

CHAPTER 27

ZONING

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Part 1

Introduction

§27-101. Title.

This Chapter shall be known and may be cited as the “Borough of Rutledge Zoning Ordinance of 1997.”

(Ord. 414, 3/2/1998, §100)

§27-102. Purposes.

1. The zoning regulations and districts set forth in this Chapter are designed to achieve the following purposes as stated in the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended:
 - A. To promote, protect and facilitate any or all of the following: The public health, safety, morals and the general welfare; coordinated and practical community development and proper density of population; guidance, protection and improvement of amenity, convenience, future governmental processes and functions; guidance on uses of land and structures, type and location of streets, roadways, public grounds and facilities; the provision of adequate light, water and air; access to incidental solar energy, police and fire protection, transportation, sewerage and schools; and preservation of the natural, scenic and historic values in the environment.
 - B. To prevent one or more of the following: overcrowding of land; blight; danger and congestion in travel and transportation; or loss of health, life or property from fire, flood, panic or other dangers.
 - C. To provide for the use of land within the Borough for residential housing of various dwelling types, including multi-family dwellings.
 - D. To accommodate reasonable overall community growth, including population and employment growth, and provide opportunities for development of a variety of residential dwelling types and nonresidential uses.
2. In addition to the objectives in the Planning Code as noted above, the purpose of these zoning regulations is to implement the following objectives of the Borough:
 - A. To preserve, protect and maintain the character and land use pattern of the Borough as a strong residential community.

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- B. To maintain the existing housing stock and properties to prevent deterioration of dwellings and decline of neighborhoods through a vigorous code enforcement program and rehabilitation activities for selected structures.

(Ord. 414, 3/2/1998, §101)

§27-103. Establishment of Districts.

R - Residential District

SR - Service-High Density Residential District

(Ord. 414, 3/2/1998, §102)

§27-104. Establishment of Controls.

1. **Minimum and Uniform Regulations.** Unless specifically indicated otherwise, the regulations set forth in this Chapter shall be minimum regulations and shall apply uniformly to each class or kind of structures or land.
2. **Proposed Uses and Structures.** In all zoning districts, after the effective date of this Chapter, any new building or other structure or any tract of land shall be constructed, developed and used only in accordance with the regulations specified herein, except where a variance has been authorized by the Zoning Hearing Board.
3. **Existing Uses and Structures.** In all districts, after the effective date of this Chapter, any lawfully existing building or other structure or any tract of land which is not in conformity with the regulations of the district in which it is located shall be deemed to be nonconforming and subject to the provisions of Part 9.

(Ord. 414, 3/2/1998, §103)

§27-105. Zoning Map, District Boundary Lines and Tolerances.

1. The zoning district locations and boundaries are those that exist on the legally adopted official Zoning Map, a copy of which is attached hereto and made a part of this Chapter. The original Zoning Map shall be kept on file in the office of the Borough Secretary. Whenever changes are made in the boundaries or other matter included on the said Zoning Map, such changes shall be made by the Borough Engineer within 10 days after the amendment has been approved by Borough Council.
2. Where a district boundary line divides a lot held in single and separate ownership on the effective day of this Chapter, the regulations of the less restricted district

shall extend over the portion of the lot in the more restricted district a distance of not more than 50 feet from the district boundary.

3. Boundaries indicated as appearing to follow platted lot lines shall be construed as following such lot lines. Distances not specifically indicated on the official Zoning Map shall be determined by the scale of the map. In any other circumstances not covered above or in the event of any uncertainty as to the boundary of any district, the Zoning Hearing Board shall interpret the district boundary or boundaries.

(Ord. 414, 3/2/1998, §104)

§27-106. Interpretation.

1. In the interpretation and application of the provisions of this Chapter, the said provisions shall be held to be the minimum requirements for the promotion and protection of the public health, welfare and safety. Where the provisions of this Chapter impose greater restrictions than those of any other ordinance or regulation, the provisions of such statute, ordinance or regulations shall be controlling.
2. In interpreting the language of this Chapter to determine the extent of the restriction upon the use of the property, the language shall be interpreted, where doubt exists as to the intended meaning of the language, in favor of the property owner and against any implied extension of the restriction.

(Ord. 414, 3/2/1998, §105)

Part 2

Definitions

§27-201. Interpretation of Language.

Unless otherwise expressly stated, the following words and phrases shall be construed throughout this Chapter to have the meaning indicated herein. Words used in the present tense include the future. The singular shall include the plural, and the plural shall include the singular. The word "building" includes "structure." The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" or "occupied for." The word "person" includes an individual, corporation, partnership, incorporated association or any other similar entity. The words "includes" or "including" shall not limit the term to the specified examples but are intended to extend their meaning to all other instances of like kind and character. The words "shall" and "will" are mandatory and not discretionary, and the word "may" is permissive. Terms not defined herein shall have the meaning customarily assigned to them.

(Ord. 414, 3/2/1998, §200)

§27-202. Definition of Terms.

In this Chapter words, terms and phrases shall have the following meanings:

ACCESSORY STRUCTURE - a structure on the same lot with and incidental and subordinate to the principal building or use.

ACCESSORY USE - a use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with such principal use.

ADDITION - a structure added to the original principal building or to another building at some time after the completion of the original building.

APARTMENT UNIT - one or more rooms with private bath and kitchen facilities comprising an independent, self-contained dwelling unit in a building.

BASEMENT - an enclosed area partly or completely below grade. A basement shall be considered a story for the purpose of height measurement if the basement ceiling is 5 feet or more above the average grade level around the building.

BUILDING - any structure used or intended for supporting or sheltering any use or occupancy.

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BUILDING COVERAGE - the ratio obtained by dividing the greatest horizontal plane of all principal and accessory buildings on a lot by the total area of the lot upon which the buildings are located.

BUILDING HEIGHT - the vertical distance measured from the average level of the ground surrounding the structure to the highest point of the roof for flat roofs and to the ridge for gable, hip and gambrel roofs, provided that chimneys, spires, towers, mechanical penthouses, tanks, antennas and similar projections of the building not intended for human occupancy shall not be included in calculating the height.

BUILDING LINE - a line parallel to the street right-of-way line at a distance therefrom at least equal to the depth of the front yard required for the district in which the lot is located.

CERTIFICATE OF OCCUPANCY - a document issued by the duly authorized local authority allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with all applicable local codes and ordinances.

CODE OFFICIAL - a duly appointed Borough official empowered to administer and enforce this Chapter and other codes, ordinances and regulations of the Borough.

COMMUNITY RESIDENCE FACILITY, FAMILY-BASED - a dwelling, licensed by the appropriate State agency, shared by persons requiring special care and their supervisors who live together as a single housekeeping unit in a family-like environment. This facility is designed to create a residential environment for the developmentally disabled, mentally ill, retarded or handicapped persons unable to live without supervision. The maximum number of residents in a facility shall not exceed six. These facilities shall not be used as establishments for persons recovering from the effects of drugs, alcohol or for inmates of penal institutions.

DECK - a level, unroofed platform attached to or detached from the principal dwelling and designed for the use of the residents of the dwelling and their guests. In the event that a roof is placed above a deck, the deck shall then be counted in calculating building coverage and impervious surface.

DENSITY - unless otherwise stipulated in this Chapter, the term "density" shall mean the maximum number of dwelling units per gross acre.

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 - any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, streets and other paving utilities, dredging, filling, grading, excavation or drilling operations, storage of equipment and materials and the subdivision of land.

DWELLING - a building or unit designed and constructed for residential use.

DWELLING, MULTI-FAMILY - a structure containing three or more apartment units.

DWELLING, SINGLE-FAMILY ATTACHED (TOWNHOUSE OR ROWHOUSE) - a single-family dwelling within a building with not more than six attached dwellings. Each dwelling has at least one party wall in common with other dwellings in the same row; a townhouse.

DWELLING, SINGLE-FAMILY DETACHED - a building designed for and occupied exclusively as a residence for only one family with yards on all sides of the dwelling.

DWELLING, SINGLE-FAMILY SEMI-DETACHED (TWIN) - two dwelling units, each accommodating one family, which are attached side by side by means of a party wall, with each dwelling unit having only one side yard.

DWELLING UNIT - one or more rooms designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

FAMILY - any number of individuals living together as a single housekeeping unit when said individuals are related by blood, marriage or adoption, including foster children.

FAMILY-BASED DAY CARE HOME - a home other than the child's own home, operated for profit or not-for-profit, in which child care is provided at any one time to four, five or six children unrelated to the operator.

FLOOR AREA, GROSS - the sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles or any space where the floor-to-ceiling height is less than 6 feet. Gross floor area also includes, but is not limited to, the following:

- A. Elevator shaft, stairwell and attic space providing headroom of 6 feet or more.
- B. The floor areas of roofed terraces, exterior balconies, breezeways or porches where over 50% of the perimeter is enclosed.
- C. Any floor space used for dwelling purposes no matter where located within a building.

GARAGE, PRIVATE - a building accessory to a principal building, used principally for automobile storage and in which no business, service or industry whether connected directly or indirectly with motor vehicles is conducted.

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HOME OCCUPATION, MAJOR - any lawful home occupation or profession which creates a need for off-street parking, employs a person(s) other than members of the resident family or requires the use of equipment other than that used in a household or in general office use. Major home occupations shall not include activities likely to generate a high volume of vehicular traffic such as funeral homes and those which emit noise, smoke or vibration such as automobile service or repair.

HOME OCCUPATION, MINOR - any lawful occupation or profession conducted in a dwelling in which no persons other than the members of the resident family are engaged, which has no visible exterior evidence of the occupation, which does not create a need for off-street parking beyond the normal dwelling needs and in which no equipment is used other than that normally used in a household, domestic or general office use.

IMPERVIOUS COVERAGE OR SURFACE - the coverage of the lot area or tract area by materials that prevent the percolation of water into the soil and generate stormwater runoff, such as buildings, streets, paved parking areas, paved driveways and any other similar surfaces.

LANDSCAPED PLANTING AREA - an area landscaped with grass, ground cover, shrubs or similar plantings placed where required by this Chapter and permanently maintained.

LOADING SPACE - a paved accommodation off the street for loading and unloading of trucks in the form of one or more truck berths. Such spaces shall comply with §27-506.

LOT - a parcel of land which is or may be occupied by a building and/or accessory structure or use, including open spaces and setbacks as are required within the district in which the lot is located.

LOT AREA - the total horizontal area within the lot lines of a lot.

LOT, CORNER - a lot bounded by streets on at least two sides. Both yards adjacent to streets shall be considered front yards. The short side of the corner lot shall be considered the front of the lot.

LOT DEPTH - the distance along a straight line measured from the midpoint of the front lot line to the midpoint of the rear lot line.

LOT LINE - a line of public record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

LOT LINE, FRONT - the line separating the lot from the street right-of-way.

LOT LINE, REAR - any lot line, except the front lot line, which is parallel to, or within 45° of being parallel to, and does not intersect any street line, except in the case of corner lots.

LOT LINE, SIDE - any lot line which is not a front or rear lot line.

LOT, MINIMUM AREA OF - the lot area established by the Chapter on which a use or structure may be located in a particular district.

LOT WIDTH - the horizontal distance between the side lot lines measured at right angles to the lot depth at the building line.

NONCONFORMING BUILDING OR STRUCTURE - a building or structure which does not comply with the provisions of this Chapter, as amended, where such building or structure lawfully existed prior to the effective date of this Chapter or amendments thereafter. Such a nonconforming structure includes, but is not limited to, a nonconforming sign.

NONCONFORMING LOT - any lawful lot which does not conform to one or more of the applicable provisions of the district in which it is located either on the effective date of this Chapter or of amendments thereafter.

NONCONFORMING USE - a use, whether of land or of a structure, which does not comply with the applicable provisions of this Chapter, where such use was lawfully in existence prior to the effective date of this Chapter or amendments thereafter.

PARKING SPACE - a reasonably level space having a surface slope not exceeding 6% used for parking a motor vehicle. Such space shall have an area as listed in §27-505 which shall be exclusive of passageways, driveways or other means of circulation or access.

PENNSYLVANIA MUNICIPALITIES PLANNING CODE - Pennsylvania Act 247 of 1968 (P.L. 805) as amended, also cited as 53 P.S. 10101 *et seq.*, or any subsequent Act of the Commonwealth of Pennsylvania which replaces, supplements or repeals any or all of the provisions of Act 247.

PERMIT - written municipal permission issued by the appropriate local official empowering the holder thereof to do some act not forbidden by law, but not permitted without such authorization.

PLANTED VISUAL SCREEN - a strip of trees or hedges adjacent to the boundary of a property which, at the time of planting, shall be not less than 6 feet high and of sufficient density to constitute an effective visual screen and thereby give visual protection to abutting properties. Such screen shall consist primarily of dense evergreens which shall be planted not farther than 7 feet from one another. Such screens shall be permanently maintained. Deciduous trees may be added to create interest and variety.

PRINCIPAL BUILDING OR USE - a building or use which is the primary building or use on a lot as distinguished from a building or buildings relating to an accessory, incidental or subordinate use. The primary purpose for which land, a building or a structure or the use thereof is designed, arranged or intended.

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RECREATIONAL AREA - a place designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreational activities.

RECREATIONAL VEHICLE - a vehicular type portable structure without permanent foundation which can be towed, hauled or driven and is primarily designed as temporary living accommodations for recreational, camping and travel use including, but not limited to, travel trailers, truck campers, camping trailers and self-propelled motor homes.

RIGHT-OF-WAY - land acquired by reservation, dedication, prescription, condemnation or other legal manner and occupied or intended to be occupied by a street, crosswalk, electric transmission line, oil or gas pipeline, water line, watercourse or similar uses.

RIGHT-OF-WAY LINE - the line that forms the boundary of a right-of-way.

SANITARY SEWER - a pipe(s) that carries only domestic or commercial sewage and into which storm, surface and ground waters are not intentionally admitted.

SATELLITE ANTENNA - an antenna, for personal use only, together with all parts and attachments, the purpose of which is to receive communication from orbiting satellites. This definition does not include cellular facilities.

SETBACK - the distance between the street right-of-way line or a lot line and any building on a lot.

SHED - an accessory structure used for storage of lawn/garden, automotive and other equipment and tools.

SIGN - any object, device, display or illustration which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, numbers or symbols.

SIGN, ACCESSORY USE - a sign which identifies a home occupation.

SIGN AREA - the entire face of a sign including the advertising surface and any framing, trim or molding but not including the supporting structure.

SIGN, AWNING OR CANOPY - a sign that is mounted or painted on or attached to an awning, canopy or other fabric, plastic or structural protective cover over a door, entrance, window or outdoor service area.

SIGN, DIRECTIONAL - a sign limited to directional messages principally for pedestrian or vehicular traffic, such as "entry" or "exit," "one-way," "loading" or "service area," "fire lanes," "parking" or a similar sign incidental to the primary use and not itself advertising or naming that use except as required by law.

SIGN, FREESTANDING - a detached sign which shall include any sign placed upon or in the ground, supported by a post, stake, etc. and not attached to any building.

SIGN, GROUND - a freestanding sign other than a sign supported by a post or pylon, placed upon or supported by the ground independent of any other structure.

SIGN, IDENTIFICATION - a sign giving the nature, logo, trademark or other identifying symbol, address or any combination of the name, symbol and address of a building, business, development or establishment on the premises where it is located.

SIGN, ILLUMINATED - a sign lighted by or exposed to artificial lighting either by lights on or in the sign or directed towards the sign.

SIGN, INCIDENTAL - a sign, generally informational, that has a purpose secondary to the use of the property on which it is located, such as "no parking," "entrance," "loading only," "telephone" and other similar directives. No sign with a commercial message legible from a position off the lot on which a sign is located shall be considered incidental.

SIGN, NAMEPLATE - a sign indicating only the name and/or profession and address of the person(s) residing or legally occupying the premises.

SIGN STRUCTURE - the supports, uprights, braces and framework of the sign.

SIGN, TEMPORARY - a sign that is used in connection with an event, situation or circumstance that is designed or intended to take place or be completed within 30 days after a permit for the sign is issued or is intended to remain on the location where it is placed or erected for not more than 30 days.

SIGN, WALL - a sign posted on, painted on, suspended from or otherwise affixed to a wall or vertical surface of a building which does not project more than 12 inches from the wall or vertical surface to which it is attached.

SIGN, WINDOW - a sign attached or affixed to a window or door.

SPECIAL EXCEPTION - a use permitted in a particular zoning district subject to provisions of Articles VI and IX of the Planning Code.

STORY - that part of any building, exclusive of basements, comprised between the level of one finished floor and the level of the next highest finished floor, or if there is no higher finished floor, then that part of the building between the level of the highest finished floor and the top of the roof beams.

STREET - a public or private way used or intended to be used as a means of vehicular and pedestrian travel and access to abutting properties and space for public utilities that is improved to the satisfaction of the Borough.

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STREET LINE (STREET RIGHT-OF-WAY LINE) - the line dividing the street and the abutting property. The street line shall be the same as the right-of-way line.

STRUCTURE - any manmade object having an ascertainable, stationary location on or in land or water, whether or not affixed to the land. The term structure shall include, but not be limited to, buildings, signs, fences, walls, poles, towers, swimming pools, sheds, porches, garages and similar structures. "Structure" shall be interpreted as including the words "or part thereof."

SWIMMING POOL, PRIVATE - an outdoor water pool which is not operated for profit and is intended to be used for swimming or bathing by any family or person residing on the premises and their guests. An outdoor water pool shall, for the purposes of this Chapter, be construed to mean any pool, tank, depression or excavation which will cause the retaining of water to a depth greater than 18 inches and/or has a plane surface area of water greater than 100 square feet.

TOWNHOUSE OR ROWHOUSE BUILDING - see "dwelling, single-family attached."

TRACT - an area, lot, parcel, site or property which is the subject of a subdivision and/or land development.

TRACT AREA - the total acreage of a subdivision or land development. Tract area shall be measured to the ultimate right-of-way line of public streets.

TRAILER - a structure standing on wheels, towed or hauled by another vehicle and used for short-term human occupancy, carrying materials, goods or objects or as a temporary office.

VARIANCE - relief granted by the Zoning Hearing Board pursuant to the provisions of Articles VI and IX of the Planning Code.

YARD - an open space on the same lot with a principal building which extends from a street line or lot line -inward to the principal building.

YARD, FRONT - a yard extending the full width of the lot, the depth of which extends from the front lot line to the nearest point of the principal building.

YARD, REAR - a yard extending the full width of the lot, the depth of which extends from the rear lot line to the nearest point of the principal building.

YARD, SIDE - a yard, between the inside lines of the front and rear yard, extending in width from the side lot line to the nearest point of the principal building.

(Ord. 414, 3/2/1998, §201)

Part 3

R - Residential District

§27-301. District Purposes.

The purposes of this district are to provide for and maintain medium density residential development, preserve and protect open spaces and provide for certain uses permitted only by special exception.

(Ord. 414, 3/2/1998, §300)

§27-302. Uses Permitted by Right.

A building may be erected, altered or used and a lot may be used for only one or more of the following uses:

- A. Single-family detached dwelling.
- B. Family-based community residence facility, subject to §27-607.
- C. Park, playground or recreation area.
- D. Municipal building or use, including library, community center, fire station or similar municipal use, subject to §27-807(B).

(Ord. 414, 3/2/1998, §301)

§27-303. Uses Permitted by Special Exception.

The following uses shall be permitted by special exception only, subject to the applicable requirements of Parts 6 and 8:

- A. Major home occupation or home professional office, subject to §27-611.
- B. Church or other religious use, including rectory, classrooms for Sunday school instruction or similar accessory use, subject to §27-807(B).

(Ord. 414, 3/2/1998, §302)

§27-304. Accessory Uses and Structures.

1. Family-based day care home, subject to §27-606.

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2. Parking garage or parking area.
3. Major home occupation.
4. Sign, subject to §27-613.
5. Utility or tool shed, subject to §27-603.
6. Deck, subject to §27-609.
7. Satellite antenna, subject to §27-605.
8. Private swimming pool, subject to §27-604.
9. Any accessory use on the same lot with and customarily incidental to any of the above permitted uses and not detrimental to the neighborhood.

(Ord. 414, 3/2/1998, §303)

§27-305. Area and Bulk Requirements.

Unless specifically stated otherwise, the following shall be minimum requirements:

A. Single-family detached dwelling:

- | | |
|--------------------------|-----------------------------------|
| (1) Lot area - | 10,500 square feet |
| (2) Lot width - | 60 feet |
| (3) Front yard - | 25 feet |
| (4) Side yards - | 15 feet each |
| (5) Rear yard - | 40 feet |
| (6) Building coverage - | 20%, maximum |
| (7) Impervious surface - | 45%, maximum |
| (8) Building height - | 35 feet or three stories, maximum |

(Ord. 414, 3/2/1998, §304)

Part 4

SR - Service-High Density Residential District

§27-401. District Purposes.

The purposes of this district are to provide for service and office uses on a limited scale, as well as high density residential uses in the form of multi-family dwellings and townhouses consistent with the very small district area and proximity of single-family residential development and to provide controls for both service and high density residential uses. Screening regulations are provided to assure compatibility of the service and high density development with adjacent single-family uses.

(Ord. 414, 3/2/1998, §400)

§27-402. Uses Permitted by Right.

1. Personal service shop such as barber, tailor, shoe repair or similar establishment.
2. Office or office building.
3. Bank, savings and loan, finance or mortgage company or similar financial institution, provided that drive-through windows or service are not provided.
4. Townhouse.
5. Multi-family dwelling.

(Ord. 414, 3/2/1998, §401)

§27-403. Uses Permitted by Special Exception.

Any use of the same general character as any of the uses permitted above, as determined by the Zoning Hearing Board. In deciding whether a proposed unlisted use is of the "same general character," the Zoning Hearing Board shall employ the compatibility standards in §27-610.

(Ord. 414, 3/2/1998, §402)

§27-404. Accessory Uses and Structures.

1. Outdoor storage of refuse containers in rear or side yards only, provided that they are screened from the street and sidewalk by an opaque fence.

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2. Off-street parking, subject to Part 5.
3. Sign, subject to §27-613.
4. Satellite antenna, subject to §27-605.
5. Any accessory use on the same lot with and customarily incidental to any of the above permitted uses and not detrimental to the neighborhood or inconsistent with the purpose or intent of this district.
6. Deck, subject to §27-609.

(Ord. 414, 3/2/1998, §403)

§27-405. Screening.

Where uses permitted in this district are located adjacent to the Residential District, a planted visual screen (as defined in Part 2) shall be provided along the property line on the side of the use in the Service-High Density Residential District. This requirement for providing a screen shall be activated by new construction, addition or expansion of a building in the direction of the Residential District.

(Ord. 414, 3/2/1998, §404)

§27-406. Area and Bulk Regulations.

Unless specifically stated otherwise, the following shall be minimum requirements:

A. Office and Service Uses.

- | | |
|--------------------------|--------------------------|
| (1) Lot size - | 5,000 square feet |
| (2) Lot width - | 50 feet |
| (3) Front yard - | 25 feet |
| (4) Side yards - | 10 feet each |
| (5) Rear yard - | 25 feet |
| (6) Building coverage - | 50%, maximum |
| (7) Impervious surface - | 80%, maximum |
| (8) Height - | 35 feet or three stories |

B. Townhouses.

- (1) Lot area - 2,000 square feet
- (2) Lot width - 20 feet
- (3) Front yard - 25 feet
- (4) Side yards - 10 feet on each side of row
- (5) Rear yard - 25 feet
- (6) Building coverage - 40%, maximum
- (7) Impervious surface - 75%, maximum
- (8) Units in row - six, maximum
- (9) Height - 35 feet or three stories

C. Multi-Family Dwellings.

- (1) Lot area - 1,500 square feet per unit
- (2) Lot width - 80 feet
- (3) Front yard - 25 feet
- (4) Side yards - 25 feet aggregate and 10 feet minimum
- (5) Rear yard - 25 feet
- (6) Building coverage - 50%, maximum
- (7) Impervious surface - 70%, maximum
- (8) Height - 35 feet or three stories

(Ord. 414, 3/2/1998, §405)

Part 5

Parking

§27-501. Purposes.

The purpose of this Part is to adequately provide for the parking needs of all uses in the Borough, to reduce traffic congestion on public streets by getting parking off streets and to allow faster emergency access. Off-street parking ratios are provided to assure sufficient parking capacity for the various land uses in the Borough.

(Ord. 414, 3/2/1998, §500)

§27-502. Applicability.

1. **General.** Off-street parking spaces shall be provided in accordance with the requirements in §27-503, below.
2. **Change or Extension of Use.** Whenever a structure is altered or a use is changed or extended which increases the parking requirements of this Part, then the total additional parking required for the alteration, change or extension shall be provided in accordance with §27-503.
3. **Existing Uses and Structures.** No building or use of land in existence prior to the effective date of this Chapter shall be subject to the requirements in §27-503, so long as the kind or extent of use is not changed so as to require additional parking.
4. **Provision and Retention of Facilities.** All required parking facilities shall be provided and maintained so long as the use exists which the facilities were designed to serve. Off-street parking facilities shall not be reduced in total extent except when such reduction is in conformity with this Part.

(Ord. 414, 3/2/1998, §501)

§27-503. Required Parking Ratio.

- | | | |
|----|-----------------------------------|---|
| 1. | Single-family detached dwelling - | two for each dwelling unit |
| 2. | Townhouse or twin dwelling - | two for each unit |
| 3. | Multi-family dwelling - | two for each dwelling unit |
| 4. | Major home occupation - | one for every 200 square feet devoted to the home occupation in addition to the residential requirement |

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- | | | |
|-----|--|--|
| 5. | Community residence facility - | one for every two residents plus one for each employee on the greatest shift |
| 6. | Church or other religious use, place of assembly - | one for every five seats |
| 7. | Professional or business office - | one for every 200 square feet of gross floor area |
| 8. | Medical and dental office - | one for every 100 square feet of gross floor area, plus two for each licensed practitioner |
| 9. | Personal service shop, such as barber, beautician, shoe repair, etc. - | one for every 150 square feet of gross floor area |
| 10. | Bank, savings and loan or similar financial institution - | one for every 200 square feet of gross floor area |

(Ord. 414, 3/2/1998, §502)

§27-504. General Regulations for Off-Street Parking.

1. No off-street parking area shall be used for any use that interferes with the availability of the required parking spaces.
2. In the Residential District, all required off-street parking spaces shall be provided behind the building line.
3. In the Residential District, any recreational vehicle, trailer, boat or similar vehicle shall be permitted to park in the rear yard only.
4. In the Residential District, any motor vehicle with more than a single rear axle shall be parked or stored only in a private garage.
5. Parking or storage of disabled, partially dismantled, untitled, unlicensed or uninspected cars, trucks, boats or other vehicles shall be permitted for a continuous period of not more than 60 days in any calendar year. However, such vehicles parked in a private garage shall be exempt from this regulation.

(Ord. 414, 3/2/1998, §503)

§27-505. Design Regulations.

1. The size of a standard parking space shall be 10 feet wide by 20 feet long.

2. Parking spaces for the handicapped shall be 12 feet wide by 20 feet long. Handicapped spaces shall be located as close as possible to public entrances and ramps to buildings. Each space must be clearly marked with proper signage.
3. All parking areas for five or more vehicles shall be designed so that the vehicles need not back directly into a public street but can enter and leave the area in a forward motion.
4. All parking shall be accessible from a public street or driveway.

(Ord. 414, 3/2/1998, §504)

§27-506. Off-Street Loading Facilities.

1. Any building constructed or converted for nonresidential use shall provide for sufficient off-street loading areas.
2. In no case shall public rights-of-way be used for loading and unloading.
3. Loading areas shall be located and designed in a manner not to constitute a nuisance, hazard or impediment to traffic.

(Ord. 414, 3/2/1998, §505)

Part 6
General Regulations

§27-601. Purpose.

The purpose of this Part is to identify regulations generally common to all districts or relating to uses permitted by special exception.

(Ord. 414, 3/2/1998, §600)

§27-602. Overall Requirements.

1. No building or structure or part thereof shall hereafter be erected, constructed or altered and no use or change of use shall be made of any building, structure or land or part thereof, except in conformity with the provisions of this Chapter.
2. Every principal building shall hereafter be built on a lot with frontage on a public street.
3. No lot or premises shall hereafter be subdivided or reduced in area or size in any manner so as to violate the provisions of this Chapter.

(Ord. 414, 3/2/1998, §601)

§27-603. Accessory Uses and Structures.

1. Accessory structures such as garages, decks, sheds, patios, etc., shall be located only in the side or rear yards.
2. In the case of comer lots, accessory structures shall not be placed closer to the side street (long side of lot) than the principal building. However, fences and satellite antennas are exempt from this regulation.
3. No accessory structures shall be more than one story or 15 feet high, whichever is less.
4. The minimum setback for accessory structures shall be 5 feet at both the side and rear lot lines, unless specifically stated other wise in this Chapter. However, decks shall be permitted only in rear yards.
5. Accessory structures shall not be used for human habitation.

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6. A private garage may be erected within a rear yard or side yard, provided that it is attached to or located at least 20 feet farther back than the rearmost portion of the principal building, except as modified by §27-603(2), above.
7. Only one utility/storage shed shall be permitted on a lot.
8. Sheds shall not have a floor area exceeding 120 square feet.

(Ord. 414, 3/2/1998, §602)

§27-604. Private Swimming Pools.

1. All swimming pools shall be located in the rear yard. In the case of a corner lot, no pool shall be placed closer to the side street than the principal building.
2. All swimming pools shall be located not less than 8 feet from any property line or from the principal building on the lot.
3. For safety purposes, a fence not less than 4 feet and not more than 6 feet high must surround all swimming pools.
4. All fences surrounding pools shall have a self-locking gate and shall be of a design and quality to adequately prevent unauthorized children or animals from entering the pool area.
5. The drainage of a pool shall not be onto a neighboring property or into a sanitary sewer.
6. No swimming pool shall be located under electric lines.
7. Pool lighting fixtures shall be placed, directed or shielded to protect neighboring properties from light or glare.
8. A permit must be obtained from the Building Inspector prior to construction or placement of a swimming pool.
9. Swimming pools must comply with the latest BOCA Building Code [Chapter 5, Part 1], adopted by the Borough.
10. Also, see §27-615, relating to fences in general.

(Ord. 414, 3/2/1998, §604)

§27-605. Satellite Antennas.

1. Satellite antennas are permitted in all zoning districts.

2. Satellite antennas shall not be placed in the front yard.
3. The maximum diameter of antennas shall not exceed 18 inches.
4. Not more than one satellite antenna shall be permitted on a lot, with its use limited to that lot.
5. Satellite antennas shall be located, designed and screened to minimize the visual impact on the surrounding properties.
6. All wiring for ground-based antennas shall be underground.
7. All satellite antennas shall be adequately grounded for protection against a direct strike of lightning.
8. Where possible, roof-mounted antennas shall be located on the portion of the roof sloping away from the front of the lot.
9. The installation of satellite antennas shall meet all other local, State or Federal codes where possible.

(Ord. 414, 3/2/1998, §604)

§27-606. Family-Based Day Care Homes.

Family-based day care homes shall be permitted as an accessory use in the Residential District only, subject to the following requirements:

- A. There shall be a fence at least 4 feet high around all outdoor play areas, subject to §27-615.
- B. The appearance and exterior design of the facility shall be compatible with the surrounding dwellings.
- C. The facility shall display no sign which is inconsistent with the character of the neighborhood and shall be subject to §27-613.
- D. Outdoor play activities shall be limited to the hours between 9 a.m. and 7 p.m.
- E. Each facility must have the appropriate certificates as required by the Pennsylvania Department of Public Welfare (DPW) which shall be prominently displayed in the main entrance of the facility. All day care homes must meet all current DPW regulations and any applicable Federal, State or local laws, ordinances and regulations, including building and fire safety codes.

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- F. The operator of the facility shall allow the Code Official to enter the property at reasonable times subject to 24 hour notice to inspect the facility for compliance with this section and other applicable ordinances or regulations.

(Ord. 414, 3/2/1998, §605)

§27-607. Community Residence Facilities, Family-Based.

These facilities shall be permitted by right in the Residential District only, subject to the following requirements and applicable State and Federal laws and regulations:

- A. No family-based community residence facility (CRF) shall be located on the same block or within 600 feet of an existing facility.
- B. There shall be not more than two residents per bedroom, and this is not to exceed a maximum number of six residents per facility, not including staff.
- C. There must be a 24 hour-a-day on-duty supervisor who is qualified for the position.
- D. Parking shall be in accordance with Part 5.
- E. Any alterations or additions to the exterior of a CRF shall be compatible with the existing structure and in keeping with the neighborhood character, excluding safety modifications.
- F. Each facility must receive all pertinent approvals, certifications and/or licenses from the Department of Public Welfare (DPW) and any other applicable agencies.
- G. All other applicable requirements of this Chapter, Building Code [Chapter 5, Part 1], Fire Code [Chapter 5, Part 3] and all other applicable Borough codes and State and Federal regulations must be met.
- H. All community residence facilities will be available for reasonable periodic inspections by the appropriate Borough officials.
- I. The operator of the facility must register annually with the Code Official and must provide the following information:
 - (1) Name of operator.
 - (2) The profit or nonprofit status of the facility.
 - (3) The registration and control of the facility under the Department of Public Welfare or such other department that has jurisdiction.

- (4) The name of each resident currently residing in the premises.

(Ord. 414, 3/2/1998, §606)

§27-608. Lighting.

In the case of multi-family dwellings and nonresidential buildings, lighting facilities shall be provided and arranged in a manner to protect the street and neighboring properties from excessive glare and hazardous interference. All driveways and parking areas shall be properly lighted to assure safe driving conditions at night as well as security and safety for residents and patrons.

(Ord. 414, 3/2/1998, §607)

§27-609. Decks.

1. Decks shall be considered as accessory structures which shall comply with the applicable provisions of §27-603 (accessory uses and structures).
2. Decks shall not be included in the calculation of building coverage or impervious surface.
3. Decks shall be permitted only in the rear yard and the side yard.
4. Decks shall occupy not more than 300 square feet or 3% of the lot on which they are located, whichever is less.
5. Prior to construction of a deck, a permit must be obtained from the Code Official.

(Ord. 414, 3/2/1998, §608)

§27-610. Compatibility Standards.

In determining if a proposed use is of the same general character as the listed uses, the Zoning Hearing Board shall consider the compatibility standards listed below:

- A. The nature and location of storage and outdoor display of merchandise and the predominant items stored.
- B. The type, size and nature of buildings and structures supporting the use.
- C. The number of employees and customers in relation to business hours and employment shifts.

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- D. The business hours the use is in operation or open for business, ranging from 7 days a week, 24 hours a day to several times a year.
- E. The transportation requirements for people and freight, by volume, type and characteristics of traffic generation to and from the site, trip purposes and whether trip purposes can be shared with other uses on the site.
- F. Parking characteristics, turnover and generation, ratio of the number of spaces required per unit area or activity and potential for shared parking with other uses.
- G. The tendency for attracting or repelling criminal activities to and from or on the premises.
- H. The amount and nature of nuisances generated on the premises, such as noise, smoke, odor, glare, vibration, radiation and fumes.
- I. Any special public utility requirements for serving the use, such as water supply, wastewater output, pre-treatment of wastes and emissions recommended or required and any significant power structures and communication towers or facilities.

(Ord. 414, 3/2/1998, §609)

§27-611. Major Home Occupations.

Major home occupations shall be permitted as a special exception in the Residential District only.

- A. The occupation (or profession) shall be conducted within the dwelling and shall be clearly incidental and secondary to the residential use of the dwelling.
- B. Only one occupation per dwelling shall be permitted.
- C. Not more than 25% of the gross floor area of the dwelling shall be used for the home occupation. Areas used for storage shall be included in this calculation.
- D. Not more than one person other than the resident shall be engaged at any given time as an employee or volunteer.
- E. No external alterations inconsistent with the residential use or the surrounding neighborhood shall be permitted.
- F. There shall be no display of materials or products visible from outside the dwelling.

- G. No noise, vibration, smoke, glare or any other impact shall be noticeable at or beyond the property line.
- H. There shall be no outdoor storage of equipment, material or supplies.
- I. All major home occupations shall be subject to periodic inspections by the Code Official.
- J. Major home occupations in existence before the adoption of this Chapter must register with the Borough within 180 days of the adoption of this Chapter.
- K. A home occupation shall in no case be operated before 8 a.m. and after 8 p.m.
- L. Parking shall be provided, subject to Part 5.
- M. A special exception shall not be granted when it appears to the Zoning Hearing Board that a proposed (major) home occupation will constitute a fire hazard to neighboring residences, will adversely affect neighboring property value or will constitute a nuisance or otherwise be detrimental to the neighborhood because of excessive traffic, noise, odor or other potential negative impacts.

(Ord. 414, 3/2/1998, §610)

§27-612. Condominiums.

Condominiums shall be operated in accordance with the Pennsylvania "Uniform Condominium Act" of 1980.

(Ord. 414, 3/2/1998, §611)

§27-613. Signs.

1. General Requirements.

- A. No sign shall be located, designed, lighted, arranged or placed in a position where it will cause danger to traffic or will interfere with traffic through glare, blocking of required sight lines for streets, sidewalks or driveways or create confusion with a traffic control device by reason of color, location, shape or other characteristics or through any other means.
- B. Except for traffic signs, no sign shall be erected within the right-of-way of any public street.
- C. The content of permanent signs shall refer to a use, business, service or activity conducted on the same lot or premises on which the sign is located.

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- D. Every sign shall be removed within 30 days of the time when circumstances leading to its erection no longer apply, unless specifically stated otherwise in this Chapter.
 - E. If a use ceases for a period of 6 months, signs advertising the ceased business must be removed by the owner of the property. Such signs may be removed by the Borough at the expense of the owner of the property on which the sign is located.
 - F. Every sign must be kept in good condition and repair. Any sign which has been allowed to become dilapidated shall be removed by and at the expense of the landowner or lessee of the property on which it is located.
 - G. All signs shall be securely mounted or fastened to the building upon which they are erected or, if freestanding, the sign must be securely and safely installed in the ground. The installation of all signs must be approved by the Code Official.
 - H. All signs, except directional, incidental and traffic signs as well as real estate "for sale" or "for rent" signs, shall require a permit from the Borough.
 - I. No wall sign shall be placed above the first floor of a building.
2. **Signs Permitted in the Residential District.**
- A. Nameplate signs, accessory use signs identifying home occupations and signs identifying day care facilities, provided that such signs do not exceed 144 square inches and are not placed above the first floor. These signs shall not be illuminated.
 - B. Identification signs for churches, municipal uses, nonresidential buildings or nonresidential uses allowed as valid nonconforming uses, provided that:
 - (1) Types of signs permitted shall be wall signs and ground signs only.
 - (2) Not more than one wall sign or one ground sign shall be permitted at any property. However, on corner properties, one wall sign or one ground sign shall be permitted at each frontage.
 - (3) The size of such wall sign or ground sign shall not exceed 12 square feet.
 - (4) No sign shall be illuminated except by concealed, nonglare white light.
3. **Signs Permitted in the Service-High Density Residential District.** The following signs and no others shall be permitted in this district:
- A. Any sign permitted in the Residential District.

- B. Signs identifying a business, office or service establishments or apartments.
 - (1) The types of signs permitted shall be wall signs, freestanding signs, ground signs and window signs.
- C. **Wall Signs.**
 - (1) There shall be not more than one wall sign for each frontage.
 - (2) The size of the wall sign shall not exceed 1 square foot of sign area for each linear foot of building width, with a maximum size of 24 square feet.
 - (3) In the case of a corner property, the size of the wall sign on the long side of the building shall not exceed 50% of the area of the wall sign permitted at the front of the building.
- D. **Freestanding Signs and Ground Signs.**
 - (1) Not more than one freestanding sign or one ground sign shall be placed at each frontage.
 - (2) The size of the freestanding sign or ground sign shall not exceed 8 square feet.
 - (3) Landscaping in the form of ground covers, flowers or low spreading shrubs shall be provided around these signs. However, such plantings shall not exceed a height of 2 feet.
- E. **Window Signs.** The size of window signs shall not exceed 25% of the area of the window or door on which they are placed, painted, etched, etc.

(Ord. 414, 3/2/1998, §612)

§27-614. Wireless Telecommunications Towers and Antennas.

- 1. **Purpose.** The purpose of this Section is to establish general guidelines for the siting of wireless communications towers and antennas. The goals of this Section are to:
 - A. Encourage the location of towers in nonresidential areas, where possible.
 - B. Minimize the total number of towers throughout the community.
 - C. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers.

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- D. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal.
- E. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening and innovative camouflaging techniques.
- F. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently.
- G. Consider the public health and safety of communication towers.
- H. Avoid potential damage to adjacent properties from structural failure of the tower through engineering and careful siting of tower structures.
- I. Permit and manage reasonable access to the public ways for telecommunications purposes on a competitively neutral basis.

In furtherance of these goals, the Borough of Rutledge shall give due consideration to the Borough of Rutledge's Zoning Map, existing land uses and environmentally sensitive areas in approving sites for the locations of towers and antennas.

2. **Definitions.** As used in this Section, the following terms shall have the meanings set forth below:

ALTERNATIVE TOWER STRUCTURE - manmade trees, clock towers, bell steeples, light poles and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.

ANTENNA - any transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

BACKHAUL NETWORK - the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices and/or long distance providers, or the public switches telephone network.

COUNCIL - Council for the Borough of Rutledge.

FAA - the Federal Aviation Administration.

FCC - the Federal Communications Commission.

HEIGHT - when referring to a towers or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

PREEXISTING TOWERS and PREEXISTING ANTENNAS - any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this Section, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

TOWER - any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and the like. The term includes the structure and any support thereto.

TELECOMMUNICATIONS OVERLAY DISTRICT or TO - all that property owned, leased or otherwise controlled by the Borough of Rutledge including its rights-of-way, and including the rights-of-way of State highways located in the Borough with the permission or acquiescence of the State.

3. **Applicability.**

- A. **New Towers and Antennas.** All new towers and antennas in the Borough of Rutledge shall be subject to these regulations, except as provided in subsections (B) through (D), inclusive, below.
- B. **Amateur Radio Station Operators/Receive Only Antennas.** This Section shall not govern any tower, or the installation of any antenna, that complies with the pertinent height requirement of this Chapter, and is owned and operated by a Federally licensed amateur radio station operator or is used exclusively for receiving only antennas.
- C. **Pre-Existing Towers or Antennas.** Preexisting towers and preexisting antennas shall not be required to meet the requirements of this Section, other than the requirements of subsections 4(D) and 4(E), below.
- D. **AM Array.** For purposes of implementing this Section, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

4. **General Requirements.**

- A. **Inventory of Existing Sites.** Each applicant for an antenna and/or tower shall provide to Council an inventory of its existing towers, antennae or sites approved for towers or antennae, that are either within the jurisdiction of the Borough of Rutledge or within 1 mile of the border thereof, including specific information about the location, height and design of each tower. The Council

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may share such information with other applicants applying for administrative approvals or special use permits under this Section or other organizations seeking to locate antennas within the jurisdiction of the Borough of Rutledge, provided, however, that the Council is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

- B. **Aesthetics.** Towers and antennas shall meeting the following requirements:
- (1) Towers shall be either blue, reinforced concrete or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
 - (2) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings.
 - (3) If an antenna is installed on a structure or a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- C. **Lighting.** Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternative and design chosen must cause the least disturbance to the surrounding views.
- D. **State or Federal Requirements.** All towers must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the State or Federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Section shall bring such towers and antennas into compliance with such revised standards and regulations within 6 months of the effective date of such standards and regulations unless a different compliance schedule is mandated by the controlling State or Federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- E. **Building Codes; Safety Standards.** To ensure the structural integrity of towers, the owner of a tower shall ensure that it is designed, constructed and maintained in compliance with standards contained in applicable State or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. All towers shall be designed by a licensed professional engineer registered in the State of Pennsylvania and all drawings submitted for approvals shall be signed and sealed by the same engineer responsible for the design. All construction shall be supervised by qualified personnel and a certification

shall be prepared and presented to the Borough by a licensed professional engineer registered in the State of Pennsylvania that the design and construction conform to the highest standards of engineering and construction. If, at any time, the Borough of Rutledge concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said 30 days, shall constitute grounds for the removal of the tower or antenna at the owner's expense.

- F. **Not Essential Services.** Towers and antennas shall be regulated and permitted pursuant to this Section and shall not be regulated or permitted as public utilities or private utilities.
 - G. **Franchises.** Owners and/or operators of towers or antennas shall certify that all licenses or franchises required by law for the construction and/or operation of a wireless communication system in the Borough of Rutledge have been obtained and shall file a copy of all required licenses or franchises with the Council.
 - H. **Public Notice.** For purposes of this Section, any special exception request or appeal of an administrative decision shall require public notice pursuant to the dictates of this Chapter.
 - I. **Signs.** No signs shall be allowed on an antenna or tower, except as required by law.
 - J. **Support Equipment.** The support equipment associated with antennas or towers shall comply with the requirements of subsection (8), below.
 - K. **Multiple Antenna/Tower Plan.** The Borough of Rutledge encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.
 - L. **Co-Location.** In order to reduce the number of towers in Rutledge Borough in the future, the proposed tower, if required by the Council and/or Zoning Hearing Board, shall be designed to accommodate future other communication users, including commercial wireless communication companies, local police, fire and ambulance companies.
 - M. **Service to the Borough.** A provider of telecommunications service within the Borough of Rutledge shall make its telecommunications services available to the Borough at its most favorable rate for similarly situated users, unless otherwise provided for in a lease, license or franchise agreement.
5. **Administrative Review.**

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A. **General.** The following provisions shall govern the administrative review of towers and antennas:

- (1) The Borough Council shall administratively review each request for the siting and/or erection of any tower or antenna.
- (2) Each applicant for administrative review shall in the first instance apply to the Council, providing the information set forth in subsections (7)(B)(1) and (7)(B)(3) of this Section and a nonrefundable charge as established by resolution of the Council to reimburse the Borough for the costs associated with reviewing the application. This is in addition to any other applications or fees that may be required.
- (3) The Council shall review the application to determine if the proposed use complies with subsections (4) and (7)(C) of this Section. The Council shall also consider the factors set forth at subsection (7)(B)(2) through (7)(B)(7), inclusive.
- (4) In connection with any such administrative review pursuant to subsection (7), the Council may recommend to the Zoning Hearing Board reduction of the setback requirements in subsection (7)(B)(4) and the separation distances between towers in subsection (7)(B)(5).
- (5) In connection with any such administrative approval, the Council may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.

6. **Permitted Uses.**

A. **Telecommunications Overlay District.** A telecommunications overlay district is hereby created. This telecommunications overlay district applies to all zoning districts in the Borough of Rutledge. The telecommunications overlay district ("TO") shall consist of property owned, leased or otherwise controlled by the Borough of Rutledge, including its rights-of-way and including the rights-of-way of State highways within the Borough with the permission or acquiescence of the State.

B. Locating antennas or towers within a telecommunications overlay district is a use specifically permitted provided that:

- (1) A license or lease authorizing such antenna or tower has been approved by the Borough of Rutledge.
- (2) The Borough of Rutledge has administratively approved the application.
- (3) The requested use must comply in every way with this Chapter.

- C. All towers and antennae erected, installed or located as a permitted use shall be located so as to minimize the adverse visual impact of the tower and/or antenna.
 - (1) A license or leave authorizing such antenna or tower has been approved by the Borough of Rutledge, acting through its Council.
 - (2) The Council has administratively approved the application.
 - (3) The use complies in every other way with this Chapter.
- D. All towers and antennae erected, installed or located as a permitted use shall be located so as to minimize the adverse visual impact of the tower and/or antenna.

7. **Special Exception.**

- A. **General.** The following provisions shall govern the issuance of a special exception for towers or antennae:
 - (1) If the tower or antenna is not permitted pursuant to subsection (6) of this Section, a special exception shall be required for the construction of a tower or the placement of an antenna in all zoning districts other than Residence Districts. Towers and antennae are allowed in Residential Districts pursuant to subsection (6), only.
 - (2) Administrative approval pursuant to subsection (5) of this Section shall be requested at the time an applicant files a request for a special exception.
 - (3) Applications for special exceptions under this Section shall be subject to the procedures and requirements of this Chapter, including the usual costs and fees.
 - (4) In granting a special exception, the Zoning Hearing Board (ZHB) may impose conditions to the extent the Zoning Hearing Board concludes such conditions are necessary to minimize any adverse effect of the proposed tower or antenna on adjoining properties.
 - (5) Any information of an engineering nature that the applicant submits, whether civil, mechanical or electrical, shall be certified by a licensed professional engineer registered in the State of Pennsylvania.
 - (6) An applicant for a special exception shall submit, in duplicate, the information described in this Section with one copy for the Council and the other copy for the Zoning Hearing Board.

B. **Towers.**

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- (1) **Information Required.** In addition to any information required for applications for a special exception, applicants for a special exception for a tower shall submit the following information:
 - (a) A scaled site plan clearly indicating the location, type and height of the proposed tower, onsite land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), Master Plan classification of the site and all properties within the applicable separation distances set forth in subsection (7)(B)(5), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking and other information deemed by the Council to be necessary to assess compliance with this Section.
 - (b) Legal description of the parent tract and leased parcel (if applicable).
 - (c) The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
 - (d) The separation distance from other towers described in the inventory of existing sites submitted pursuant to subsection 4(A) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
 - (e) A landscape plan showing specific landscape materials.
 - (f) Method of fencing and finished color and, if applicable, the method of camouflage and illumination.
 - (g) A description of compliance with subsections 4(A), (B), (C), (D), (E), (G), (I) and (7)(B)(4), (7)(B)(5) and all applicable Federal, State or local laws.
 - (h) A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
 - (i) Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the Borough.
 - (j) A description of the feasible location(s) of future towers or antennas within the Borough of Rutledge based upon existing

physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

- (2) **Factors Considered in Granting a Special Exception for Towers.** In addition to any standards for consideration of special exception applications pursuant to this Chapter, the Zoning Hearing Board shall consider the following factors in determining whether to issue a special exception, although the Zoning Hearing Board may waive or reduce the burden on the applicant of one or more of these criteria if the Zoning Hearing Board concludes that the goals of this Chapter are better served thereby:
- (a) Height of the proposed tower.
 - (b) Proximity of the tower to residential structures and Residential District boundaries.
 - (c) Nature of uses on adjacent and nearby properties.
 - (d) Surrounding topography.
 - (e) Surrounding tree coverage and foliage.
 - (f) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
 - (g) Proposed ingress and egress, with particular reference to access via streets in nonresidential districts.
 - (h) Availability of suitable existing towers, other structures or alternative technologies not requiring the use of towers or structures, as discussed in subsection (7)(B)(3) of this Section.
 - (i) Administrative review and recommendation by the Council pursuant to subsection (5).
- (3) **Availability of Suitable Existing Towers, Other Structures or Alternative Technology.** No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Zoning Hearing Board that no existing tower, building, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Council related to the availability of suitable existing towers, buildings, other structures or alternative technology. Evidence to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

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- (a) No existing towers, buildings or structures are located within the geographic area which meet applicant's engineering requirements.
 - (b) Existing towers, buildings or structure are not of sufficient height to meet applicant's engineering requirements.
 - (c) Existing towers, buildings or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - (d) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers, buildings or structures, or the antenna on the existing towers, buildings or structures would cause interference with the applicant's proposed antenna.
 - (e) The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 - (f) The applicant demonstrates that there are other limiting factors that render existing towers and structures suitable.
 - (g) The applicant demonstrates that an alternate technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- (4) **Setbacks.** The following setback requirements shall apply to all towers and antennae for which a special exception is required; provided, however, that the Zoning Hearing Board may reduce the standard setback requirements if the goals of this Section would be better served thereby:
- (a) Towers must be set back a distance equal to at least twice the applicable setback requirements, but in no case less than 50 feet from any adjoining lot line.
 - (b) Guys and accessory buildings must satisfy the minimum zoning setback requirements.
- (5) **Separation.** The following separation requirements shall apply to all towers and antennas for which a special exception is required; provided,

however, that the Zoning Hearing Board may reduce the standard separation requirements if the goals of this Section would be better served thereby:

(a) **Separation from Off-site Uses/Designated Areas.**

- (i) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1.
- (ii) Separation requirements for towers shall comply with the minimum standards established in Table 1.

Table 1

Off-Site Use/Designated Area	Separation Distance
Single-family or duplex residential units ¹	500 feet or 300% height of tower whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	500 feet or 300% height of tower ² whichever is greater
Existing multi-family residential units greater than duplex units	250 feet or 150% height of tower whichever is greater
Nonresidentially zoned lands or non-residential uses	None; only setbacks apply

(b) **Separation Distances Between Towers.**

- (i) Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 2.

¹Includes modular homes and mobile homes used for living purposes.

²Separation measured from base of tower to closest building setback line.

Table 2

Existing Towers - Types

	Lattice	Guyed	Monopole 75 ft. in Height or Greater	Monopole Less than 75 ft. in Height
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 ft. in Height or Greater	1,500	1,500	1,500	750
Monopole Less than 75 ft. in Height	750	750	750	750

- (6) **Security Fencing.** Towers shall be enclosed by security fencing not less than 6 feet in height and shall also be equipped with an appropriate anti-climbing device; provided however, that the Council or Zoning Hearing Board may waive such requirements, as it deems appropriate.
- (7) **Landscaping.** The following requirements shall govern the landscaping surrounding towers for which a special exception is required; provided, however, that the Council or Zoning Hearing Board may waive such requirements if the goals of this Section would be better served thereby:
 - (a) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least 4 feet wide outside the perimeter of the compound.
 - (b) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
 - (c) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

- (8) **Antennae.** The applicant shall demonstrate that the antenna(e) is the minimum height required to function satisfactorily to serve the technical requirements of the applicant.

8. **Equipment Storage.**

- A. **Antennas Mounted on Rooftops.** The equipment cabinet or structure used in association with legally-placed antennas mounted on rooftops shall comply with the following:

- (1) The cabinet or structure shall not contain more than 10 square feet of gross floor area or be more than 8 feet in height. In addition, for buildings and structures which are less than 65 feet in height, the related unmanned equipment structure, if over 10 square feet of gross floor area or 8 feet in height, shall be located on the ground and shall not be located on the roof of the structure.,
- (2) If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than 1% of the roof area.
- (3) Equipment storage cabinets or cabinets shall comply with all applicable Building Codes.

- B. **All Other Legally-Placed Antennas.** For all other legally-placed antennas, the related unmanned equipment cabinet or structure shall comply with all applicable Building Codes and shall contain no more than 16 square feet of gross floor area nor be more than 12 feet in height, and may be located:

- (1) In front or side yard provided the cabinet or structure is no greater than 6 feet in height or (16 square feet of gross floor area and the cabinet/structure is located a minimum of 5 feet from all lot lines. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least 60 to 66 inches and a planted height of at least 36 inches.
- (2) In a rear yard, provided the cabinet or structure is no greater than 6 feet in height or 16 square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate of 8 feet and a planted height of at least 36 inches.

- C. **Modification of Size Requirements.** The requirements of subsection (8) may be modified by the Council in the case of administrative approvals or by the Zoning Hearing Board in the case of a special exception to encourage collocation.

9. **Removal of Abandoned Antennas and Towers.** Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned,

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and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the Council notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said 90 days shall be grounds for the Borough to cause the removal of the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

10. **Nonconforming Uses.**

- A. **Not Expansion of Nonconforming Use.** Towers that are constructed and antennas that are installed in accordance with the provisions of this Section shall not be deemed to constitute the expansion of a nonconforming use or structure.
- B. **Preexisting Towers.** Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this Section.
- C. **Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas.** Notwithstanding subsection (9), preexisting nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special exception and without having to meet the separation requirements specified in subsections (7)(B)(4) and (7)(B)(5). The type, height and location of the tower onsite shall be of the same type and intensity as the original facility. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is first damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in subsection (9).

(Ord. 414, 3/2/1998; as added by Ord. 415, 3/2/1998, §1-10)

§27-615. Fences.

1. **Definitions.** As used in Section, the following terms shall have the meanings indicated:

FENCE - an artificially constructed barrier of wood, masonry, stone, wire, metal or any other manufactured material or combination of materials, erected for the enclosure of land and/or dividing one piece of land from another.

OPEN FENCE - an open fence shall have a ratio of at least one part solid to three parts open.

2. **General Regulations.**

- A. No fence shall be erected within the Borough of Rutledge without the owner of the premises or his representative, authorized in writing to make such application, first obtaining a permit.
 - B. Application for such fence shall be made in writing to the Secretary of the Borough of Rutledge, Pennsylvania and shall set forth the following information:
 - (1) The owner and address of the premises where the fence is to be erected.
 - (2) A description and specifications of the fence, including size, height, dimensions, material and size and percentage of openings.
 - (3) A sketch or plan of the fence.
 - (4) A plot plan of the premises in question, which shall show streets abutting and the nearest intersection and shall indicate the location of structures on the property.
 - C. The fee for such permit shall be regulated and established by resolution.
 - D. Any existing deed restrictions are not to be superseded by this Section.
 - E. These fence regulations shall not apply to the erection of an open-wire fence within a publicly owned park, playground or school premises if the need for such fence for such uses as athletic fields is demonstrated to and approved by the Building Inspector.
 - F. In no case shall barbed wire, spikes, chipped glass, electricity or similar materials or devices be used in conjunction with or as part of any fence.
 - G. No fence shall be permitted which is expressly designed with the intent to injure or malign anyone who attempts to climb such a fence.
 - H. There shall be access to areas not enclosed by the fence.
 - I. Fences shall be erected with the finished side of the fence facing adjacent properties. The "finished side" shall be considered the side without the structural supporting members.
3. **Regulations.** Fences may be erected as hereinafter set forth:
- A. There shall be no fence along the front of a home for the entire length of the said property.
 - B. There shall be no fence from the front of a home to the rear building line of a home on either side.

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- C. Closed fences from the rear building line to the rear property line shall not exceed 4 feet in height.
- D. Open fences from the rear building line to the rear property line shall not exceed 6 feet in height. An open fence shall have a ratio of at least one part solid to three parts open.
- E. A closed fence shall not exceed 4 feet in height along the rear property line, so long as it is abutted by the rear property line to the adjoining property.
- F. An open fence shall not exceed 6 feet in height along the rear property line, so long as it is abutted by the rear property line to the adjoining property.
- G. For purposes of this Section, the frontage of a corner property shall be where the front door of the home is located.
- H. Fences must be maintained by the owner and kept in alignment and shall be maintained in a safe, sound and upright condition and in accordance with the approved plan on file.
- I. Barbed-wire fences are prohibited.
- J. Fences required for the purpose of enclosing swimming pools are expressly excepted from the requirements of this Section and are to be governed by 1993 BOCA Code of the Code for the Borough of Rutledge.

4. Enforcement; Violations and Penalties.

- A. In the event of a violation of the Section, the Zoning Officer and/or Building Inspector shall give written notice, by registered mail of the alleged violation to the owner or occupant of the property on which the fence is located to repair or remove said fence and rectify the violation. Said owner or occupant shall have 30 days from the date of the written notice to comply with the provisions of these Sections regulating fences.
- B. Any person aggrieved by the decision of the Zoning Officer and/or Building Inspector with regard to a fence may appeal to the Zoning Board for relief within 30 days of the action from which the appeal is taken.
- C. After the expiration of the 30 day notice and if no notice of appeal has been taken to the Zoning Board, any person violating any of the provisions of this Section shall be subject to prosecution therefor as provided in this Chapter.

(Ord. 414, 3/2/1998; as added by Ord. 428, 7/2/2001)

Part 7

Administration, Enforcement and Amendments

§27-701. Purpose.

The purpose of this Part is to establish procedures for the administration, enforcement and amendment of this Chapter consistent with the Planning Code.

(Ord. 414, 3/2/1998, §700)

§27-702. Administration.

1. The administration, enforcement and amendment of this Chapter shall be in accordance with the provisions of Article VI and other applicable Sections of the Pennsylvania Municipalities Planning Code, Act 247, as amended, and hereinafter referred to in this Part as the Planning Code.
2. There shall be a Code Official who shall be appointed by Borough Council. The Code Official shall be responsible for the administration and enforcement of this Chapter. The Code Official shall not hold any elected office in the Borough.
3. The Code Official shall administer this Chapter in accordance with its literal terms and shall not have the power to permit any construction, use or change of use which does not conform to this Chapter.
4. The Code Official may be authorized to institute civil enforcement proceedings as a means of enforcing this Chapter.
5. **Duties.** The duties of the Code Official shall include, but shall not be limited to, the following:
 - A. Enforce all provisions of this Chapter and all amendments thereto.
 - B. Receive, examine, record and file all applications and fees for zoning permits and issue zoning permits only for any structure or use which conforms to this Chapter.
 - C. Issue permits for uses and construction by special exception or variance only after such uses or buildings are approved by the Zoning Hearing Board, in accordance with the provisions of this Chapter.
 - D. Receive all required fees.

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- E. Regularly inspect all areas of the Borough to determine if there are any violations of this Chapter and review the validity of any reported zoning violations.
 - F. Issue all necessary stop orders and order in writing correction of all conditions found to be in violation of this Chapter.
 - G. Maintain or cause to be maintained a map or maps showing the current zoning classification of all land in the Borough.
 - H. Upon request of the Council, Planning Commission or Zoning Hearing Board, present facts, records and any similar information to such body on specific requests to assist these bodies in reaching their decision.
6. **Appeals from Decisions of the Code Official.** An appeal from a decision or action of the Code Official shall be made directly by a party in interest to the Zoning Hearing Board, and such appeal shall be made within 30 days after the date when a decision is deemed to have been made, in accordance with the Planning Code.
7. **Violations.** Whenever a violation of this Chapter is alleged to have occurred, any person may file a written and signed complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Code Official who shall record such complaint promptly and immediately investigate and take action as provided in this Part.

(Ord. 414, 3/2/1998, §701)

§27-703. Enforcement.

1. **Enforcement Notice.** If it appears to the Borough that a violation of this Chapter has occurred, the Borough shall initiate enforcement proceedings by sending an enforcement notice to the owner of record of the parcel on which the violation may have occurred, to any person who has filed a written request to receive an enforcement notice regarding that parcel and to any other person requested in writing by the owner of record. An enforcement notice shall include the minimum components required in §616.1(c) of the Planning Code.
2. **Causes of Action.** See §617 of the Planning Code.
3. **Jurisdiction.** District justices shall have initial jurisdiction over proceedings brought under §617.2 of the Planning Code.

(Ord. 414, 3/2/1998, §702)

§27-704. Permits.

1. **Requirement for Permits.** A permit shall be required prior to the erection or alteration of any building, structure or portion thereof, including signs; prior to the use of a building or land, prior to the change or extension of a nonconforming use or structure; and for any purpose specifically listed in this Chapter.
2. **Application for Permits.** Application for permits shall be made to the Code Official on such form as may be furnished by the Borough. Each application shall contain all information necessary to ascertain whether the proposed erection, alteration, use or change in use complies with the provisions of this Chapter.
3. **Issuance of Permits.**
 - A. No building or use permit shall be issued until the Code Official has certified that the proposed building or alteration or the proposed use of the property complies with the provisions of this Chapter.
 - B. Permits shall be granted or refused within 45 days after the date of application. In case of refusal the applicant shall be informed of his right to appeal to the Zoning Hearing Board.
4. **Permits for Trailers or Other Temporary Structures.**
 - A. Prior to the placement or location of a trailer or other temporary structure on a site, a permit shall be obtained from the Code Official as noted above in this Section. Such temporary permit shall be required where such trailer or other temporary structure shall occupy the property.
 - B. Temporary permits shall authorize the placement of temporary structures for not more than 6 months in any given calendar year.
 - C. Nothing in this Section shall be construed to prohibit the parking of trailers or recreational vehicles in private drive ways or garages.
5. **Expiration of Permits.** Permits for the erection, razing, change, alteration or removal of a building shall be valid or effective for a period of not more than 6 months from the date of issuance thereof and shall thereafter be void, unless the work authorized by such permit shall have been substantially commenced within that period and continues with due diligence from that time forward. In no event shall a permit be construed to authorize the development activities for more than a 3 year period of time, after which time a new permit must be sought. If, however, the applicant has been delayed in proceeding with the work for which the permit was granted for reasons beyond his or her own control, at the discretion of the Code Official the permit may be renewed without cost to the applicant.
6. **Certificate of Occupancy.**
 - A. Upon the completion or alteration of any building or portion thereof authorized by any permit, the holder of the permit shall notify the Code Official of

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completion of the work. No permit shall be considered complete or permanently effective until the Code Official has issued a certificate of occupancy certifying that the work has been inspected and approved as being in conformity with the permits and the provisions of this Chapter.

- B. Prior to the transfer of ownership, lease or use of property, a certificate of occupancy must be obtained from the Code Official.
- C. A certificate of occupancy shall be granted or refused within 15 days after the Code Official has been notified of completion of construction or within 15 days of application to occupy premises or land.

7. **Fees.**

- A. The Borough Council shall establish, by resolution, a schedule of fees, charges, expenses and collection procedures for building permits, sign permits, special exceptions, variances, appeals, amendments and other matter pertaining to this Chapter.
- B. A schedule of fees shall be posted in the office of the Code Official and may be altered or amended by the Borough Council only.
- C. No action shall be taken on any application for any special exception, variance, appeal or other similar matter pertaining to this Chapter until all application fees, charges and expenses have been paid in full.

(Ord. 414, 3/2/1998, §703)

§27-705. Amendments.

- 1. **Power to Amend.** The regulations, restrictions, boundaries and requirements set forth in this Chapter may be amended, supplemented, changed or repealed by the Borough Council by amending this Chapter in accordance with §§609, 609.1 and 609.2 of the Planning Code.
- 2. **Procedure for Amendment.**
 - A. An ordinance amending, supplementing or changing the district boundaries (Zoning Map) or the regulations established herein may be initiated:
 - (1) By the Borough Council, upon its own initiative or upon recommendation of the Planning Commission.
 - (2) Upon a petition to the Borough Council signed by the owners of 50% or more of the frontage of any area, which shall be between two streets wherein a change of zoning regulations is being sought.

- (3) By a landowner requesting an amendment or repeal. In the case of a curative amendment, the special requirements of subsection 609.1 of the Planning Code shall apply.
- B. Before voting on the enactment of an amendment, the Borough Council shall hold a public hearing thereon, pursuant to public notice. If the proposed amendment involves a map change, notice of said public hearing shall be conspicuously posted by the Borough at points deemed sufficient by the Borough along the tract at least 1 week prior to the hearing.
 - C. The Borough Council shall submit each proposed zoning amendment, other than one prepared by the Planning Commission, to the Planning Commission at least 30 days prior to any hearing which is to be held on the proposed amendment to provide the Planning Commission with an opportunity to submit its recommendations prior to final action.
 - D. If, after any public hearing held on the 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 as required by law pursuant to public notice before proceeding to vote on the amendment.
 - E. As required by the Planning Code, a copy of any proposed amendment shall also be sent to the County Planning Commission at least 30 days prior to any hearing on the proposed amendment in order to provide the County Planning Commission an opportunity to submit its recommendations prior to final enactment on the amendment.
 - F. The Borough may offer a mediation option as an aid in completing proceedings authorized in §609 of the Planning Code. In exercising such option, the Borough and mediating parties shall meet the stipulations of Article IX of the Planning Code.
 - G. Within 30 days after enactment, a copy of the amendment to this Chapter shall be forwarded to the Delaware County Planning Department.

(Ord. 414, 3/2/1998, §704)

Part 8

Zoning Hearing Board

§27-801. Purpose.

The purpose of this Part is to list the powers, composition, procedures and standards for the Zoning Hearing Board, which are specified in full in Article IX of the Pennsylvania Municipalities Planning Code, as amended.

(Ord. 414, 3/2/1998, §800)

§27-802. Administration and Procedure.

1. **Creation of the Zoning Hearing Board.** A Zoning Hearing Board for the Borough of Rutledge shall be appointed by the Borough Council and shall be authorized to administer all procedures charged to such boards in accordance with the provisions of Article IX of the Pennsylvania Municipalities Planning Code, as amended. Hereinafter, as used in this Part, the term "Board" shall refer to the Zoning Hearing Board, and the term "Planning Code" shall refer to the Pennsylvania Municipalities Planning Code, Act 247 as amended.
2. **Membership of the Board.** The Board shall consist of three residents of the Borough. Their terms of office shall be 3 years and shall be so fixed that the term of office of one member shall expire each year. The Board shall promptly notify the Borough of any vacancies. Appointment to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other elected or appointed office in the Borough.
3. **Removal of Members.** Any members may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority rule of Borough Council taken after the member has received 15 days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member requests it in writing.
4. **Organization of the Board.**
 - A. The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than the majority of all members of the Board, but where a majority of members are disqualified to act on a particular matter, the remaining members may act for the Board. As provided for in the Planning Code, 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 by the Board, as provided in §908 of the Planning Code.

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- B. The Board shall adopt rules and forms for its procedure in accordance with the provisions of this Chapter. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. Such Chairman or, in his absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public.
 - C. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicate such fact, and keep records of its examinations and other official action, all of which shall be immediately filed in the Office of the Borough Secretary and shall be a public record.
 - D. The Board shall submit a report of its activities to Borough Council as requested.
5. **Expenditures for Services.** Within the limits of funds appropriated by the Borough Council, the Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Board may receive compensation for the performance of their duties as may be fixed by Borough Council, but in no case shall it exceed the rate of compensation authorized to be paid to members of Borough Council.

(Ord. 414, 3/2/1998, §801)

§27-803. Powers of the Zoning Hearing Board.

- 1. **Appeals from the Code Official.** The Board shall hear and decide appeals where it is alleged that the Borough Code Official failed to follow prescribed procedures or has misinterpreted or misapplied any provision of this Chapter or the Zoning Map or any valid rule or regulation governing the action of the Code Official.
- 2. **Appeals from the Borough Engineer.** The Board shall also hear appeals from the determination of the Borough Engineer or Code Official relating to administration of any floodplain or flood hazard ordinance or such provisions in any land use ordinance.
- 3. **Applications.** Applications for variances or special exceptions shall include as a minimum the following information:
 - A. A sketch plan, at scale, showing the layout of the property, the proposed improvements and alterations thereto and the relationship of the tract to adjacent properties.
 - B. A reference to the section(s) of this Chapter under which the variance or special exception is requested.

4. **Variiances.** The Board shall hear requests for variances where it is alleged that the provisions of this Chapter inflict unnecessary hardship on the applicant. In granting a variance the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Planning Code and this Chapter.
5. **Special Exceptions.** The Board shall hear and decide requests for special exceptions authorized by this Chapter in accordance with standards and criteria set forth in §807(B), below, and in the applicable Sections of Part 6, "General Regulations." The Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Planning Code and this Chapter.
6. **Challenge to the Validity of this Chapter or Map.** The Board shall conduct hearings and make decisions and findings in connection with challenges to the validity of any provision of this Chapter as authorized by subsection 909.1 of the Planning Code.

(Ord. 414, 3/2/1998, §802)

§27-804. Hearings and Decisions.

The Board shall conduct hearings and make decisions in accordance with the provisions of §908 of the Planning Code.

(Ord. 414, 3/2/1998, §803)

§27-805. Notice of Requirements.

1. **Notice of Hearing.** In any case where the Board shall hold a public hearing, the Board shall, at the minimum, give notice of such hearing as follows, which notice shall state the time and the place of the hearing and the particular nature of the matter to be considered at the hearing:
 - A. By publishing a notice thereof once each week for 2 successive weeks in a newspaper of general circulation in the Borough, provided that the first publication shall be not more than 30 days and the second publication shall be not less than 7 days from the date of the hearing.
 - B. By mailing or delivering due notice thereof to the applicant and other parties in interest, to such other persons Borough Council may designate and to any person who has made a timely request for such notice.
 - C. By mailing or delivering notice thereof to the Borough Council and the Code Official.

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- D. By conspicuously posting notice of said hearing at points deemed sufficient by the Borough of Rutledge on the affected tract of land at least 1 week prior to the hearing.

(Ord. 414, 3/2/1998, §804)

§27-806. Elements of Decisions of the Board.

Decisions of the Board shall include the following elements:

- A. Findings of fact, including a brief summary of relevant testimony and information entered during the proceedings of the Board.
- B. Citation by quotation or by reference to the specific Section of the local ordinances and/or Planning Code which are relevant to the use in question.
- C. Conclusions of the Board, enumerating the reasons why such conclusions are deemed appropriate in light of the facts found.
- D. Ruling of the Board, indicating in writing any stipulations or conditions attached to the ruling.

(Ord. 414, 3/2/1998, §805)

§27-807. Standards for Zoning Hearing Board Action.

In any instance where the Zoning Hearing Board is required to consider a variance or special exception, the Board shall, among other things, consider the following criteria:

- A. **Planning Code Criteria for Variances.**
 - (1) The Board shall hear requests for variances where it is alleged that the provisions of this Chapter inflict unnecessary hardship on the applicant.
 - (2) A variance from the terms of this Chapter shall not be granted by the Board unless and until a written application for a variance is submitted by the applicant who shall have the burden of establishing the presence of all of the following conditions 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 to the circumstances or conditions generally created by the provisions of this Chapter in the neighborhood or district in which the property is located.

- (b) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Chapter and that the authorization of the variance is therefore necessary to enable the reasonable use of the property.
 - (c) That such necessary hardship has not been created by the applicant.
 - (d) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare.
 - (e) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
- (3) In granting any variance, the Board may attach such reasonable, additional conditions and safeguards as it may deem necessary to implement the purposes of the Planning Code and this Chapter.

B. Standards for Review of Special Exceptions.

- (1) In any instance where the Board is required to consider a request for a special exception, the Board shall consider the following factors where appropriate:
- (a) That the proposed use is appropriate for the site in question in terms of topography, natural features, drainage, sewage disposal, water supply, accessibility and availability of public services and that adequate provisions will be made to protect sensitive environmental features such as streams, lakes, wetlands, slopes and mature trees.
 - (b) That the proposed use is compatible with the character of the surrounding neighborhood and will not interfere with or detract from legitimate uses and adjacent properties, and that adequate measures will be provided through building design, site layout, landscaping, planting and operational controls to minimize any adverse impacts caused by noise, lights, glare, odors, smoke, fumes, traffic, parking, loading and signs.
 - (c) That the proposed special exception will serve the best interest of the Borough, convenience of the community and the public health, safety and welfare.

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- (d) That the proposed use promotes orderly development, proper population density and the provision of adequate community facilities and services, including police and fire protection.
 - (e) That the proposed use is suitable in terms of its effect on highway safety and traffic circulation and that access, onsite circulation and parking are adequate in view of anticipated traffic.
 - (f) That the proposed use will provide for adequate off-street parking, as required in Part 5.
- (2) Financial hardship shall not be construed as a basis for granting special exceptions.
- (3) In granting any special exception, the Board may attach reasonable conditions and safeguards in addition to those expressed in this Chapter as it may deem necessary to implement the purposes of the Planning Code and this Chapter, which conditions and safeguards may relate to, but not be limited to, screening, lighting, noise, safety, aesthetics and the minimization of noxious, offensive and hazardous elements. Such special exception shall be clearly authorized by a provision in this Chapter and shall, where applicable, comply with the more specific standards relating to such special exceptions contained in appropriate Sections of Part 6.

(Ord. 414, 3/2/1998, §806)

§27-808. Standards of Proof.

1. **For Variances.** An applicant for a variance shall have the burden of establishing both:
 - A. That a literal enforcement of the provisions of this Chapter will represent an unnecessary hardship as that term is defined by law, including court decisions.
 - B. That the allowance of the variance will not be contrary to the public interest.
2. **For Special Exceptions.**
 - A. That this application falls within the provisions of this Chapter which affords the applicant the right to seek a special exception.
 - B. That the allowance of a special exception will not be contrary to the public interest.

3. **Evaluation of the Impact of an Application on the Public Interest.** In determining whether the allowance of a special exception is contrary to the public interest, the Board shall consider whether the application, if granted, will:
- A. Adversely affect the public health, safety and welfare due to changes in traffic conditions, drainage, air quality, noise levels, neighborhood property values, natural features and neighborhood aesthetic characteristics.
 - B. Provide required parking in accordance with Part 5 of this Chapter.
 - C. Adversely affect the logical, efficient and economical extension or provision of public services and facilities such as public water, sewers, refuse collection, police, fire protection and public schools.
 - D. Otherwise adversely affect the public health, safety or welfare.

(Ord. 414, 3/2/1998, §807)

§27-809. Expiration of Special Exceptions and Variances.

Unless otherwise specified by the Board, a special exception or variance shall expire if the applicant fails to obtain a building permit within 6 months from the date of authorization thereof.

(Ord. 414, 3/2/1998, §808)

§27-810. Time Limitations and Stay of Proceeding.

See subsections 914.1 and 915.1 of the Planning Code.

(Ord. 414, 3/2/1998, §809)

§27-811. Appeals to Court.

See Article X-A of the Planning Code.

(Ord. 414, 3/2/1998, §810)

Part 9

Nonconforming Uses, Structures and Lots

§27-901. Purpose.

Within the districts established by this Chapter or amendments thereto, there exist certain uses, structures and lots which were lawful before this Chapter was enacted or amended, but which do not conform to the provisions of this Chapter or amendment thereto. These uses, structures or lots are referred to as nonconformities. The regulations governing existing nonconforming uses, structures and lots are set forth in this Part and are intended to provide a gradual remedy for the undesirable conditions resulting from such nonconformities. While such nonconformities are generally permitted to continue, these regulations are intended to restrict further investment in such nonconformities and to bring about their gradual reduction.

(Ord. 414, 3/2/1998, §900)

§27-902. Continuation.

All structures, lots, uses of structures and uses of land that do not conform to the regulations of the district in which they are located after the effective date of this Chapter or amendment thereto shall be regarded as nonconforming and may be continued so long as they remain otherwise lawful, including subsequent sales of property. Such uses must comply with all safety related and other applicable regulations.

(Ord. 414, 3/2/1998, §901)

§27-903. Enlargement.

1. A nonconforming use or structure may be extended, enlarged or altered when so authorized as a special exception, provided that the following conditions are met and a permit is obtained as per §27-704:
 - A. It is clear that such enlargement or extension is not materially detrimental to the health, safety and welfare of the surrounding area.
 - B. The proposed enlargement or extension only occurs on the tract where the nonconformity is currently located.
 - C. The area devoted to the nonconforming use shall be increased by not more than 25%. The nonconforming structure shall be increased by not more than 25% of its cubic content.

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- D. Any extension or enlargement of a building shall conform to the area, height and setback regulations of the district in which it is located.

(Ord. 414, 3/2/1998, §902)

§27-904. Change of Use.

Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use. A nonconforming use may be changed to another equally restrictive or more restrictive nonconforming use when authorized as a special exception by the Zoning Hearing Board, subject to the following conditions:

- A. The applicant shall show that the proposed change will be no more objectionable in external effects than the existing nonconforming use or will be more appropriate than the existing nonconforming use with regard to:
 - (1) Traffic generation and congestion.
 - (2) Parking.
 - (3) Noise, smoke, dust, fumes, vapors, gases, heat, odor, glare or vibration.
 - (4) Outdoor storage.
 - (5) Sanitary sewage disposal.
- B. A permit is obtained from the Borough.

(Ord. 414, 3/2/1998, §903)

§27-905. Enclosure.

Where a nonconforming use is conducted entirely on unenclosed premises, no structure to house or enclose such use, whether or not such structure would otherwise conform to zoning regulations, shall be permitted to be erected on the premises.

(Ord. 414, 3/2/1998, §904)

§27-906. Abandonment.

If a nonconforming use of a building or land is abandoned for 6 consecutive months or more, whereby the owner discontinues the use, the subsequent use of such a building or land shall conform with the regulations of the district in which it is located, unless another nonconforming use is approved by the Zoning Hearing Board. Such approved use shall be initiated within 120 days after the approval of the Zoning Hearing Board.

(Ord. 414, 3/2/1998, §905)

§27-907. Restoration.

1. Except for residential structures, a nonconforming structure, a conforming structure devoted to a nonconforming use or a nonconforming structure that has been legally condemned or destroyed by fire or other cause to an extent of not more than 75% of the value of the structure may be reconstructed and used for the same nonconforming use, provided that:
 - A. The reconstructed structure shall not exceed the bulk and area requirements of the district.
 - B. Reconstruction of the structure shall commence within 6 months from the date the structure was destroyed or condemned, unless the Zoning Hearing Board shall authorize a special exception for an extension of this time limit.
2. A nonconforming residential structure which is destroyed or damaged by fire or other cause may be restored to its condition prior to the occurrence.

(Ord. 414, 3/2/1998, §906)

§27-908. Repairs and Maintenance.

1. On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 6 consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, provided that the cubic content existing when it became nonconforming shall not be increased.
2. If a nonconforming structure becomes physically unsafe due to lack of repairs and maintenance and is declared by the Code Official to be unsafe by reason of physical condition, it shall not thereafter be restored or repaired except to conform to the regulations of the district in which it is located.
3. Nothing in this Chapter shall be construed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by the Code Official.

(Ord. 414, 3/2/1998, §907)

§27-909. Displacement.

No nonconforming use or structure shall displace a conforming use or structure.

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(Ord. 414, 3/2/1998, §908)

§27-910. Nonconforming Lots.

A lot held in single and separate ownership on the effective date of this Chapter which does not contain the required minimum area or width may be used for the construction, alteration or reconstruction of a building or may otherwise be used if the construction, alteration, reconstruction or other use is in compliance with the use, coverage and rear yard setback provisions of this Chapter.

(Ord. 414, 3/2/1998, §909)

§27-911. Reduction of Lot Area.

No lot area shall be so reduced that the area of the lot or the dimensions of the open space shall be smaller than herein prescribed.

(Ord. 414, 3/2/1998, §910)

§27-912. Registration of Nonconforming Uses.

The Code Official may prepare, or cause to be prepared, a complete list of all nonconforming uses, structures, lots and signs in the Borough.

(Ord. 414, 3/2/1998, §911)

§27-913. Ownership.

Whenever a lot is sold to a new owner, a previously lawful nonconforming use or structure may be continued by the new owner.

(Ord. 414, 3/2/1998, §912)

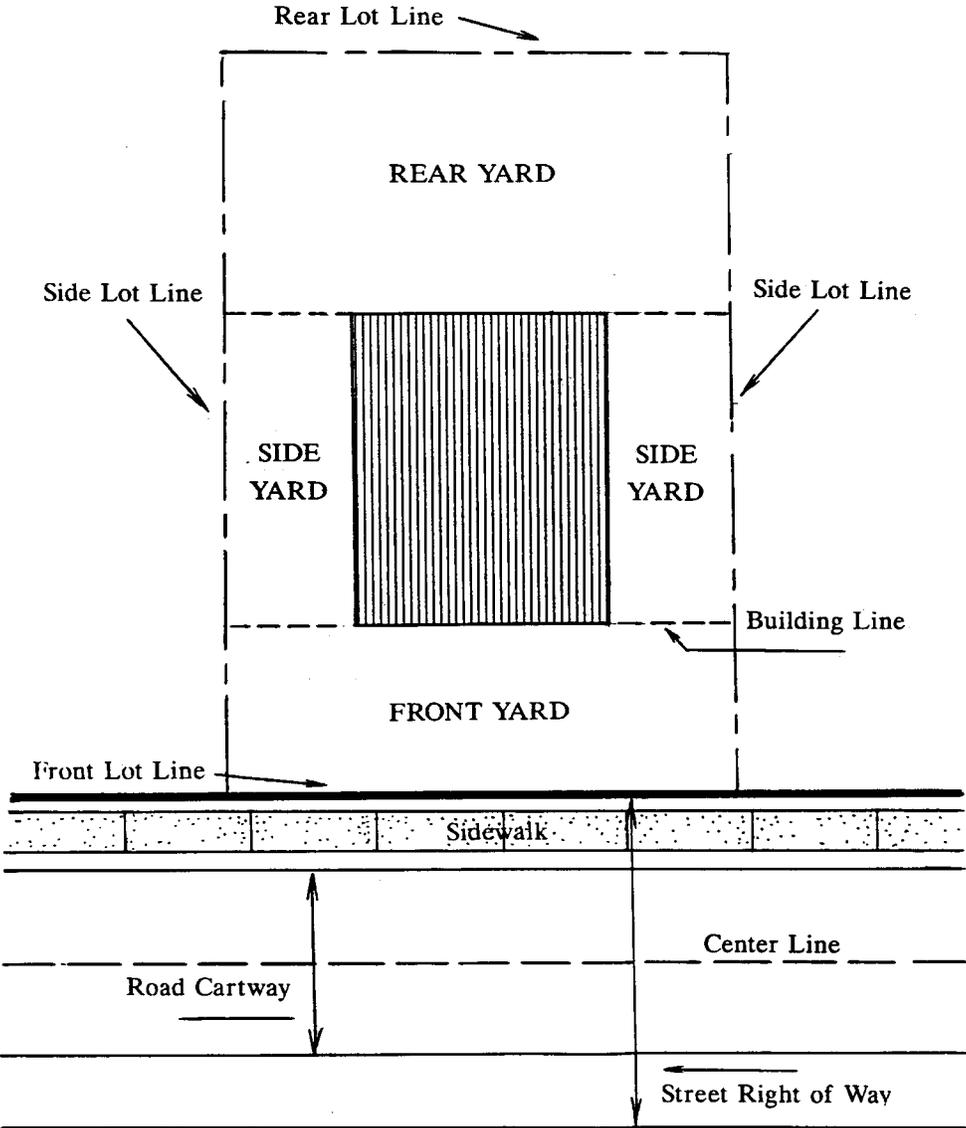
§27-914. Violations.

A nonconforming structure altered or a nonconforming use created in violation of any provisions in this Part shall be regarded as continuing in such violation and shall not enjoy the privilege of legal continuance conferred by §27-901 upon other nonconforming structures and uses.

(Ord. 414, 3/2/1998, §913)

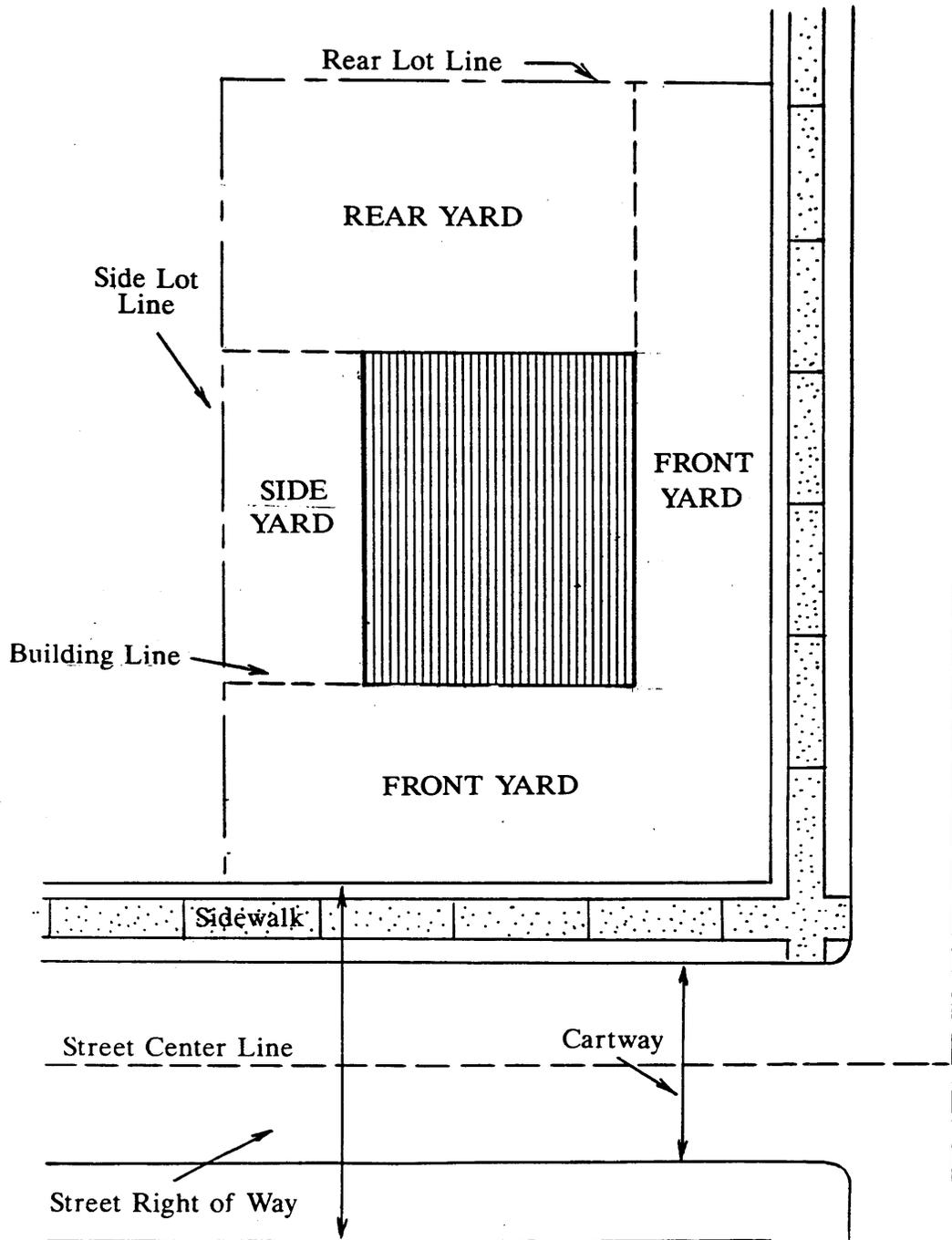
Figures

Figure A LOT DIMENSIONS AND TERMS



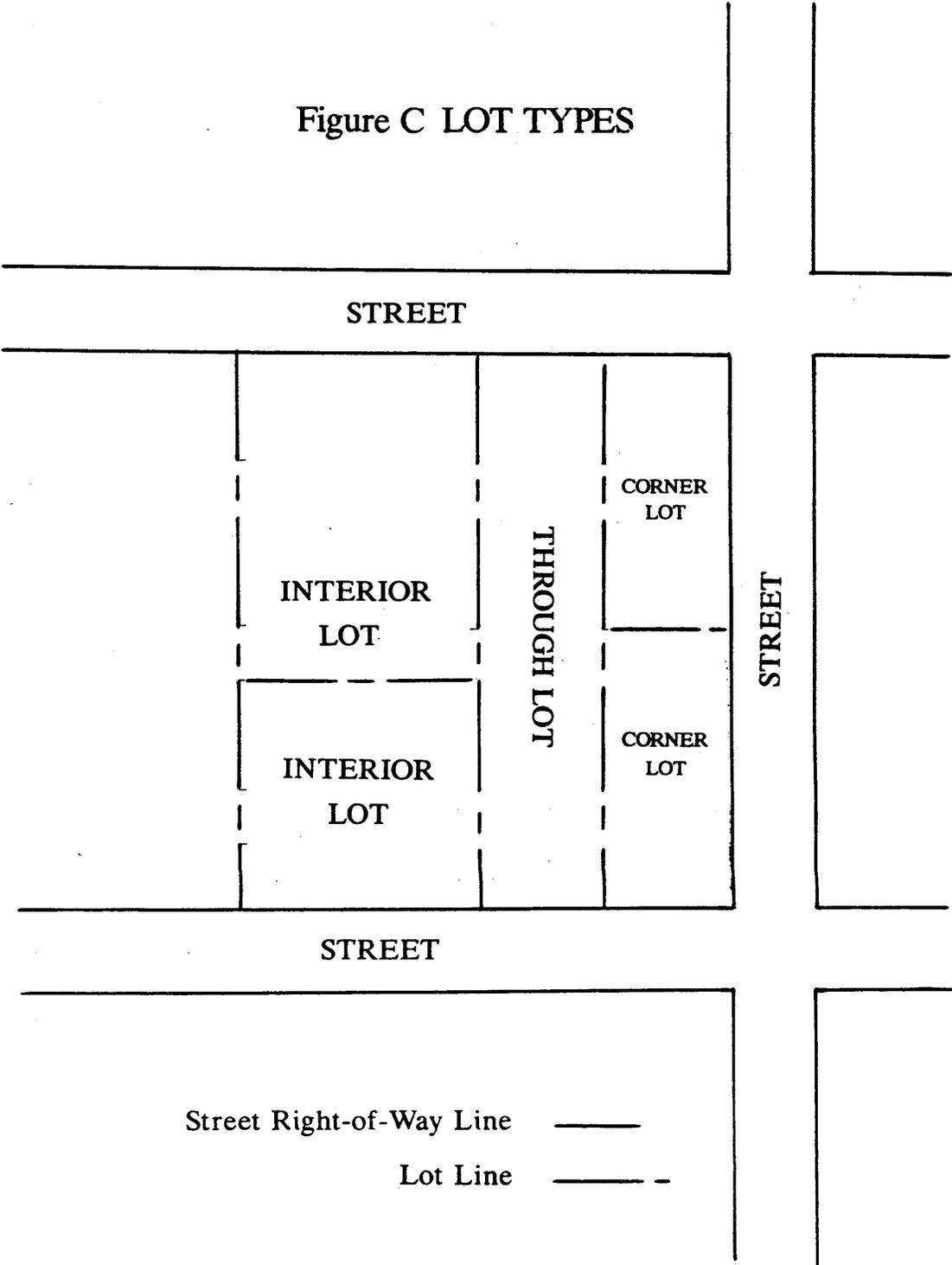
A-1

Figure B CORNER LOT DIMENSIONS AND TERMS



B-1

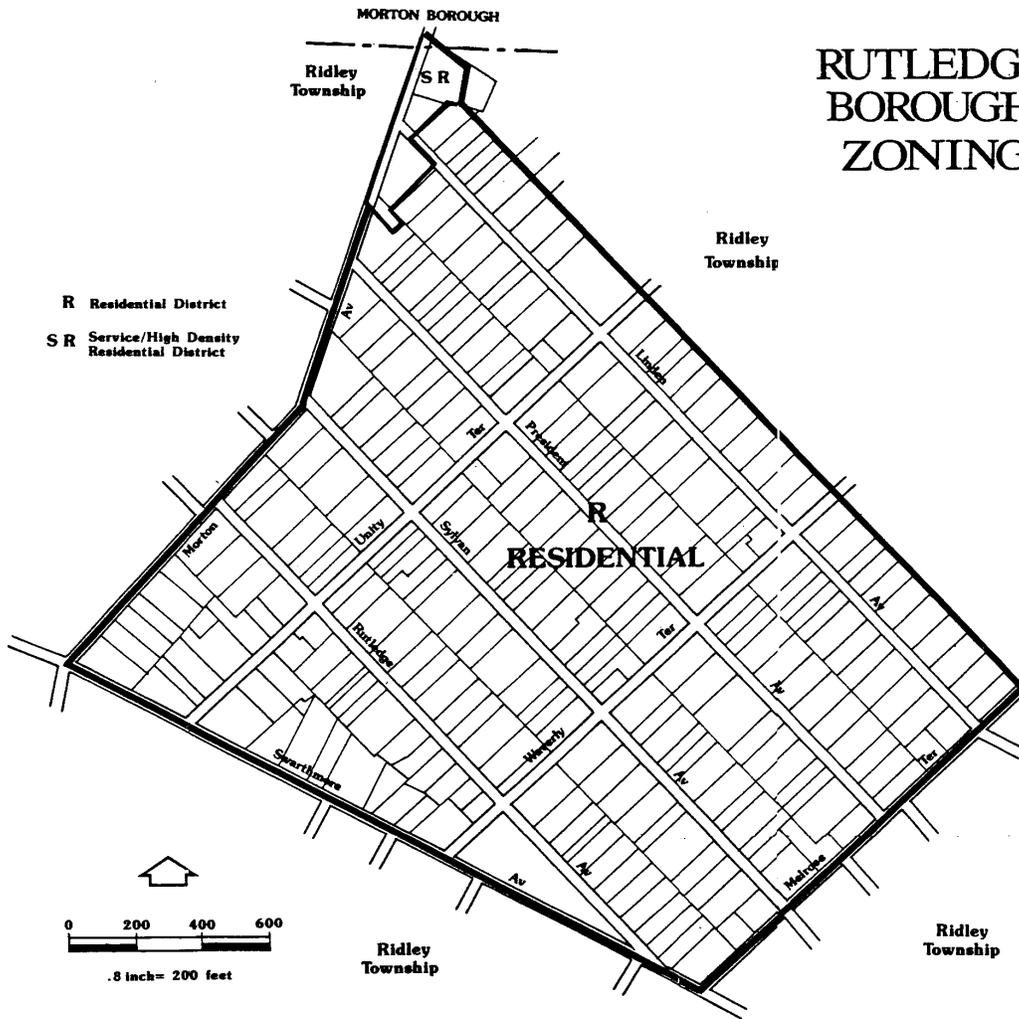
Figure C LOT TYPES



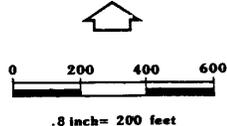
C-1

Zoning Map

RUTLEDGE BOROUGH ZONING



R Residential District
SR Service/High Density Residential District



ORDINANCE WAS ADOPTED MARCH 2, 1998
PREPARED BY DELAWARE COUNTY PLANNING DEPARTMENT, 1998

