and nonresidential uses where a parking area or other area open to movement of vehicles abuts the right-of-way of a public street, a pipe railing, post and chain barricade, raised curbs or equally effective devices satisfactory to the Borough must line the public right-of-way except at access points so that parked vehicles will not extend into the street right-of-way.
- g) **Paving:** For commercial, industrial and multi-family residential uses, all required parking areas and driveways must be paved with concrete or bituminous paving material.
- h) **Areas Computed as Parking Spaces:** Areas that may be computed as open or enclosed off-street parking spaces include any private garage, carport, or other area available for parking, other than a street or driveway. However, a driveway within a required front yard for a single-family or two-family residence may count as one parking space.
- i) **Large Parking Areas:** Parking areas of one-half (1/2) acre or more shall have at least five (5) percent of the total area devoted to landscaping within the interior of the parking area.
- j) **Joint Facilities:** Required parking spaces, open or enclosed, may be provided in spaces designed to serve jointly two or more establishments whether or not located on the same lot, provided that the number of required spaces in such joint facilities shall not be less than the total required for all such establishments.
- k) **Combined Spaces:** When any lot contains two or more uses having different parking requirements, the parking requirements for each use

shall apply to the extent of that use.

Where it can be conclusively demonstrated that one or more such uses will be generating a demand for parking spaces primarily during periods when the other use or uses is not or are not in operation, the Zoning Hearing Officer may reduce the total parking spaces required for that use with the least requirement.

- l) **Multiple Uses in Single Structure:** When two or more uses that require off-street parking spaces are located in a single structure, the separate parking requirements for each use shall be applied.
- m) **Location and Ownership:** Required accessory parking spaces, open or enclosed, shall be provided upon the same lot as the use to which they are accessory or elsewhere, provided all spaces therein are located within reasonable walking distance of such lot. In all cases such parking spaces shall conform to all the regulations of the District in which the parking spaces are located; and in no event shall such parking spaces be located in any Residential District unless the use to which the spaces are accessory are permitted in such Residential Districts or upon approval by the Zoning Hearing Officer. Satisfactory arrangements shall be made to maintain the required number of spaces available either (a) throughout the existence of such use to which they are accessory, or (b) until such spaces are provided elsewhere.
- n) **On Lots Divided by District Boundaries:** When a parking lot is located partly in one district and partly in another district, the regulations for the district requiring the greater number of parking spaces shall apply to all of the lot. Parking spaces on such a lot may be located without regard to district lines, provided that no such parking spaces shall be located in any Residential District, unless the use to which they are accessory is permitted in such district, or upon approval of the Zoning Officer.
- o) **Handicapped Parking:** Handicapped accessible parking shall be provided in accordance with the requirements of the Americans with Disabilities Act, as may be amended from time to time.
  - 1) Said spaces shall be most accessible and approximate to the building or buildings that the parking spaces shall serve.

- 2) Each space or group of spaces shall be identified with a clearly visible sign displaying the international symbol of access.
- 3) Each space shall be twelve (12) feet wide to allow room for persons in wheelchairs or on braces or crutches to get in and out of either side of an automobile onto level, paved surface suitable for wheeling and walking. The depth of the space shall be twenty (20) feet.
- 4) Parking spaces shall be provided in accordance with the following Table:

Total Parking Spaces in Lot	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1001 and over	20 plus 1 for each 100 over 1000

- 5) Where possible, such spaces shall be located so that persons in wheelchairs or using braces or crutches are not compelled to wheel or walk behind parked cars.
- 6) Where applicable, curb ramps shall be provided to permit handicapped people access from the parking lot to the sidewalk or building entrance.

p) **Exemptions to Off-Street Parking Requirements**

- 1) Where the occupancy of an apartment building is limited to a special group, such as the elderly or handicapped, not normally requiring off-street parking to the extent of other uses, such building shall be exempted from the parking space requirements of this section; provided, however, that in no instance shall less than one off-street space be provided for each four units in such building.
- 2) When a use is expanded in size or when a use occurs requiring a greater number of off-street parking facilities than the existing use, the owner and/or occupant shall be required to provide only that number of additional off-street parking facilities required by the new use or expanded portion of the existing use; provided, however, no existing off-street parking facilities shall be eliminated unless all applicable off-street parking requirements are met.

Section 1001 Loading:

The Zoning Officer shall determine the need for loading spaces based on the availability of land area to accommodate the loading area, and impact the use has on the surrounding transportation network during delivery times.

- a) **Size; Surfacing:** The loading space must be not less than 12 feet wide and 50 feet long. It must be surfaced with a bituminous or concrete paving material.
- b) **Spaces Required:** Off-street loading spaces must be provided for each building erected or enlarged in accordance with the following schedule:

Type of Use	Number of Loading Spaces
Manufacturing, storage, display or sale of goods, hospitals and sanitararia	1 space for a gross floor area of 5,000 to 25,000 square feet and 1 additional space for each 10,000 square feet of gross floor area in excess of 25,000 square feet.

Offices, hotels, theaters or similar uses	1 space for a gross floor area of from 20,000 to 100,000 square feet and 1 additional space for each 40,000 square feet of gross floor area in excess of 100,000 square feet.
---	---

- c) **Layout:** The loading area must be arranged so that there will be no need for motorists to back over public rights-of-way and must not be located in the front yard area.

# Article XI

## Sign Regulations

Signs may be erected and maintained only when in compliance with the provisions of this Article.

### Section 1100 General Standards

- a) **Sign Area, Height, and Setback:** The following guidelines shall apply when interpreting area and height regulations in this Section:
  - 1) Area.
    - i. The area of a sign shall be the area of the smallest geometric shape, such as a rectangle, triangle, or circle that will encompass all elements of the sign, such as letters, figures, symbols, designs, logos or other displays.
    - ii. When the sign is a separate unit, the area shall include any borders, framing, trim, decorative attachments, background, and space between elements; it shall not include any supporting structure unless that structure is illuminated, is in the form of a symbol, or contains advertising elements.
    - iii. When the sign is applied to a wall or otherwise has no definable edges, the area shall include all color, artwork, or other means used to differentiate the sign from the surface upon which it is placed.
    - iv. When a single sign structure has more than one face and no two sign faces are more than 3' apart at any point, the area shall be computed by determining the greatest total area of all sign faces visible from any single location.
- b) **Height:** The height of a sign shall be measured from the average ground level beneath the sign to the highest point of the sign. The ground level shall be the lower of the ground level existing at the time

of construction or the ground level existing prior to construction and prior to any earth disturbance at the site. This prior ground level may be established by any reliable source, including, without limitation, existing topographic maps, aerial photographs, photographs of the site, or affidavits of people who are personally familiar with the site. No person(s) shall artificially increase the maximum height of a sign by altering the grade at the base of the sign by any means.

- 1) No sign shall be higher than the height limitation of the district in which it is located.
  - 2) Wall signs may be at any height on the wall to which they are attached, except that they may not extend higher than the top of the wall.
  - 3) Roof signs may extend no more than five (5) feet above the lowest point where they are attached to the building and may not extend above the highest point of the roof, except when a sign is located on a flat roof, the total height of the sign shall not extend higher than five (5) feet above the roof.
- c) **Setback:** Minimum sign setback shall be in accordance with the zoning district in which it is located.
- d) **General Regulations:** The following regulations shall apply to all signs in Mifflintown Borough.
- 1) All signs shall reflect the general character of the neighborhood.
  - 2) All signs shall be constructed of durable materials and maintained in good condition.
  - 3) When a sign becomes unsafe, the Zoning Officer shall give written notice to the owner of the premises on which the sign is located that the sign must be made safe or removed immediately.
  - 4) The areas surrounding all signs shall be maintained in a neat, clean, and attractive condition.

- 5) All signs shall be removed within 90 days if the purpose for which they were erected no longer exists.
- 6) No temporary signs shall be permitted except as authorized elsewhere in this Section.
- 7) No sign shall be located within a street right-of-way, except a government sign, a public utility sign, a non-profit organization sign, or another sign approved by the governing body or the Pennsylvania Department of Transportation. Non-profit organizational signs shall not be in conflict with existing or proposed traffic regulatory signs.
- 8) No sign more than 30" high, other than a government sign or temporary traffic/pedestrian controls for construction operations, shall be located within the 75' clear sight triangle of any street intersection or in any other position where it could endanger vehicular or pedestrian traffic by obstructing vision.
- 9) No signs shall be painted, pasted, nailed, stapled, or otherwise attached to utility poles. Nor shall any signs be painted, pasted, nailed, stapled, or otherwise attached to trees, fences, fire hydrants, or in any unauthorized manner to walls or other signs, except for "warning", "no hunting", "no trespassing" or similar signs.
- 10) No sign shall be placed so as to obstruct any door, stairway, window, fire escape, or other means of egress or ingress.
- 11) No sign shall be placed so as to obstruct ventilation or light from a building.
- 12) No overhead sign shall have a clearance of less than 8' between any pedestrian walk and the lowest part of the sign.
- 13) No sign that is parallel to and attached to the face of a building shall project more than 18" over a public sidewalk.
- 14) No sign that is perpendicular to and attached to the face of a building shall project over a public sidewalk nor extend beyond

any property line.

- 15) No sign shall have lights or other illuminating devices that constitute a public safety or traffic hazard.
- 16) No sign other than authorized governmental signs shall be permitted which imitates or which might be confused with an official traffic sign or signal, such as (1) by containing the words "Stop" or "Danger" or (2) by including red, green, or yellow lights.
- 17) No sign shall advertise activities or products that are illegal under federal, state, or local municipal laws or regulations.
- 18) No signs shall include statements, words, or pictures that are considered to be vulgar, obscene, or pornographic.
- 19) Streamers, banners, pennants, spinners, reflectors, ribbons, tinsel, or similar materials are permitted in the Downtown Commercial and Commercial Highway zoning districts when used in conjunction with a commercial or industrial use.
- 20) No animated, sequential, intermittent, flashing, rotating, or oscillating signs shall be permitted except for time and temperature signs.
- 21) No sign shall emit smoke, visible vapors, particles, sound or odor.
- 22) No permanent inflatable sign shall be permitted. Inflatable signs are permitted as a temporary sign in accordance with the applicable regulations governing temporary signs.
- 23) No open flames shall be permitted as part of a sign display.
- 24) Advertising painted upon or displayed upon a barn or other structure shall be considered a sign and shall comply with the regulations of this Part.
- 25) Any sign which has been authenticated as historically

significant by the Pennsylvania Historical Museum Commission, whether original or replica shall be exempt from the regulations of this Section.

- 26) Signs may be interior lighted with non-glaring lights; signs may be externally lighted by lights which are directed downward and shall be shielded so there is no direct light transmitted to other properties or public rights-of-way.
- 27) The light from any illuminated sign shall not adversely affect (1) safe vision of operators of vehicles moving on public or private streets or parking areas, (2) any residential district, or (3) any part of a building or property used for residential purposes.
- 28) No exposed neon tubing or strings of lights shall be permitted to outline buildings, structures, or parts thereof used for commercial, home occupations home businesses or industrial use. Customary holiday decorations may be installed 45 days prior to and removed not later than 30 days after the holiday.
- 29) All electrically illuminated signs shall be constructed to the standards/listing of the Underwriters Laboratories, Inc. and the latest edition of the National Electric Code.
- 30) The display of property address numbers only is not considered a sign under this ordinance and as such is not regulated. If the sign includes other information in addition to the property address number, it shall be regulated under the appropriate sign section.
- 31) Billboard signs are permitted in the General Highway Commercial District and shall not be greater than 300 square feet per sign face, and have a minimum separation distance of 1,500 feet between billboard signs.
- 32) Maximum sign area in the R1 and R2 Districts shall be thirty-two (32) square feet.

## Article XII

### Conditional Use Standards

#### Section 1200 Conditional Uses

It is the intent of this Section to provide special controls and regulations for particular uses that may, under certain conditions, be conducted within the various Zoning Districts established in this Ordinance. These particular controls and requirements are additional to those imposed by the District Regulations and by the Supplementary Regulations of this Ordinance.

- a) **Applicability, Limitations, Compliance.**
1. **Applicability:** The controls imposed by Article XII are applicable where cited specifically for a Conditional Use listed for this Ordinance.
  2. **Limitations:** Conditional Uses shall be permitted only where specifically cited in the District Regulations of this Ordinance.
  3. The applicant shall bear the burden of proof that the proposed use meets all requirements and objectives of this Ordinance.
  4. **Compliance:** Nothing in this Section shall relieve the owner or his agent, the developer, or the applicant for a Conditional Use Permit from obtaining Subdivision and/or Land Development Plan approval in accordance with the Juniata County Subdivision and Land Development Ordinance.
  5. **Conditions and Safeguards of Conditional Use Permits:** The Borough Council may require the conditional use permits be periodically renewed. Such renewal shall be granted upon a determination by the Borough Council to the effect that such conditions as may have been prescribed in conjunction with the issuance of the original permit have not been, or are being no longer, complied with. In such cases, a period of 60 days shall be granted the applicant for full compliance prior to the revocation of said permit.

6. **Effect of Approval:** Any use for which a conditional use permit may be granted shall be deemed to be a conforming use in the District in which such use is located provided that such permit shall be deemed to affect only the lot or portion thereof for which such permit shall have been granted.

7. **Fees and Other Costs:** In addition to the filing fee and other costs requisite for Land Development Plan approval in accordance with the Juniata County Subdivision and Land Development Ordinance, the applicant shall pay the following costs:

i) All costs related to any required public hearing including but not limited to advertising of the hearing, services of the Borough Engineer and/or Planner, public stenographer, transcripts of proceedings, and similar costs.

ii) An applicant by filing for a conditional use shall then be obligated to pay all costs hereinabove provided. Payment of such costs shall be promptly submitted to the Borough by the applicant upon the submission of bills from time to time. Payment shall be by check or money order made payable to Mifflintown Borough.

iii) No building permit or other requisite permit shall be issued by the Zoning Officer until all such fees and costs have been paid in full by the applicant.

b) **General Procedures for Conditional Uses**

1) **Application:** Requests for a Conditional Use shall be submitted, together with all required fees, in a written application setting forth the grounds for the request in detail.

A development plan of the total area to be included in the application, which shall be drawn to scale, shall accompany and be part of the Conditional Use Application and contain the following:

- i) The location, boundaries, dimensions and ownership of the land.
- ii) In the case of commercial or industrial development, a general description of the activities to take place as may be appropriate such as maximum employment, working hours, customer traffic, delivery services, development schedule staging plan.
- iii) The location, use, and ground area of such proposed building and other structure.
- iv) The locations, dimensions, arrangements and proposed use of all open spaces, yards, streets, access ways, entrances, exits, off-street parking facilities, loading and unloading facilities, pedestrian ways and buffer yards.
- v) The capacity arrangement and controls for all areas to be used for automobile access, parking, loading and unloading in sufficient detail to demonstrate that satisfactory arrangements will be made to facilitate traffic movement from the street or highway.
- vi) The character of the buffer area and screening devices to be maintained including the dimensions and arrangements of all areas devoted to planting, lawns, trees or similar purposes.
- vii) A description of the proposed methods of control of development in sufficient detail to indicate the noise, glare, air pollution, water pollution, fire hazards, traffic congestion, and other safety hazards to be produced.
- viii) A description of the methods to be used for water supply treatment and disposal of sewage, wastes, refuse, and storm drainage.
- ix) The names and addresses of all adjoining property owners.

2. **Referral to Mifflintown Borough Planning Commission:**

Applications for a Conditional Use shall be referred to the Mifflintown Borough Planning Commission, if created in accordance with the requirements of the Pennsylvania Municipalities Planning Code, as amended, for comment. In their review the Planning Commission shall take into consideration the public health, safety, and welfare, the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular, and may recommend appropriate conditions and safeguards as may be required in order that the result of its action may, to the maximum extent possible, further the expressed intent of This Ordinance and the accomplishment of the following objectives in particular.

- i) All proposed structures, equipment, or material shall be readily accessible for fire and police protection.
- ii) The proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.
- iii) In addition to the above, in the case of any use located in, or directly adjacent to, a Residential District:
  - a) The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to, or incongruous with, said Residential District or conflict with the normal traffic of the neighborhood; and

- b) The location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.
- c) **Conditional Uses - Specific Procedures:** Upon receipt of a Conditional Use Application the following procedure shall prevail.
  - 1) **Planning Commission Review:** The Borough Planning Commission shall review said application together with all supporting information and forward its written recommendations to the Borough Council. The Commission may recommend approval, disapproval or modification. In the case of disapproval or modification the Commission shall set forth the reasons for the recommendation in writing.
  - 2) **Borough Council Review:** Within sixty (60) days from receipt of a Conditional Use Application, the Borough Council, after giving notice to the public shall hold a public hearing on the Conditional Use Application and render its decision within forty-five (45) days from the date of the final public hearing. The Borough Council shall complete the hearing no later than 100 days after the completion of the applicant's case in chief, unless extended for a good cause upon application to the Court of Common Pleas. Written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.

The Borough Council shall make its final decision based upon findings of fact as to the general factors and upon the specific factors for which a conditional use application is filed. Each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore. Conclusions shall contain a reference to the provisions relied on and the reasons why the conclusion is deemed appropriate in light of the facts found.

In allowing a Conditional Use, the Borough Council may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code.

### Section 1201 Specific Uses

It is the intent of this Article to provide special controls and regulations for particular uses that are identified as conditional uses within the various zoning districts established in this Ordinance. Where applicable, the following sets forth standards that shall be applied to each individual use. These standards must be satisfied prior to approval of any conditional use application and/or issuance of a zoning permit. The applicant shall be required to demonstrate compliance with these standards and must furnish whatever evidence is necessary to demonstrate such compliance.

### Section 1202 Adult Bookstores and Adult Theaters

The Borough Council may approve Adult Bookstores and Adult Theaters in the Commercial Highway District according to the procedures and requirements specified below:

- a) **Purpose:** The purpose of this Section is to provide for the establishment of adult bookstores within the Borough at such places, and in such manner, as is appropriate and reasonable; and to establish reasonable regulations which take into consideration the potential for adverse impact from such businesses upon adjoining property owners, occupants and uses.
- b) **Interpretation and Application:** This Section shall be interpreted and applied in a manner consistent with the Constitution and shall not be applied to unduly restrict or infringe upon rights guaranteed thereby.
- c) **Severability:** The provisions of this Section shall be severable and in

the event any one thereof shall be determined to be invalid or unenforceable such determination shall not operate to repeal or invalidate the remaining provisions.

- d) As used in this Ordinance, the following terms, word and phrases shall have the meanings ascribed to them by this Section:
- 1) **Adult Bookstore:** An establishment open to the general public in which five (5) percent or more of the occupied sales or display area offers for sale, for rent or lease, for loan, or for view upon the premises, pictures, photographs, drawings, prints, images, sculpture, still film, motion picture film, video tape, or similar visual representations distinguished or characterized by an emphasis on sexual conduct or sexually explicit nudity, or books, pamphlets, magazines, printed matter or sound recordings containing explicit and detailed descriptions or narrative accounts distinguished or characterized by an emphasis on sexual conduct, or offers for sale of sexual devices.
  - 2) **Adult Theater:** A building or a room within a building open to the general public, used for presenting live entertainment, motion picture film, video tape or similar visual representation of materials distinguished or characterized by an emphasis on sexual conduct or sexually explicit nudity.
  - 3) **Sexual Conduct:** Ultimate sexual acts, normal or perverted, actual or simulated, involving a person or persons, or a person or persons and an animal, including acts of masturbation, sexual intercourse, fellatio, cunnilingus, analingus or physical contact with a person's nude or partially denuded genitals, pubic area, perineum, anal region, or, if such person be female, a breast.
  - 4) **Sexual Device:** Any artificial human penis, vagina or anus, or other device primarily designed, promoted, or marketed to physically stimulate or manipulate the human genitals, pubic area, perineum or anal area, including dildoes, penisators, vibrators, vibrillators, penis rings and erection enlargement or prolonging creams, jellies or other such chemicals or preparations.

- 5) **Sexually Explicit Nudity:** The sexually oriented and explicit showing, by any means, including but not limited to, close-up views, poses or depictions in such position or manner which present or expose such areas to the following: postpubertal, full or partially developed human female breast with less than a fully opaque covering of any portion thereof below the top of the areola or nipple; the depiction of covered human male genitals in a discernible turgid state; or lewd exhibition of the human genitals, pubic area, perineum, buttocks or anal region, with less than a fully opaque covering.
- e) The use and occupancy of any land, building or structure as an adult bookstore or an adult theater shall be subject to the following:
- 1) An adult bookstore or an adult theater shall be permitted only in the GC – General Highway Commercial District.
  - 2) An adult bookstore or an adult theater shall not be permitted to be located within five hundred (500) feet of any of the following:
    - i) Any other adult book store or adult theater.
    - ii) Any public or private school, public playground, or any church or other house of worship.
  - 3) No materials, merchandise, or film offered for sale, rent, lease, or loan, or for view upon the premises shall be exhibited or displayed outside of a building or structure.
  - 4) Any building or structure used and occupied as an adult book store or adult theater shall be windowless, or have an opaque covering over all windows or doors of any area in which materials, merchandise, live entertainment or film shall be visible from outside of the building or structure.

### Section 1203 Bed and Breakfast

- a) Maximum guest stays shall be limited to seven (7) days.
- b) Maximum of two (2) guest rooms.
- c) Breakfast shall be the only meal served to overnight lodgers.
- d) The inn must comply with local regulations regarding all applicable permits, including but not limited to: Fire, Health and Building Codes.
- e) Bed and Breakfast operations shall be conducted so as to be clearly incidental and accessory to the primary use of the site as a single-family dwelling.

### Section 1204 Cellular Communication Towers and Antennas

- a) **General requirements for Communications Antennas and Communications Buildings**
  - 1) Building mounted Communications Antennas shall not be located on any residential structure.
  - 2) Building mounted Communications Antennas shall be permitted to exceed the height limitations of the applicable zoning districts by no more than twenty (20) feet.
  - 3) Omnidirectional or whip Communications Antennas shall not exceed twenty (20) feet in height and seven (7) inches in diameter.
  - 4) Directional or panel Communications Antennas shall not exceed five (5) feet in height and three (3) feet in width.
  - 5) Any applicant proposing Communications Antennas to be mounted on a building or other structure shall submit evidence from a Pennsylvania registered professional engineer certifying that the proposed installation will not exceed the structural

capacity of the building or other structure, considering wind and other loads associated with the antenna location.

- 6) Any applicant proposing Communications Antennas to be mounted on a building or structure shall submit detailed construction and elevation drawings indicating how the antennas will be mounted on the structure for review by the Borough Engineer.
- 7) Any applicant proposing Communications Antennas to be mounted on a building or structure shall submit evidence of agreements and/or easements necessary to provide access to the building or structure on which the antennas are to be mounted so that installation and maintenance of the antennas and Communications Equipment can be accomplished.
- 8) Communications Antennas shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
- 9) Communications Antennas shall not cause radio frequency interference with other communications facilities located within Mifflintown Borough.
- 10) A Communications Equipment Building shall be subject to the height and setback requirements of the applicable Zoning District for an accessory building.
- 11) The owner and operator of Communications Antennas shall be licensed by the Communications Commission to operate such antennas, and shall provide a copy of such license to the Borough.

**b) General requirements for Communications Towers**

- 1) The applicant shall be required to submit to the Borough evidence of the need for the Communications Tower and that all alternatives have been exhausted to constructing the Communications Tower in the Borough. Applicants are

required to prove need by:

- (i) Providing evidence, including coverage diagrams and technical reports, that, in terms of location and construction, there are no existing towers, Communications Towers, buildings or structures able to provide the platform for the necessary equipment for one or more of the following reasons:
  - (a) Planned equipment would exceed the structural capacity of the existing Communications Towers, buildings or structures, and existing Communications Towers, buildings or structures, cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost.
  - (b) Planned equipment will cause interference with other existing or planned equipment for that Communications Tower, building or structure and the interference cannot be prevented at a reasonable cost.
  - (c) Existing or approved Communications Towers, buildings or structures do not have the space on which planned equipment can be placed so it can function effectively and at least be in parity with other similar equipment in place or planned.
  - (d) Other reasons make it impractical to place the equipment by the applicant on existing and approved Communications Towers.
- 2) No Communications Tower shall be permitted within Mifflintown Borough that is of a height that would require attached lighting as required by standards of the Federal Aviation Administration (FAA). Other lighting shall be permitted in accordance with the provisions contained elsewhere in this Ordinance.
- 3) Communications Towers may not be located on a lot that is

listed on a historic register or in an officially designated state or federal historic district.

- 4) Communications Towers shall be no closer than one thousand (1,000) feet from another Communications Tower, such distance being measured as a horizontal distance from tower to tower.
- 5) The applicant for a Communications Tower must execute an agreement with the Borough, in a recorded instrument legally sufficient to the Borough, reviewed by the Solicitor, requiring the removal of the Communications Tower within one (1) year after the Communications Tower ceases to function as such. Removal of the Communications Tower shall include the tower, all appurtenances or component parts thereof, including any associated buildings or structures.

i) **Responsibility of Owner and Occupant of Premises for Removal:**

No person, firm, or corporation owning or occupying any property within Mifflintown Borough shall permit, leave or cause to be left any Communications Tower, appurtenances, or component part thereof, including any associated buildings or structures on said property on and after the aforesaid one year period. A Communications Tower, all appurtenances or component part thereof, including any associated buildings or structures so remaining on the premises after the prescribed removal date shall be deemed in violation of the provisions of this section.

ii) **Notice to Conform:**

Mifflintown Borough is hereby authorized, and directed to give notice, by a personal service or US mail to the owner or occupant, or both, as the case may be, by certified mail of the violation of the provisions of this Ordinance, and directing and requiring said owner or occupant to conform with the requirements of this

Ordinance within 30 days after issuance of such notice.

iii) **Violations and Penalties:**

In case any person, firm or corporation shall neglect, fail or refuse to comply with said notice within the period of time stated therein, Mifflintown Borough may enter the premise and remove the Communications Tower, all appurtenances or component part thereof, including any associated buildings or structures. In such event all costs associated with the removal, together with reasonable attorney's fees and any additional payment authorized by law, may be collected by Mifflintown Borough, from such person, firm or corporation in the manner provided by law for collection of municipal claims or by an action of assumpsit.

- 6) A security fence and gate, of approved design, of not less than eight (8) feet, including barbed wire at the top, shall completely enclose the Communications Tower and anchor locations of guy wire (if used). This fencing shall be designed to be compatible with surrounding land uses.
- 7) The applicant shall submit a landscaping plan. Landscaping requirements shall be in accordance with the requirements of this Ordinance.
  - i) Landscaping, consisting of approved evergreen trees, shall be required at the perimeter of the security fencing.
  - ii) This requirement may be waived by the Borough if there is existing acceptable vegetation along the property lines.
- 8) A minimum of one (1) parking space shall be required. Spaces shall meet requirements of this Ordinance. Parking spaces may be surfaced with a durable and dustless gravel surface.
- 9) Access shall be provided to the Communications Tower and Communications Equipment Building by means of a public

street or easement of twenty (20) feet in width and shall be improved to a width of at least twelve (12) feet.

- 10) Internal access to the Communications Tower shall be provided by a minimum twelve (12) foot width driveway with a durable and dustless surface, such as concrete or a bituminous surface, for a minimum of thirty-five (35) feet from the centerline of any public street. The length of the driveway beyond this thirty-five feet shall, at a minimum be surfaced with a durable and dustless gravel.
- 11) Communications Towers shall be fully automated and unattended on a daily basis. The site shall be visited only for periodic maintenance.
- 12) The Communications Equipment Building shall be identified as an accessory building, and the applicable regulations for the host zoning district shall apply.
- 13) Guy wires, if utilized, may not be anchored in any setback area of the host zoning district. Guy wires shall not cross or encroach any overhead telephone or electric power lines.
- 14) Tower height shall be measured from the top of the foundation to the top of the tower and/or antenna which ever is higher.
- 15) A security gate shall be required to be installed a minimum of forty-five feet (45) from the centerline of the public or private roadway.
- 16) The applicant shall be required to have control over any land that is within a required setback area of this Ordinance. This control, submitted in writing, may be either in the form of ownership, lease, or recorded easement, as reviewed by the solicitor.
- 17) The applicant shall submit a copy of its current Federal Communications Commission license: the name, address and emergency telephone number for the operator of the Communications Tower; and a Certificate of Insurance

evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the amount \$1,000,000 per occurrence covering the Communications Tower and Communications Antennas.

- 18) No more than ten thousand (10,000) square feet of clear-cutting of wooded areas shall be allowed for the site area of the Communications Tower.
- 19) Setbacks shall be no less than fifty percent (50%) of the tower height from adjacent property lines and public road right-of-way lines. Such distance shall be in a straight line from the Communications Tower to the appropriate line. This set back shall be increased to one hundred fifty (150) feet if any Residential Zone abuts the property in which the Communications Tower is located.

c) **General Requirements for Co-Location of Facilities**

The applicant for the Co-Location of Facilities shall be required to submit a Building Permit application for approval.

Section 1205 Conversion Apartments

- a) Permitted Uses. Conversion of an existing single family detached dwelling to provide one or more additional dwelling units.
- b) Supplemental Regulations
  - 1) Each apartment shall be provided with off-street parking in accordance with Article IX.
  - 2) Each apartment shall be provided with complete kitchen and bathroom facilities, and shall meet minimum habitable floor area as identified in Section 815.
  - 3) There shall be no evidence of change in the building.

- 4) Fire escapes shall be provided for each unit and shall be located at the rear or an interior side of the building.

#### Section 1206 Manufactured Home Parks

- a) Shall be designed in accordance with the Juniata County Subdivision and Land Development Ordinance.
- b) The Manufactured Home Park shall be approved by the Juniata County Planning Commission under authority of the Juniata County Subdivision and Land Development Ordinance.

#### Section 1207 Salvage/Junk Yard

- a) Setbacks - Any area used for this purpose must be at least 50 feet from any property line and 50 feet from any street line.
- b) The area to be used must be completely enclosed with a six foot high fence so constructed as not to have openings greater than six inches in any direction and should include appropriate screening.
- c) Must comply with all applicable state regulations.

#### Section 1208 Home Business

- a) **Purpose.** It is the intent of this Section to establish regulations which will permit home businesses in a manner which will preserve the peace, quiet, and tranquility of residential neighborhoods and to ensure the compatibility of such uses with other uses permitted within the same zoning district.
- b) **General Regulations.** All home businesses shall comply with the following:

- 1) The person primarily responsible for the home business shall be a full-time resident of the premises.
- 2) The business shall employ no more than two employees other than family members residing in the dwelling.
- 3) No more than thirty-three (33%) percent of the gross floor area of the dwelling unit and existing accessory buildings may be used for the practice of a home business.
- 4) No displays or change in the building facade, including the dwelling and all accessory buildings, shall indicate from the exterior that the dwelling is being utilized for purposes other than a dwelling.
- 5) Storage of materials, products, or machinery used for the home occupation or home business shall be wholly enclosed by the dwelling or accessory building(s), within the maximum floor area previously defined, and shall not be visible from any adjacent lot or street.
- 6) A home business shall not produce noise, obnoxious odors, vibrations, lighting glare, fumes, or smoke detectable to normal sensory perception on any adjacent lots or streets or electrical interference.
- 7) Home businesses utilizing, or proposing to utilize, explosive or highly flammable materials shall require proof of fire department notification and compliance with applicable building codes prior to using such materials.

## **Article XIII**

### **Nonconforming Uses, Buildings and Structures, and Non-Conforming Lots**

#### Section 1300 General

All lawful uses of land or a building, sign or other structure existing on the effective date of this Ordinance may be continued, altered, restored, reconstructed, changed, sold or maintained even though such use, building, sign, or structure may not conform to the use, height, area, yard and other regulations of the district in which it is located, provided such nonconforming conditions shall comply with the following requirements.

#### Section 1301 Nonconforming Uses

a. **Continuation**

Any nonconforming use existing on the effective date of this Ordinance or created by an amendment to this Ordinance may be continued although such use does not conform to the provisions of this Ordinance. Change in ownership or possession of the use of the property shall not prevent the continuance of the nonconforming use.

b. **Expansion**

A non-conforming use may be expanded by up to a cumulative increase of seventy-five (75) percent of the area occupied by the use at the time at which it became nonconforming. The expansion of the nonconforming use shall comply with the following:

- 1) The proposed expansion shall be within the lot limits that existed for the property in question at the effective date of this Ordinance.
- 2) The expansion of the nonconforming use shall not replace a conforming use.

- 3) The expansion of the nonconforming use shall conform to the requirements of the underlying zoning district, Performance Standards, and Supplemental Use Standards.
- 4) The expansion of a nonconforming use classified as a Conditional Use shall be subject to Conditional Use review and approval as required in Article XII of this Ordinance prior to the expansion occurring.

**c. Changes**

- 1) A nonconforming use changed to a conforming use shall not be permitted to be changed back to a nonconforming use.
- 2) A nonconforming use shall be permitted to be changed to another nonconforming use of the same or more restricted classification. Whenever a nonconforming use has been changed to a more restricted classification such use shall not hereafter be changed to a use of less restricted classification.
- 3) The change of use shall meet other requirements of this Ordinance, including but not limited to Performance Standards, Supplemental Use Standards, and Conditional Use Standards.

**d. Abandonment and Discontinuance**

- 1) The ceasing of a nonconforming use in a building or structure for a period of one (1) year or more shall be considered the abandonment of the nonconforming use. Subsequent use of such building or structure shall be in strict conformity with the provisions of this Ordinance.
- 2) In the case of settling an estate, the discontinuance of the nonconforming use shall not be considered an abandonment of the use in accordance with Section 1) above until the estate is settled or a court order has been entered regarding the estate's disposition.
- 3) A nonconforming use shall be deemed abandoned in the event

the Borough or County acquires an unredeemed, tax delinquent property and sells such property. Subsequent use of the land shall be in conformity with the provisions of this Ordinance.

## Section 1302 Nonconforming Buildings and Structures

### a. **Continuation**

Any nonconforming use building or structure existing on the effective date of this Ordinance or created by an amendment to this Ordinance may continue although such building or structure does not conform to the dimensional requirements of this Ordinance.

### b. **Restoration**

A nonconforming building or structure which is damaged or destroyed by fire, explosion, windstorm, or other natural or criminal acts shall meet the following restoration requirements:

- 1) The nonconforming building or structure shall not exceed the height, area, or volume of the destroyed structure. An application for a building permit must be submitted within two (2) years from the date of destruction, or within six (6) months of insurance settlement if such settlement date exceeds the two (2) years.
- 2) In the case where the requirements of Section 1) above have not been met, the building or structure shall be rebuilt in strict conformity with the provisions of this Ordinance.

### c. **Demolition**

In the event any nonconforming building is destroyed or partially destroyed and the owner has determined reconstruction/restoration infeasible, the owner will be responsible for the complete removal of the structure and debris as well as the filling of any excavated areas.

### d. **Extension or Alteration**

- 1) A nonconforming building or structure may be extended or altered, providing the extension or alteration conforms to all dimensional requirements.
- 2) The following exception shall apply to side yard and rear yard setbacks. Where a structure is nonconforming as to the required side yard or rear yard setback, the established nonconforming setback may be continued, so long as the proposed extension or enlargement does not project further into any yard than the extension of the original building line.
- 3) The proposed alteration will not cause an increased detrimental effect on the surrounding neighborhood.
- 4) The extension or alteration shall conform to the provisions of the Performance Standards in Article VIII.

### Section 1303 Nonconforming Lots

#### a. **Continuation**

Any nonconforming use lot, due to its lot area or width, existing on the effective date of this Ordinance or created by an amendment to this Ordinance may be continued although such lot does not conform to the lot requirements of the district in which it is located.

#### b. **Development**

- 1) The nonconforming lot may be developed with a use listed in the zoning district in which the nonconforming lot is located.
- 2) All nonconforming lots shall be connected to the public water and public sewer systems of the Borough.
- 3) The minimum lot coverage and other dimensional requirements can be reduced no greater than twenty (20) percent of the required coverage and dimension as required by the underlying

zoning district.

- 4) Coverage and dimensional reduction(s) in excess of twenty (20) percent are necessary to develop the nonconforming lot; an application shall be submitted to the Zoning Hearing Board for a variance from the terms of this Ordinance.
- 5) Where possible, contiguous parcels under common ownership shall be replatted to create conforming lots.

#### Section 1304 Documentation of the Nonconformity

- a. It shall be the right of the property owner to provide evidence of nonconformities upon adoption of this Ordinance. At the request of the property owner, the Zoning Officer shall issue a Certificate of Nonconformance which shall be for the purpose of insuring to the owner the right to continue a nonconforming building, structure, or use.
- b. The Certificate of Nonconformance shall set forth in detail all of the nonconforming conditions of the property.
- c. The Borough shall retain a copy of the Certificate of Nonconformance.

# Article XIV

## Zoning Hearing Board

### Section 1400 Jurisdiction

#### a) **Zoning Hearing Board's Jurisdiction:**

The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

- 1) Substantive challenges to the validity of any land use ordinance except those brought before the Borough Council. (Landowner Curative Amendments)
- 2) Challenges to the validity of any land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said ordinance.
- 3) Appeals from the determination of the Zoning Officer including, but not limited to, the granting or denial of any permit, or failure to act on the application therefore, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.
- 4) Appeals from the Zoning Officer's determination of Preliminary Opinion.
- 5) Appeals from the determination of the Zoning Officer or Borough Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving Subdivision/Land Development Ordinance applications.
- 6) Appeals from the determination of the Zoning Officer or Borough Engineer with reference to the administration of any

flood plain or flood hazard ordinance or such provisions within a land use ordinance.

- 7) Applications for variances from the terms of this Ordinance or any flood plain or flood hazard ordinance or such provisions within a land use ordinance.

b) **Applicability of Judicial Remedies:**

Nothing contained in this Article shall be construed to deny the applicant the right to proceed directly to court where appropriate, pursuant to the Pennsylvania Rules of Civil Procedure No. 1091 (relating to action in mandamus).

Section 1401 Zoning Hearing Board Creation and Appointment

Pursuant to Article VIII of the Pennsylvania Municipalities Planning Code, as amended, the Mifflintown Borough Council hereby creates a Zoning Hearing Board consisting of three members who shall be residents of the Borough. Members of the Zoning Hearing Board shall hold no other office in the Borough.

a) **Terms of Office:**

- 1) The terms of office shall be three years and shall be so fixed that the term of office of no more than one member shall expire each year.
- 2) The Zoning Hearing Board shall promptly notify the Borough Council of any vacancies that occur. Appointments to fill vacancies shall be only for the unexpired portion of the term.

b) **Alternate Members:**

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 Zoning Hearing Board. The term of office of an alternate member shall be three years. 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 Zoning Hearing 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 Ordinance and otherwise provided by law. Alternates shall hold no other office in the Borough, including membership on the Planning Commission and Zoning Officer. Any alternate may participate in any proceeding or discussion of the Board but shall not be entitled to vote as a member of the board unless designated as a voting alternate member.

c) **Removal of Members:**

Any member of the Zoning Hearing Board may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the Borough Council taken after the member has received fifteen days' advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

Section 1402 Organization of the Zoning Hearing Board

- a) The Zoning Hearing Board shall elect from its own membership its officers, who shall serve annual terms and as such may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall not be less than a majority of all the members of the board, but the board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action of the Board.
- b) If, by reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Board shall designate as many alternate members of the Board to sit on the Board as may be needed to provide a quorum. Any alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which the alternate was initially appointed until the Board has made a final determination of the matter or case. Designation of an alternate pursuant to this Section shall be made on a case-by-case basis in rotation according to declining seniority among all alternates.

- c) The Zoning Hearing Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the Borough of Mifflintown and laws of the Commonwealth of Pennsylvania. The Zoning Hearing Board shall keep full public records of its business, which records shall be the property of the Borough, and shall submit a report of its activities to the Borough Council as requested by the Borough Council.

#### Section 1403 Expenditures for Services

Within the limits of funds appropriated by the Borough Council, the Zoning Hearing Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services.

#### Section 1404 Hearings of the Zoning Hearing Board

The Zoning Hearing Board shall conduct hearings and make decisions in accordance with the following requirements:

- a) **Public Notice.** Public notice shall be given and written notice shall be given to (1) the applicant, (2) the Borough Zoning Officer and (3) to any person who has made timely request for same. Written notices shall be given at such time and in such manner as shall be prescribed by rules of the Zoning Hearing Board. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.
- b) **Fees.** The Borough Council may prescribe reasonable fees with respect to hearings before the Zoning Hearing Board. Fees for said hearings may include compensation for the secretary of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other technical

consultants or expert witness costs.

- c) Conduct of Hearing. The hearing shall be held within sixty days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing shall be within 45 days of the prior hearing unless otherwise agreed to by the applicant. Any party aggrieved by the schedule progress of the hearings may apply to the court of common pleas for judicial relief. The hearing shall be completed no later than 100 days after the completion of the applicant's case in chief, unless extended by good cause upon application to the court of common pleas. The hearings shall be conducted by the Zoning Hearing Board or the Zoning Hearing Board may appoint any member, or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Zoning Hearing Board; however, the appellant or the applicant, as the case may be, in addition to the Borough, may, prior to the decision of the hearing, waive decision or findings by the Zoning Hearing Board and accept the decision or findings of the hearing officer as final.
- d) The parties to the hearing shall be the Borough of Mifflintown, any person affected by the application who has made timely appearance of record before the Zoning Hearing Board, and any other person including civic or community organizations permitted to appear before the Board. The Zoning Hearing Board shall have the power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.
- e) The chairman or acting chairman of the Zoning Hearing Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
- f) The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
- g) Formal rules of evidence shall not apply, but irrelevant, immaterial, or

unduly repetitious evidence may be excluded.

- h) The Zoning Hearing Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.
- i) The Zoning Hearing Board or hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
- j) Decisions. The Zoning Hearing Board, the hearing officer, or independent attorney, as the case may be, shall render a written decision or, when no decision is called for; make written findings on the application within forty-five (45) days after the last hearing before the Zoning Hearing Board, hearing officer, or independent attorney. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with reasons therefore. Conclusions based on any provisions of this Ordinance or any Borough ordinance, rule or regulation, or the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Zoning Hearing Board shall make his report and recommendations available to the parties within forty-five (45) days and the parties shall be entitled to make written representations thereon to the Zoning Hearing

Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than thirty (30) days after the report of the hearing officer or independent attorney. Where the Zoning Hearing Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. Nothing in this Section shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

- k) To all other persons who have filed their name and address with the Zoning Hearing Board no later than the last day of the hearing, the Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.
- l) Effect of Board's Decision:
  - 1) If the variance is granted or the issuance of a permit is finally approved, or other action by the appellant or applicant is authorized, the necessary permit shall be secured and the authorized action begun within six (6) months after the date when the variance is finally granted, or the issuance of a permit is finally approved or the other action by the appellant or applicant is authorized and provided further that the building or alteration, as the case may be, shall be completed within twelve (12) months of authorization by the Zoning Hearing Board. For good cause, the Board, upon application by the applicant in writing stating the reasons therefore, may grant an extension or extensions of time for the commencement of the authorized action in six (6) month increments, or may grant an extension or extensions of time for the completion of the authorized action in six (6) month increments. Where time allowed for the commencement of the authorized action has been granted an extension, the time allowed for the completion of the authorized action shall be automatically extended by an equal amount of time.
  - 2) Should the appellant or applicant fail to obtain the necessary

permits within the required period, or having obtained the permit should he fail to commence work within such period, it shall be conclusively presumed that the applicant has withdrawn or abandoned his appeal or his application, and all provisions, variances, special exceptions and permits granted to him shall be deemed automatically rescinded by the said Board.

- 3) Should the appellant or applicant commence construction or alteration within the required period but fail to complete such construction or alteration within such period, the Board may, upon ten (10) days' notice in writing, rescind or revoke the granted variance, or the issuance of the permit or permits, or the other action authorized to the appellant or applicant, if the board finds that no good cause appears for the failure to complete such construction or alteration within such period, and if the Board further finds that conditions have so altered or changed in the interval since the granting of the variance, special exception, permit or action, that revocation of the action is justified.

#### Section 1405 Zoning Hearing Board - Functions

**Variances:** The Zoning Hearing Board shall hear requests for variances where it is alleged that the provisions of the Zoning Ordinance inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the Zoning Officer. The Zoning Hearing Board may grant a variance, provided that all of the following findings are made where relevant in a given case:

- a) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the Zoning Ordinance in the neighborhood or district in which the property is located;
- b) That because of such physical circumstances or conditions, there is no

possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;

- c) That such unnecessary hardship has not been created by the appellant;
- d) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare; and
- e) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue. In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Zoning Ordinance and the Municipalities Planning Code.

#### Section 1406 Parties Appellant before Zoning Hearing Board

Appeals filed with the Zoning Hearing Board shall be in writing by the landowner affected, any officer or agency of the Borough, or any person aggrieved. Requests for a variance may be filed with the Zoning Hearing Board by any landowner, equitable owner, or tenant with the permission of such landowner.

#### Section 1407 Time Limitations

- a) No person shall be allowed to file any proceeding with the Zoning Hearing Board later than thirty (30) days after any application for development, preliminary or final, has been approved by an appropriate Borough officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure

of anyone other than the landowner to appeal from an adverse decision by the Zoning Officer on a challenge to the validity of the Zoning Ordinance or Zoning Map shall preclude an appeal from the final approval except in the case where the final submission substantially deviates from the approved preliminary approval.

- b) All appeals from determinations adverse to the landowners shall be filed by the landowner within thirty (30) days after notice of the determination is issued.

### Section 1408 Stay of Proceedings

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

# Article XV

## Administration and Enactment

### Section 1500 Permits

- a) **Building Permits:** A Zoning Permit, which must be obtained from the Zoning Officer, shall be required for the erection, enlargement, alteration, moving or demolition of any structure in Mifflintown Borough prior to a Building or Demolition Permit being issued. The Zoning Permit is valid for twelve (12) months after the date of issuance after which time the permit shall expire unless a time extension is granted, in writing, by the Zoning Officer. Time extension shall be granted only if a written request is submitted by the applicant that sets forth sufficient and reasonable cause for the Zoning Officer to approve such a request. The Zoning Permit application must be accompanied by a site plan showing the following information to demonstrate conformity to this Ordinance –
  - 1) **Lot:** The location and dimensions of the lot
  - 2) **Streets:** Names and widths of abutting streets and highways
  - 3) **Structures & Yards:** Locations, dimensions, and uses of existing and proposed structures and yards on the lot including required building setbacks
  - 4) **Improvements:** Proposed off-street parking and loading areas, access drives, and walks
- b) **Use Certificates:** A use certificate, certifying compliance with this Ordinance must be obtained from the Zoning Officer prior to issuance of a Certificate of Occupancy for any new structure as identified below or for any change of use of a structure or land as set forth below before such new structure or use or change of use is occupied or established:
  - 1) Use of a structure erected, structurally altered or extended, or moved after effective date of this Ordinance.

- 2) Use of vacant land
- 3) Any change in a conforming use of a structure or land
- 4) Any change from a nonconforming use of a structure or land to a conforming use
- 5) Any change from a nonconforming use to similar nonconforming use or a less restrictive nonconforming use
- 6) Any change in the use of a structure or land from that permitted by any variance of the Zoning Hearing Board.

#### Section 1501 Enforcement - Zoning Officer

- a) **Appointment and Powers:** For the administration of this Ordinance, a Zoning Officer, who may not hold any elective office in the Borough, shall be appointed by the Borough Council. The Zoning Officer shall meet qualifications established by the Borough and shall be able to demonstrate to the satisfaction of the Borough a working knowledge of municipal zoning. The Zoning Officer shall administer this Ordinance in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use that does not conform to this Ordinance. The Zoning Officer is the enforcement officer for this Ordinance, and issues all zoning permits, and use certificates. The Zoning Officer at the request of the property owner shall identify and register nonconforming uses and nonconforming structures together with the reasons why they were identified as nonconformities. The Zoning Officer may conduct inspections and surveys to determine compliance or noncompliance with the terms of this Ordinance with consent of the owner.
- b) **Forms:** The Zoning Officer must provide a form or forms approved by the Borough Solicitor for:
  - 1) Zoning Permits

- 2) Use Certificates
  - 3) Conditional Uses
  - 4) Variances
  - 5) Registration of nonconforming uses and nonconforming structures.
- c) **Action on Zoning Permits:** Within fifteen (15) calendar days, except for holidays, after receipt of an application for a Zoning permit, the Zoning Officer must grant or refuse the permit. If the application conforms to the applicable requirements of this Ordinance, the Zoning Officer must grant a permit. If the permit is not granted, the Zoning Officer must state in writing the grounds of refusal.
- d) **Action on Use Certificates:** Within fifteen (15) calendar days, except for holidays, after receipt of an application for a use certificate, the Zoning Officer must grant or refuse the certificate. If the specifications and intended use conform in all respects with the provisions of this Ordinance, the Zoning Officer must issue a certificate to that effect. Otherwise, he must state in writing the grounds of his refusal.
- e) **Revoking Permits/Approvals:** The Zoning Officer shall revoke a permit or approval issued under the provisions of this Ordinance in the case of any false statement or misrepresentation of a fact in an application or on the plans on which the permit or approval was based. Any permit issued in error shall in no case be construed as waiving any provision of this Ordinance and such permit may be revoked.
- f) **Enforcement:** Upon determining that a violation of any of the provisions of this Ordinance exists, the Zoning Officer must send an enforcement notice to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record. An enforcement notice shall state at least the following:

- 1) The name of the owner of record and any other person against whom the Borough intends to take action.
  - 2) The location of the property in violation.
  - 3) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the Ordinance.
  - 4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
  - 5) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within thirty (30) days of issuance of said notice in accordance with procedures set forth in this Ordinance.
- g) **Records:** The Zoning Officer must keep record of:
- 1) All applications for zoning permits, use certificates, and variances and all actions taken on them, together with any conditions imposed by the Zoning Hearing Board.
  - 2) All complaints of violations of provisions of this Ordinance and the action taken on them.
  - 3) All plans submitted.
  - 4) Nonconforming uses and nonconforming structures. All such records and plans shall be available for public inspection.
- h) **Reports:** On a monthly basis, the Zoning Officer must report to the Borough Council --
- 1) The number of zoning permits and use certificates issued.
  - 2) The number of complaints of violations received and the action taken on these complaints.

## Section 1502 Amendments

- a) The Borough Council may from time to time amend, supplement or repeal any of the regulations and provisions of this Ordinance.
- b) **Public Hearing(s):** Before voting on the enactment of an amendment, the Borough Council shall hold a public hearing thereon, pursuant to public notice. In the case of an amendment other than that prepared by the Borough Planning Commission, the Borough Council shall submit each such amendment to the Planning Commission at least thirty (30) days prior to the hearing on such proposed amendment to provide the Planning Commission an opportunity to submit recommendations. If after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, the Borough Council shall hold another public hearing, pursuant to public notice before proceeding to vote on the amendment.
- c) **Juniata County Planning Commission Review:** At least thirty (30) days prior to the hearing on any amendment by the Borough Council, the Borough shall submit the proposed amendment to the Juniata County Planning Commission for recommendations.
- d) **Amendments Involving Zoning Map Changes:** If the proposed amendment involves a zoning map change, notice of the required public hearing shall be conspicuously posted by the Borough along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one (1) week prior to the date of the hearing. In addition written notice of the hearing shall be sent to the property owner and all adjoining property owners.
- e) **Enactment of Amendments:** Proposed amendments shall not be enacted unless notice of proposed enactment is given in the manner set forth in this section, and shall include the time and place of the meeting at which passage will be considered, a reference to a place within the Borough where copies of the proposed amendment may be examined without charge or obtained for a charge not greater than the cost thereof. The Borough Council shall publish the proposed

amendment once in one (1) newspaper of general circulation in the Borough not more than sixty (60) days or less than seven (7) days prior to passage. Publication of the proposed amendment shall include either the full text thereof or the title and a brief summary, prepared by the Borough Solicitor and setting forth all the provisions in reasonable detail. If the full text is not advertised, then –

- 1) A copy thereof shall be supplied to the newspaper in general circulation in the Borough at the time the public notice is published, and
- 2) An attested copy of the proposed ordinance shall be filed in the County Law Library or other County offices designated by the County Commissioners, who may impose a fee no greater than that necessary to cover the actual costs of storing the Ordinance.

In the event substantial amendments are made in the proposed amendment, before voting upon enactment, the Borough Council shall, at least ten (10) days prior to enactment, re-advertise in one (1) newspaper of general circulation in the Borough, a brief summary setting forth all the provisions in reasonable detail together with a summary of the amendments.

Within thirty (30) days after enactment of any amendment to the Zoning Ordinance, a copy of the amendment shall be forwarded to the County Planning Commission.

- f) **Landowner Curative Amendments:** 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 the Borough Council with a written request that his challenge and proposed amendment be heard and decided as provided in Sections 609.1 and 916.1 of the Pennsylvania Municipalities Planning Code, as reenacted and amended.
- g) **Municipal Curative Amendments:** If the Borough determines that its Zoning Ordinance or any portion thereof is substantially invalid, the Borough shall declare by formal action, its Zoning Ordinance or

portions thereof substantially invalid and propose to prepare a curative amendment to overcome such invalidity as provided for and in accordance with the procedures set forth in Section 609.2 of the Pennsylvania Municipalities Planning Code, as reenacted and amended.

### Section 1503 Fees

The Borough Council shall by resolution establish fees for all applications, permits, or appeals provided for by this Ordinance to defray the costs of advertising, mailing notices, processing, inspecting, and copying applications, permits, and use certificates. The fee schedule shall be available from the Borough Secretary or Zoning Officer for inspection.

### Section 1504 Appeals

Any person aggrieved or affected by provision of this Ordinance or decision of the Zoning Officer, Borough Engineer, Zoning Hearing Board or Borough Council may appeal in the manner set forth in either Article IX or X-A of the Pennsylvania Municipalities Planning Code, as reenacted and amended, whichever is applicable.

### Section 1505 Repealer

ALL BOROUGH ORDINANCES OR PARTS THEREOF IN CONFLICT with this Zoning Ordinance or inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

### Section 1506 Interpretation

The provisions of this Ordinance shall be held to be minimum requirements to meet the purposes of this Ordinance. When provisions of this Ordinance impose greater restrictions than those of any statute, other ordinance, or regulations, the provisions of this Ordinance shall prevail. When provisions of any statute, other

ordinance or regulation impose greater restrictions than those of this Ordinance, the provisions of such statute, ordinance or regulation shall prevail.

#### Section 1507 Violations

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

#### Section 1508 Penalties

Any person, partnership or corporation who or which has violated or permitted the violation of the provision of this Ordinance shall upon being found liable therefore in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than five hundred dollars (\$500) plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating, in which event there shall be deemed to have been only one (1) such violation until the fifth (5th) day following the date of the determination of a violation by the District Justice and thereafter each day that a violation continues shall constitute a separate violation.

All judgments, costs and reasonable attorney fees collected for the violation of this Ordinance shall be paid over to the Borough.

#### Section 1509 Procedure to Obtain Preliminary Opinion

In order not to unreasonably delay the time when a landowner may secure assurance that the ordinance or map under which he proposed to build is free from challenge, and recognizing that the procedure for preliminary approval of his development may be too cumbersome or may be unavailable, the landowner may advance the date from which time for any challenge to the ordinance or map will run by the following procedure:

- a) The landowner may submit plans and other materials describing the proposed use or development to the Zoning Officer for a preliminary opinion as to their compliance with the applicable ordinances and maps. Such plans and other materials shall not be required to meet the standards prescribed for preliminary or final approval or for the issuance of a zoning permit so long as they provide reasonable notice of the proposed use or development and a sufficient basis for a preliminary opinion as to its compliance.
- b) If the Zoning Officer's preliminary opinion is that the use or development complies with the ordinance or map, notice thereof shall be published once each week for two successive weeks in a newspaper of general circulation in the Borough. Such notice shall include a general description of the proposed use or development and its location, by some readily identifiable directive, and the place and times where the plans and other materials may be examined by the public. The favorable preliminary approval and the time therein specified for commencing a proceeding with the Zoning Hearing Board shall run from the time when the second notice thereof has been published.

#### Section 1510 Validity

In any section, clause, provision or portion of this Ordinance shall be held invalid

or unconstitutional by a recognized court of the Commonwealth; such decision shall not affect the legality of the remaining sections, clauses, provisions or portions of this Ordinance.

Section 1511 Effective Date

This Ordinance shall take effect immediately upon adoption and publication according to law.

ENACTED AND ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

Attest:

Mifflintown Borough Council

\_\_\_\_\_  
Secretary

by \_\_\_\_\_  
Edward E. Singer, President

\_\_\_\_\_  
Teresa A. Nearhood, Vice-President

\_\_\_\_\_  
R. Richard Fisher, Councilman

\_\_\_\_\_  
Richard R. Zimmerman, Jr., Councilman

\_\_\_\_\_  
Donald W. Quigley, Jr., Councilman

\_\_\_\_\_  
Richard B. Singer, Councilman

\_\_\_\_\_  
Andrew S. Lauver, Councilman

The within ordinance has been reviewed and approved by the Mayor of Mifflintown Borough this \_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Mayor

# **Appendix A**

## **Diagrams**