

# Mercer Borough Zoning Ordinance (Adopted 1/8/2002)

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# **ARTICLE I: SHORT TITLE, PURPOSE & SCOPE**

## **Section 100: Short title**

This ordinance shall be known as the "Mercer Borough Zoning Ordinance" hereinafter referred to as the "Zoning Ordinance".

The official map showing zoning districts and boundaries shall be known as the "Mercer Borough Zoning Map" copies of which shall be retained by the Borough Zoning Officer and the Borough Secretary. The map included herein is a reproduction of the official map and for reference only.

## **Section 101: Purpose and authority**

This Zoning Ordinance and its regulations are adopted by authority granted to the Borough under the Pennsylvania Municipalities Planning Code (Act 247 of 1968, as amended) and are made in accordance with the following purpose:

1. To promote health, safety, and general welfare and to protect the public from the adverse secondary effects of various land uses and development
2. To promote coordinated, orderly, harmonious, and practical community development
3. To discourage the intermixture of incompatible land uses and, where such intermixture may be beneficial or where zoning district boundaries present transitions between incompatible uses, to control impacts of incompatible uses
4. To lessen congestion and promote public safety and convenience on roads and highways
5. To secure safety from fire, panic, pollution hazards, and other dangers
6. To provide adequate light and air
7. To prevent the overcrowding of land
8. To avoid undue congestion of population
9. To facilitate the adequate provision of housing, commercial and industrial development, transportation, water, sewerage, schools, parks and other public requirements
10. To establish reasonable standards to which buildings and development shall conform
11. To protect and enhance the value of land

Such regulations are also made with reasonable consideration to the character of the districts hereinafter set forth and their suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Borough.

## **Section 102: Scope**

The Zoning Ordinance regulates and restricts within the boundaries of the Borough of Mercer, Mercer County, Pennsylvania:

1. The height, number of stories and size of buildings and other structures
2. Their construction, alteration, extension, repair and maintenance
3. All facilities and services in or about such buildings and structures
4. The percentage of lot that may be occupied
5. The size of yards, courts and other open spaces
6. The density of population
7. The location and use of buildings, structures and land for trade, industry, residence or other purposes
8. The establishment and maintenance of building lines and setback building lines upon any or all public roads or highways

## **Section 103: Interpretation**

In interpreting and applying the provisions of the Zoning Ordinance, they shall be held to be the minimum requirements for the promotion of the public health, safety, morals, comfort, convenience, and general welfare. Where the Zoning Ordinance imposes greater restrictions than those of any statute, other ordinance or regulations, the provisions of the Zoning Ordinance shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than the Zoning Ordinance, those provisions shall be controlling.

The Zoning Ordinance is not intended to interfere with, abrogate, or annul any easement, covenant, or other agreement between private parties. However, where the Zoning Ordinance imposes greater restrictions than those imposed by any such easement, covenant or agreement, the provisions of the Zoning Ordinance shall govern. Where any such easement, covenant or other agreement imposes greater restrictions than those imposed by the Zoning Ordinance, those shall govern.

## **Section 104: Application**

The provisions of the zoning ordinance shall apply to the use and/or occupancy of all buildings, structures, and/or lots. Except as provided in this ordinance, no building or part thereof or other structure shall be erected, altered, added to or enlarged; nor shall any land, building, structure, or premises be used for any purpose other than for the uses hereinafter listed as permitted in the zone in which such building, land, or premises is located. Any use which is not listed in a specific zoning district shall be interpreted as prohibited in that district.

## **Section 105: Severance**

If any article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, or word in the Zoning Ordinance or the zoning district boundaries as shown on the Zoning Map, shall be for any reason, declared to be illegal, unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect or impair the validity of the Zoning Ordinance as a whole or any article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, word or remaining portion of the Zoning Ordinance.

The Borough Council hereby declares that it would have adopted the Zoning Ordinance and each article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase and word thereof, and each Zoning District boundary of the Zoning Map irrespective of the fact that any one or more of the sections, subsections, provisions, regulations, limitations, restrictions, sentences, clauses, phrases, words or boundaries may be declared illegal, unconstitutional or invalid.

## **Section 106: Repeal**

The enactment of this zoning ordinance contained herein shall hereby repeal in its entirety the Mercer Borough Zoning Ordinance, Ordinance Number 4-1986, adopted October 14, 1986. Any other resolution or ordinance conflicting with the provisions, regulations, limitations, and/or restrictions of this zoning ordinance contained herein shall be and the same is hereby repealed to the extent of such conflict.

## **ARTICLE II: COMMUNITY DEVELOPMENT OBJECTIVES**

### **Section 200: Purpose of community development objectives**

This article shall serve as the statement of community development objectives for the Mercer Borough Zoning Ordinance as required by Section 606 of the Pennsylvania Municipalities Planning Code (Act 247 of 1968, as amended). The Zoning Ordinance reflects the policy goals of the Borough as stated in the following community development objectives. The ordinance has been developed as a legislative and administrative tool of the Borough to implement said objectives.

### **Section 201: 1998 Community Development Plan objectives**

The Mercer Borough Zoning Ordinance shall promote and advance the following vision statement and objectives of the 1998 Mercer Borough Community Development Plan:

**201.1: Community vision** – The community of Mercer is the center of Mercer County and will be a signature community in terms of attraction, style, historic preservation, culture, and schools. Mercer will continue to be a friendly, safe community while retaining small town sense of community spirit and pride and embracing opportunities to improve the economic and social well being of its people.

#### **201.2: Objectives for community development**

1. Continue to promote community beautification
2. Develop community vision for historic preservation
3. Encourage planned development of affordable housing
4. Improve family oriented public recreation opportunities
5. Increase communication through various media
6. Carry out the community vision

#### **201.3: Objectives for public services**

1. Development of sidewalks will encourage residents to enjoy local neighborhoods and broaden communication
2. Encourage greater community spirit and pride within the area
3. Continued emphasis on education opportunities to encourage life long learning
4. To accept and implement the newly created vision statement
5. To encourage the development of an exceptional school system

6. Encourage the utilization of the library as a center of expanded learning
7. Promote neighborhood based safe and orderly community
8. Enforce local ordinances and encourage education of ordinances
9. Continue to support and improve the community park as recreational center for all ages
10. Encourage and promote the development of traditional neighborhood housing

#### **201.4: Objectives for economic development**

1. Encourage the development of business growth
2. Utilize our proximity to interstate traffic for economic development
3. Market our local and regional retail opportunities and tourism
4. "Cooperation" with surrounding municipalities
5. Upgrade existing infrastructure

### **Section 202: Additional community development objectives**

The Mercer Borough Zoning Ordinance shall also promote and advance the following community development objectives:

1. Preserve and enhance Mercer's historic, pedestrian-oriented, and small town community style, pattern, and character
2. Promote flexibility of land uses in and near Mercer's downtown to encourage the economic viability and reuse of existing older buildings and development and thus to promote their preservation
3. Provide for the modern needs of businesses
4. Accommodate the needs of the Borough's senior citizen population
5. Promote tax-generating growth harmonious with existing community development in yet undeveloped areas of the Borough
6. Promote development of an orderly and attractive community gateway in the US Route 19 corridor.
7. Promote minimum standards for soundness, safety, comfort, and compatibility with the existing neighborhood for new housing created from new construction/placement, alteration of existing housing, or conversion of other existing buildings or uses

## ARTICLE III: DEFINITIONS

### Section 300: General Interpretation

For the purposes of the Zoning Ordinance, certain terms, phrases and words shall have the meaning given herein. Words used in the present tense include the future; the singular includes the plural; the word "used" shall be construed as though followed by the words "or intended or designed to be used"; the words "building", "structure", and "land" or "premises" shall be construed as though followed by the words "or any portion thereof"; and the word "structure" includes the word "building". The word "shall" is always mandatory and not merely directory.

### Section 301: Definition of Terms

**Abutting.** Having property or district lines in common; e.g., two lots are abutting if they share a common property line.

**Access.** A way of approaching or entering a property.

**Accessory (Building or Use).** A building or use is accessory if it: 1) is subordinate to and serves a principal building or principal use; 2) is subordinate in area, extent, or purpose to the principal building or principal use served; 3) contributes to the comfort, convenience, or necessity of the occupants of the principal building or principal use; and 4) is located on the same zoning lot as the permitted principal use.

**Accessory Apartment.** A separate, complete housekeeping unit which is contained within the structure of a single-family dwelling but can be isolated from it, or which is contained within an existing accessory building.

**Addition.** Any construction which increases the size of a building such as a porch, attached garage or carport, or a new room or wing.

**Agent of owner.** Any person who can show written proof that he/she has the authority to act for the property owner.

**Alley.** The space or area between the rear or side lot lines of lots which has a minor right-of-way width of twenty (20) feet or less which is dedicated for the public use of vehicles and pedestrians and which affords secondary access to an abutting lot.

**Alteration.** As applied to a building or structure, is a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or moving from one location or position to another.

**Alteration, Structural.** A change, other than incidental repairs, which would prolong the life of the supporting members of a building, such as bearing wall, columns, beams and girders.

**Awning.** An awning shall include any structure made of cloth or metal with a metal frame attached to a building and projecting over a yard or thoroughfare, when the same is so erected as

to permit its being raised to a position flat against the building when not in use or not permanently attached to and an integral part of a porch, carport, or similar attached accessory structure.

**Basement.** Portion of a building partly underground, having one-half (1/2) or more than one-half (1/2) of its floor-to-ceiling height below the average grade of adjoining ground.

**Bed and Breakfast.** An owner-occupied residence offering, for pay, overnight or short-term lodging and breakfast for transient guests.

**Block.** The length of a street between two (2) street intersections; or a piece of land bounded on all sides by streets or other transportation routes such as railroad lines, or by physical barriers such as waterbodies or public open space, and not traversed by a through street.

**Boarding House (also Rooming House).** A building or portion thereof arranged or used for sheltering and feeing, for compensation, individuals who are not members of the proprietor's family.

**Breezeway.** Any portion of a lot roofed over by a structure joining a principal dwelling building to any other structure.

**Building.** An enclosed structure built, erected, and framed of component structural parts, designed for the housing, shelter, enclosure, and protection of persons, animals, or property of any kind, including mobile homes.

**Building, Accessory.** A detached, subordinate building, the use of which is customarily incidental and subordinate to that of the principal building, and which is located on the same lot as that occupied by the principal building.

**Building, Attached.** A building where both side walls of all except the end structures are party walls.

**Building, Detached.** A building which has no party wall.

**Building, Principal.** A building in which is conducted the principal use of the lot on which it is situated.

**Building Setback.** The distance on a lot from the centerline of any road within which no building or structure, principal or accessory, shall be placed, unless otherwise indicated in this Ordinance.

**Building Setback Line.** A line on a lot which marks the building setback.

**Canopy.** A canopy shall include any structure, other than an awning, made of cloth or metal with metal frames attached to a building, projecting over a pedestrian or vehicular thoroughfare, and carried by a frame supported by the ground or sidewalk.

**Carport.** A roofed structure having two or more open sides and extending from the side or rear wall of a principal or accessory building, used primarily as a shelter for automotive vehicles or

recreation equipment. The open sides may be screened or enclosed, but at least fifty (50) percent of such wall area must remain open. In addition, the carport shall not extend into any required yard.

**Cartway.** That area of a street within which vehicles are permitted including travel lanes and parking areas but not including shoulders, curbs, sidewalks or swales.

**Centerline.** The line located at the middle of the traveled surface of a road, equi-distant from both edges of the road surface.

**Certificate of Use and Occupancy.** A statement, based on an inspection and signed by the Zoning Officer, indicating that a building, structure, and/or land conforms with the provisions prescribed in the Zoning Ordinance and may lawfully be occupied or used for a specified use or uses.

**Child Care Facility.** Provides out-of-home care for part of a 24-hour day to children 15 years and younger including care provided in public or private profit or nonprofit facilities. Definition does not apply to care provided by a relative, in places of worship during religious services, and in a facility where the parent is present at all times child care is provided. This ordinance identifies three levels of child care facilities consistent with current regulations of the Commonwealth of Pennsylvania:

**Family Day Care Home.** A state-certified family residence with one caregiver providing care for four, five, or six children unrelated to the caregiver.

**Group Day Care Home.** A state-certified facility providing care for no more than 12 children where the child care area is a family residence.

**Day Care Center.** A state-certified facility providing care for 7 or more children where the child care area is not a family residence.

**Church.** A building for public religious worship.

**Clinic.** Any professional medical building or establishment where people are examined or treated by doctors or dentists, but are not hospitalized overnight.

**Club, Lodges and Fraternal Organizations.** An establishment operated for social, recreational, or educational purposes, and open only to members and their guests, but not the general public.

**Commercial vehicle.** For purposes of this ordinance is one (1) licensed truck-tractor or one (1) licensed trailer or a combination of one (1) licensed truck-tractor and one (1) licensed trailer that: a) has a gross weight of over 26,000 pounds (including combined weight if towed unit weighs over 10,000 pounds); b) is designed to transport 16 or more persons including the driver; or c) is used to transport hazardous materials.

**Conditional Use.** A permission or approval granted by the Borough Council to use land in a district for a purpose other than that permitted outright in that district. Conditional uses are specified in the zoning ordinance and may be approved or denied by the Borough Council only

in accordance with the express standards and conditions set forth herein. The Borough Council may attach such reasonable conditions and safeguards, in addition to those expressed herein, as it may deem necessary to implement the purposes of the zoning ordinance and the PA Municipalities Planning Code (Act 247 of 1968, as amended). Before acting on a conditional use, the Borough Council must provide public notice and hold a public hearing as prescribed by the PA Municipalities Planning Code. In addition, the Borough must provide notice by certified mail of the conditional use application and public hearing to all property owners adjacent to the property subject to the conditional use application. If the certified mail is returned within 15 days, notice must be sent by first class mail.

**Construction.** The construction, reconstruction, renovation, repair, extension, expansion, alteration, or relocation of a building or structure, including the placement of mobile homes.

**Conversion.** Changing the original purpose of a building to a different use.

**Court.** A portion of a lot unoccupied above grade but partially or wholly surrounded by building walls.

**Covenant.** A private legal restriction on the use of land contained in the deed to the property or otherwise formally recorded.

**Curb Level.** The elevation of the street grade as established in accordance with the law or, when a curb level has not been established, the grade at the center of the street.

**Curb Line.** The line establishing the width of a cartway in a right-of-way. Where curbs do not exist the edge of pavement shall be the curb line.

**Dedication.** The transfer of property from private to public ownership.

**Deed Restriction.** See Covenant.

**Development.** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, the subdivision of land, the placement of mobile homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations.

**Domestic Pet.** Animals integrated into and which may become part of and may be housed as part of the normal household unit for the purpose of pleasure and companionship – traditionally dogs, cats, small birds, etc.

**Driveway.** A private roadway providing vehicular access to a street or highway for a lot and its structures, or providing for interior vehicular movement on the lot or within a development.

**Dwelling.** A building arranged and used for residential occupancy containing a dwelling unit or units, but excluding a boarding house, hospital, institutional home, hotel, motel, and other similar types of uses.

**Dwelling, Multiple-Family.** A building having two (2) or more dwelling units and designed to be used or occupied as a residence by two (2) or more families living independently of each

other and each with its own exterior entrance door or own entrance door from an interior hallway.

**Dwelling, Single-Family.** A detached, permanent building designed for and used exclusively for occupancy by one family.

**Dwelling Unit.** A building or portion thereof providing complete house keeping facilities for one family. The term shall include all structures designed for and/or used for living purposes, including mobile homes, prefabricated dwellings, and similar portable structures. All dwelling units shall have a minimum of 750 square feet of residential floor area (as defined herein).

**Easement.** A right given by the owner of land to another party for specific limited use of that land.

**Enlargement.** A construction activity which increases the size of a building or other structure.

**Essential Services.** The erection, construction, alteration or maintenance by public utilities or municipal departments or authorities of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare.

Office buildings or maintenance depots, plus communication towers and communication antenna as defined in Section 707.1 shall not be considered essential services by this ordinance.

**Family.** One or more persons living together in a single housekeeping unit as a nonprofit household, provided that the dwelling unit's size meets the minimum occupancy area requirements as defined by this ordinance.

**Farm.** A lot, parcel or tract of land used for agricultural purposes on which the principal structure(s) shall be the agricultural building(s) and farm house(s).

**Floor Area, Gross.** The total area of all floors of a building as measured to the outside surfaces of exterior walls and including halls, stairways, elevator shafts, attached garages, porches and balconies.

**Floor Area, Residential.** The total area of all floors of a residential building devoted solely to residential use, measured between interior faces of walls, and exclusive of entrance ways, porches, breezeways and roofed terraces, whether enclosed or not, and excluding cellars, basements and garages.

**Fraternal Organization.** A group of people formally organized for a common interest, usually cultural, religious or entertainment, with regular meetings, rituals and formal written membership requirements.

**Frontage.** The frontage, or front of a lot, is the side nearest the street. For the purposes of determining yard and setback requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards and setbacks shall be provided as indicated in this Ordinance.

**Garage, Private.** A structure that is accessory to a residential building and that is used for the parking and storage of vehicles owned or operated by the residents thereof and that is not a separate commercial enterprise available to the general public.

**Grade.** The mean curb level, or when the curb level has not been established or all the walls of the building are more than fifteen (15) feet from street lot lines, grade means the mean elevation of the ground adjoining the structure on all sides.

**Height of Building.** The vertical distance from the grade to the highest point on a building.

**Height of Wall.** The vertical distance from the foundation wall or other immediate support of such wall to the top of the wall.

**Home-Based Business.** A business or professional use conducted within a dwelling or its accessory structure(s) which is conducted in whole or part by the occupant(s) of the dwelling unit and which remains subordinate and incidental to the residential use.

**Home Occupation.** A business or professional occupation in which only the occupant(s) of a dwelling unit is (are) engaged, which occurs within the dwelling unit or customarily subordinate accessory structure, which remains subordinate and incidental to the residential use, and which does not alter the appearance or essential character of the residential use, or have signs, parking, traffic, lighting, odors, noise, etc., uncharacteristic of a residential use.

**Hospital.** A private or public institution where the ill or injured may receive medical, surgical, or psychiatric treatment, nursing, food, lodging, etc. during illness or injury.

**Hospital, Veterinary.** A structure designed or converted for the care of and/or treatment of sick or injured domestic animals.

**Hotel.** A building designed for occupancy as the temporary residence of individuals or transients who are lodged with or without meals, and in which no provision is made for cooking in any individual room or suite.

**Housing Unit.** Same as dwelling unit.

**Junk.** Any worn, cast off, or discarded articles or material which is ready for destruction or which has been collected or stored for sale, resale, salvage or conversion to some other use. Any such article or material which is stored on a farm for exclusive use of the owner or occupant of the farm or any article or material which, unaltered, not needed to be disassembled or unfastened from, or unchanged and without further reconditioning can be used for its original purpose as readily as when new shall not be considered junk.

**Junk Dealer.** Shall mean any person, as hereinafter defined, who shall engage in the business of selling, buying, salvaging, and dealing in junk and who maintains and operates a junk yard within the Borough of Mercer.

**Junk Yard.** The use of more than two hundred (200) square feet of the area on any lot or contiguous lots of same ownership outside a building, or the use of any portion of that half of any lot that joins any street, for the storage, keeping or abandonment of junk. Also, the accumulation of junk to height of greater than six (6) feet above ground level on any portion of any lot shall be considered a junk yard. A "junk yard" shall include an automotive wrecking yard. Three or more unregistered and inoperable vehicles stored on any lot outside of a building shall be considered a junk yard.

**Land.** The solid portion of the earth's surface which is capable of being used or occupied.

**Land, Developed.** "Improved land" with buildings.

**Land, Improved.** "Raw land" which has been provided with basic utilities such as water and sewerage, streets, sidewalks, but not buildings.

**Land, Raw.** Vacant land unsubdivided and unimproved (without utilities or streets).

**Landscaping.** Changing, rearranging, or adding to the original vegetation or scenery of a piece of land to produce an aesthetic effect appropriate for the use to which the land is put. It may include reshaping the land by moving the earth, as well as preserving the original vegetation or adding vegetation.

**Land Use.** A description of how land is occupied or utilized.

**Loading Space.** An off-street space or berth on same lot with a building, or contiguous to a group of buildings, for the temporary stopping of commercial vehicles while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access to a public right-of-way.

**Lodge.** (1) A building or group of buildings under single management, containing both rooms and dwelling units available for temporary rental to transient individuals or families; (2) The place where members of a local chapter of an association hold their meetings; and, the local chapter itself.

**Lot.** The basic development unit - an area with fixed boundaries, used or intended to be used customarily by one building and its accessory building(s) and not divided by any road or alley. A "zoning lot" must meet the requirements of the zoning district in which it is located and must front on a public street of an approved private street. A lot shall not include any portion of the street right-of-way.

**Lot Area.** The computed area of a lot contained within the lot lines and measured at grade on a horizontal plane in accordance with current law.

**Lot, Corner.** A lot abutting upon two or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135 degrees. The point of intersection of the street lot lines is the "corner".

**Lot Coverage.** The percentage of the lot area occupied or covered by principal and accessory structures.

**Lot Depth.** The mean horizontal distance between the front lot line and the rear lot line, or the distance between the midpoint of the front lot line and the midpoint of the rear lot line.

**Lot Frontage.** See "Frontage".

**Lot, Interior.** A lot whose side lot lines do not abut a street.

**Lot Lines.** The property lines bounding the lot.

**Lot Line, Front.** The line separating the lot from a street right-of-way.

**Lot Line, Rear.** The lot line opposite and most distant from the front lot line.

**Lot Line, Side.** Any lot line other than a front or rear lot line; a side lot line separating a lot from a street is called a side street lot line.

**Lot Line, Alley.** A lot line separating the lot from an alley.

**Lot, Non-Conforming.** A lot lawfully existing at the effective date of the Zoning Ordinance or by subsequent amendment thereto which does not completely conform with the area regulations and other provisions prescribed for the Zoning District in which it is located.

**Lot of Record.** A lot which is part of a recorded subdivision or a parcel of land which has been recorded or registered in the Office of the Recorder of Deeds of Mercer County, Pennsylvania.

**Lot Width.** The mean horizontal distance between the side lot lines of a lot measured at right angles to the depth.

**Manufactured Home.** Manufactured homes are built as dwelling units with a permanent chassis to assure the initial and continued transportability of the home; used for non-transient residential purposes; constructed with the same or similar electrical, plumbing, and sanitary facilities as immobile housing; and upon arrival at the site where the manufactured home is to be situated for occupancy, it is complete and ready except for minor and incidental unpacking operations, location on foundation supports, connection to utilities and the like. Prefabricated units designed to be assembled or joined together upon arrival at the site and requiring extensive finishing operations prior to occupancy (excluding location on foundation and connection to utilities) shall be considered a prefabricated home rather than a manufactured home.

**Marquee.** Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, but not extending the full width of the structure, generally designed and constructed to provide protection from the weather.

**Mobile Home.** A transportable, self-contained, dwelling designed for occupancy by one family and designed to be transported on its own wheels or on a flatbed or other trailer or detachable wheels; and which may be temporarily or permanently affixed to land; used for nontransient residential purposes; constructed with the same, or similar, electrical, plumbing and sanitary facilities as immobile housing; and upon arrival at the site where the mobile home is to be situated for occupancy as a residence, it is complete and ready for occupancy except for minor and incidental unpacking operations, location on foundation supports, connections to utilities and the like. Prefabricated units designed to be assembled or joined together upon arrival at the site and requiring extensive finishing operations prior to occupancy (excluding location on foundation and connection to utilities) shall not be considered as a mobile home.

**Mobile Home Lot.** A parcel of land within a mobile home park for the placement of a single mobile home and the exclusive use of its occupants.

**Mobile Home Park.** A parcel of land under single ownership which has been specifically planned and improved for the long-term placement of two or more mobile homes for non-transient use in a safe and desirable manner.

**Motel.** Any building or group of attached, semi-attached, or detached buildings (not including a trailer) located on a single lot containing individual sleeping or housekeeping units designed for use by transients.

**Nursing home.** A profit or nonprofit facility licensed by the Commonwealth of Pennsylvania providing long-term skilled nursing care and/or intermediate nursing care to the aged, ill, or disabled.

**Owner.** The duly authorized agent, attorney, purchaser, devisee, fiduciary or any person having vested or contingent interest in the lot, building, or structure in question.

**Parking Area.** An open space on a lot used as an accessory use for the parking of automotive vehicles.

**Parking Space.** A space, whether outside or inside a structure, to be used exclusively as a parking stall for one (1) motor vehicle.

**Permit, Zoning.** A license issued by the Zoning Officer which permits the applicant to proceed with the work specified in the permit application as approved by the Zoning Officer.

**Person.** An individual, association, co-partner or corporation.

**Personal care home.** A profit or nonprofit facility licensed by the Commonwealth of Pennsylvania providing lodging, food, and some support services to the aged, ill, or disabled.

**Personal storage unit.** A building or group of buildings containing storage units or spaces intended to be rented or leased individually to persons and/or businesses for storage of their belongings and/or vehicles. A commercial/industrial warehouse containing storage space not generally available to the public for rent or lease shall not be considered a personal storage unit.

**Planning Code.** The Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended by Act 170 of 1988, as further amended by Act 209 of 1990, and Act 131 of 1992, and including any further amendments.

**Plat.** A map, plan or chart of a section or subdivision of the Borough indicating the location and boundaries of individual lots.

**Plot.** A parcel of land consisting of one or more lots or portions thereof which is described by reference to a recorded plat or by metes and bounds.

**Porch.** A roofed over structure projecting from the front, side or rear wall of a building. A porch is considered a part of the principal building and is not permitted to extend into any required yards.

**Projections (into yards).** Parts of buildings such as architectural features which are exempted, to a specified amount, from the yard requirements of the Zoning Ordinance.

**Recreation, Commercial.** Recreational facilities operated as a business and open to the general public for a fee.

**Recreation, Non-Commercial.** Recreation facilities operated by a non-profit organization and open only to bonafide members of such organization.

**Recreation, Public.** Recreation facilities operated as a non-profit enterprise by the Borough, and any other governmental entity, or any non-profit organization which are open to the general public.

**Recreational Equipment, Major.** Major recreational equipment, as defined for purposes of these regulations, includes travel trailers, pickup campers or coaches, motor homes, camper/tent trailers, boats and boat trailers, and the like, and cases or boxes used for transporting recreational equipment, whether or not occupied by such equipment. Specific definitions include:

**Travel Trailer.** A vehicular, portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreational, and vacation purposes permanently identified as a travel trailer by the manufacturer of the trailer.

**Pickup Camper or Coach.** A structure designed primarily to be mounted on a pickup truck or truck chassis with sufficient to render it suitable for use as a temporary dwelling for travel, recreational, or vacation purposes.

**Motor Home.** A portable dwelling designed and constructed as an integral part of a self-propelled vehicle. It can be either a converted truck or bus or a custom-built unit.

**Camping/Tent Trailer.** Usually consists of a fold-out tent mounted completely on a low trailer.

**Recreation Space.** An area of land unoccupied by a building and/or other structure which is maintained to permit human use and recreation.

**Recreational Vehicle Park.** A plot of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes.

**Road.** Any street, highway, or other public roadway which is dedicated to public use by governmental authority.

**Screening.** A method of visually shielding or obscuring abutting or nearby structures or uses from another by fencing, walls, or densely planted vegetation.

**Setback.** See "Building Setback".

**Sign.** As defined in Article VIII of this ordinance.

**Site.** A plot of land intended or suitable for development.

**Site Plan.** A plan, to scale, showing uses and structures proposed for a parcel of land as required by the regulations involved. It includes lot lines, streets, building sites, reserved open space, buildings, major landscape features - both natural and man-made - and the locations of proposed utility lines.

**Special Exception.** A provision which permits, under specified terms and conditions, particular uses to locate in a zoning district without detriment to the routine and orderly development as provided for that zoning district. The provision is granted by the Zoning Hearing Board.

**Story.** A part of a building comprised between a floor and a floor or roof next above.

**Street.** See "Road".

**Structure.** A combination of materials forming a construction for occupancy and/or use including among other, a building, stadium, reviewing stand, platform, staging, observation tower, radio tower, water tank, trestle, pier, wharf, open shed, coal bin, shelter, fence, wall and a sign.

**Structure, Accessory.** An attached, semi-detached or detached structure whose use is customarily incidental and subordinate to that of the principal structure or use and which is located on the same lot as the principal structure or use.

**Structure, Non-Conforming.** A legal structure existing at the effective date of the Zoning Ordinance or by a subsequent amendment thereto which does not completely conform to the height regulations, area regulations, and other provisions prescribed for the Zoning District in which it is located.

**Structure, Principal.** A structure in which is conducted the principal use of the lot on which it is located.

**Subdivision.** The division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels, or other divisions of land, including changes in existing lot lines for

the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership, or building or lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten (10) acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

**Terminal.** (1) A place where transfer between modes of transportation takes place; (2) A terminating point where goods are transferred from a truck to a storage area or to other trucks, or picked up by other forms of transportation.

**Trailer.** Any licensed or unlicensed piece of mobile equipment designed or constructed to be towed or pulled by a motor vehicle.

**Transient.** Any individual residing or stopping in the municipality for less than thirty (30) days at one time.

**Use, Accessory.** A use customarily incidental and subordinate to the principal use of a building, structure and/or land or a use not the principal use which is located on the same zoning lot as the principal building, other structure and/or land, except parking and/or loading facilities as herein provided.

**Use, Non-Conforming.** A legal use of a building, other structure and/or land existing at the effective date of the Zoning Ordinance or by a subsequent amendment thereto, which does not completely conform with the use regulations and other provisions prescribed for the Zoning District in which it is located.

**Use, Principal.** The main or primary purpose, for which a building, other structure and/or land is designed, arranged, or intended, or for which it may be used, occupied or maintained under the Zoning Ordinance. All other uses on the same lot and incidental or supplemental thereto and permitted under this Zoning Ordinance, shall be considered accessory uses.

**Utility, Private or Public.** (1) Any agency which, under public franchise or ownership, or under certificate of convenience and necessity, provides the public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection, or other similar service; (2) A closely regulated private enterprise with an exclusive franchise for providing a public service.

**Variance.** Relief granted by the Zoning Hearing Board, upon application in specific cases, from the terms of the Ordinance as will not be contrary to the public interest where owing to special conditions a literal enforcement of the provisions of the Zoning Regulations will result in unnecessary hardship, and so that the spirit of the Zoning Regulations will be observed and substantial justice done.

**Visual Obstruction.** Any fence, wall, sign, structure, tree, hedge, or shrub, or a combination of them which limits visibility.

**Written Notice.** Shall have been served if delivered in person to the person intended or if delivered or sent by certified mail to the last known address of the person intended.

**Yard.** An unoccupied space, other than a court, on the same lot with a building, unobstructed artificially from the ground to the sky, except as otherwise provided herein.

**Yard, Minimum Dimension.** The minimum, permitted horizontal distance between a lot line and the nearest point of a main wall of a principal building or structure exclusive of permissible yard encroachments and occupancy and street projections as provided by this Ordinance. The measurement of the minimum dimension shall be made at grade and perpendicular to the lot line and building or structure.

**Yard, Rear.** A yard across the full width of the lot, extending from any point of a wall of a building or structure to the rear lot line of the lot.

**Yard, Side.** A yard extending from any point of a wall of a building or structure to the adjacent side lot line of the lot, extending from the front yard to the rear yard.

# ARTICLE IV: ZONING DISTRICTS

## Section 400: Zoning districts

Mercer Borough is hereby divided into the following zoning districts:

<u>Full name</u>	<u>Short name</u>
1. Residential Single Family	R-1
2. Residential General	R-2
3. Residential Mixed Use	R-3
4. Commercial Town Center	C-1
5. Commercial General	C-2
6. Industrial	I
7. Planned Opportunity	PO

## Section 401: Purpose and character of zoning districts

**Section 401.1: R-1 Residential Single Family** – Single-family homes with standards for low-density, larger lots & setbacks, and a more suburban style.

**Section 401.2: R-2 Residential General** – Residential uses (single and multiple-family) designed to match the style of the existing, older neighborhoods in the borough – smaller lots & setbacks (new uses conforming to an average block setback) with orientation to the sidewalk & street.

**Section 401.3: R-3 Residential Mixed Use** – Residential uses with a flexible allowance for lower intensity commercial uses as a reuse of older and likely larger residential uses that maintain the existing residential character – closeness and orientation to the sidewalk & street, minimal signage & lighting, parking to the rear or off the alley.

**Section 401.4: C-1 Commercial Town Center** – Mercer's downtown and near downtown with a variety of commercial uses and standards to preserve the existing character of development – sidewalk-fronting buildings, pedestrian orientation, dense development including common walls, commercial uses at street level with mixed uses above.

**Section 401.5: C-2 Commercial General** – The same uses as the C-1 district, but a more suburban style with entries, signs & parking oriented to the highway and quality of development enhanced with landscaping requirements and buffer/screening of nearby non-commercial uses.

**Section 401.6: I Industrial** – General industrial uses which conform to provisions allowing such uses while insuring the health, safety and welfare of the entire community.

**Section 401.7: PO Planned Opportunity** – A district not oriented to specific uses, but oriented to performance standards documented through a plan submittal and conditional approval process – any of a variety of tax-generating residential, light business, or light industrial uses which meet performance standards of low to medium density and impact mitigation.

## **Section 402: Boundaries of zoning districts**

The boundaries of the zoning districts shall be as shown on the Zoning Map. Where uncertainty exists with respect to the boundaries of the various zoning districts, the following rules shall apply:

**402.1: Where a zoning district boundary follows a street, alley, railroad, or watercourse** – The centerline of such street, alley, railroad, or watercourse shall be interpreted to be the zoning district boundary.

**402.2: Where a zoning district boundary approximately parallels a street or alley** – The boundary shall be interpreted as being parallel to it and at such distance from it as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on the Zoning Map.

**402.3: Where a zoning district boundary approximately follows a lot line** – The lot line shall be interpreted to be the zoning district boundary.

**402.4: Submerged areas** – Where areas within the Borough are underwater and are bounded by two or more zoning districts, the boundary lines of these districts shall be extended to the center of the body of water.

**402.5: Annexed lands** – Any land annexed to or made a part of the Borough subsequent to the adoption of this ordinance shall immediately be classified as R-1 Residential Single Family as of the effective date of annexation.

**402.6: Vacation of public ways** – Whenever any street or alley is vacated, the zoning district or districts adjoining the side of such street or alley shall be automatically extended to the center of the vacated area.

**402.7: Where a zoning district boundary does not follow a physical feature or lot line and none of the previous rules apply** – The location of such boundary, unless the same is indicated by dimensions shown on the Zoning Map, shall be determined by the use of the map scale appearing thereon.

# ARTICLE V: PERMITTED USES

## Section 500: Permitted principal and accessory uses table

The following table lists principal and accessory uses that are permitted in each zoning district. Uses shall be interpreted according to the common meaning of the term or as defined in Article III. Uses not specifically listed shall not be permitted.

Where listed uses are followed by a section or sub-section number in parentheses, refer to that section or sub-section for additional conditions or criteria that apply to that use.

R-1 Residential Single Family District	
<u>Principal uses</u>  Single-family dwellings Public, non-commercial parks & recreation Public & private schools Churches Essential services	<u>Accessory uses</u>  Garage, storage shed, swimming pool Home occupation Shelter for domestic pets Other clearly incidental & subordinate uses
R-2 Residential General District	
<u>Principal uses</u>  Single-family dwellings Multi-family dwellings (1-4 units) Agriculture & farms Public, non-commercial parks & recreation Public & private schools Personal care homes & nursing homes Churches Cemeteries Bed & breakfast establishments Borough government buildings & services Essential services	<u>Conditional uses</u>  Multi-family dwellings 5 or more units (700.2) Mobile home parks (700.5) Public parking lots  <u>Accessory uses</u>  Garage, storage shed, swimming pool Home occupation Shelter for domestic pets Other clearly incidental & subordinate uses

### R-3 Residential Mixed Use District

#### Principal uses

Same uses as R-2 district

#### Conditional uses

Reuse of existing or former residential structure for personal & health service establishments or business & professional offices (701.1)

#### Accessory uses

Garage, storage shed, swimming pool  
Home occupation  
Home-based business (700.4)  
Shelter for domestic pets  
Other clearly incidental & subordinate uses

### C-1 Commercial Town Center District

#### Principal uses

Retail sales and/or product service  
Personal & health service establishments  
Food and grocery stores  
Eating and drinking establishments  
Business, professional & government offices  
Automobile & truck sales and/or service  
Passenger transportation terminals  
Parking lots and structures  
Motels and hotels  
Clubs, lodges & fraternal organizations  
Commercial recreation and amusement  
Funeral homes  
Borough government buildings & services  
Dwelling units in same building as a commercial use but not on street-level floor  
Essential services

#### Accessory uses

All clearly incidental & subordinate uses

### C-2 Commercial General District

#### Principal uses

Same uses as C-1 district except dwelling units are prohibited  
Veterinary clinic

#### Accessory uses

Same uses as C-1 district

## I Industrial District

### Principal uses

Industrial establishments for manufacturing, processing, packing & bottling  
Industrial research & development establishments  
Wholesale and warehousing  
Storage and distribution facilities  
Sawmills  
Agricultural processing establishments  
Truck transportation and loading terminals  
Borough government buildings & services  
Essential services  
Power generation stations

### Conditional uses

Establishments for storage and/or sale of junk (700.7)  
Sanitary landfill, solid waste transfer stations, or similar facility for processing and disposal of solid waste (700.8)  
Adult entertainment establishments (706)

### Accessory uses

All clearly incidental & subordinate uses

## PO Planned Opportunity District

### Principal uses

Same principal uses as R-1 and R-2 districts

### Conditional uses

Planned development containing multi-family dwellings of 5 or more units or C-2 and/or I district permitted uses (705)

### Accessory uses

All clearly incidental & subordinate uses

Forestry activities, including but not limited to timber harvesting, shall be a permitted use by right in all zoning districts.

## ARTICLE VI: LOT, YARD & HEIGHT REQUIREMENTS

Zoning District	Min. Lot Area	Min. Lot Width	Building Set-back	Min. Side Yard*	Min. Rear Yard*	Max. Height	Max. Lot Coverage
<u>R-1</u> Residential Single Family	7,200 sq. feet	60 feet	75 feet	10 feet P 5 feet A	30 feet P 5 feet A	30 feet	30%
<u>R-2</u> Residential General  <u>R-3</u> Residential Mixed Use	6,000 sq. feet (**multi family standard below)	60 feet	Build-to line	10 feet P 5 feet A	30 feet P 5 feet A	45 feet  *20 feet min. in R-3	30%
<u>C-1</u> Commercial Town Center	None	None	Build-to Line ±5 feet	None P 5 feet A	20 feet P 5 feet A	45 feet *20 feet min.	70%
<u>C-2</u> Commercial General	10,000 sq. feet	100 feet	75 feet	10 feet P 5 feet A	20 feet P 5 feet A	45 feet	50%
<u>I</u> Industrial	10,000 sq. feet	100 feet	75 feet	Equal to height of adjacent structure ***	Equal to height of adjacent structure ***	45 feet	50%
<u>PO</u> Planned Opportunity	Shall meet the above standards for R-1 and R-2 zoning districts, except that planned developments with multi-family dwellings of 5 or more units or C-2 or I district uses permitted as a conditional use shall meet standards specified in Section 705						

\* P – Principal structure(s)

A – Accessory structure(s)

\*\* Multi-family dwellings minimum lot area:

4,000 sq. ft. for first dwelling unit

Plus 2,000 sq. ft. for each of next 11 dwelling units

Plus 1,000 sq. ft. each additional dwelling unit

\*\*\* Minimum yard of 100 feet when adjoining a Residential Zoning District

## **Section 600: Setback Determinations**

1. Where the façade placement varies between permitted structures along a block, the Zoning Officer shall determine the Build to Line by measurement from the curb line to the façade of the nearest structure to the street along the same block. New construction shall be located at or within 10 feet behind the Build-to Line as determined.
2. Build-to Line shall be determined by the Zoning Officer. Variances to this shall be determined only by the Zoning Hearing Board.
3. Churches and schools may be placed up to 20' beyond the build to line.
4. Additions to an existing structure shall occur behind the front of the existing structure regardless of the build-to line of the remaining block. Variances to this shall be determined only by the Zoning Hearing Board.

## **ARTICLE VII: ADDITIONAL USE CRITERIA**

### **Section 700: Additional criteria for specific uses**

#### **700.1: All dwellings**

1. A dwelling unit shall have a minimum floor area of 750 square feet.
2. When an open air space exists between the dwelling and its foundation and or ground, the space shall be enclosed by a continuous material consistent in quality and design with the upper portion of the dwelling in order that there is allowed no penetration of air, outside elements, or animals into the structure's interior.
3. All dwelling structures shall be placed on a permanent foundation made of concrete or other permanent material whose footing extends below the frost line. In the case of manufactured homes, they shall be securely placed upon the foundation as per the manufacturer's instructions.
4. Manufactured homes on single-family lots shall comply with the U.S Department of Housing and Urban Development's (HUD's) Manufactured Housing Standards, The National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq; 24 CFR Part 3280 and Part 3282, and:
  - A. Shall have been constructed after July 15, 1976 and contain the manufacturer's certification – RED LABEL – that the home is built in accordance with HUD's construction and safety standards. HUD standards cover body and frame requirements, thermal protection, plumbing, electrical, fire safety, and other aspects of the home.
  - B. Shall have the visible wiring and plumbing connections certified as safe and safely connected to public lines by a certified plumber and electrician if said home is more than seven (7) years past its date of manufacture.

#### **700.2: Multi-family dwellings 5 or more units**

1. Multi family buildings shall be constructed to a compatible height and scale of other structures in the neighborhood, including:
  - A. Height of proposed buildings may not exceed the height adjacent buildings by more than 15 feet or one full story. Compatibility of roof shapes in relation to the neighboring buildings shall be a consideration in the design of multi family structures.
  - B. Proposed buildings must have a minimum of one entry door on the front of the building for pedestrian orientation.

2. Minimum lot area shall be 4,000 square feet for the first dwelling unit plus 2,000 square feet for each additional dwelling unit up to 11 and 1000 square feet for each additional unit beyond eleven units.
3. Maximum number of 8 dwelling units shall be permitted per structure.
4. Adequate provision must be made for light, air, access, and privacy in the arrangement of the buildings to each other. Each dwelling unit shall have a minimum of one exterior exposure.
5. Internal driveways built and maintained for private service to the development shall be paved and shall be located and have capacity to:
  - A. Prevent blockage of vehicles entering or leaving the site and minimize conflicts between pedestrian/vehicular and vehicular/vehicular movements within the site.
  - B. Provide adequate area for servicing of the site by delivery trucks, refuse collection, and other service vehicles without blockage or interference with the use of driveways or off-street parking.
6. Adequate storm drainage facilities shall be installed to ensure that storm water does not flow onto abutting property, sidewalks, or streets in such quantities as to cause detrimental effect or inconvenience.
  - A. Design of storm water management shall meet the requirements as specified in the Mercer Borough Subdivision Regulations.
  - B. Maximum rates of storm water runoff from the property after development shall not exceed the rate of runoff prior to development.
  - C. Drainage of increased storm water runoff caused by the development shall be managed so as to be directed away from buildings and prevent ponding, accelerated erosion, or flowing onto adjacent properties using the Best Management Practices as specified by the PA Association of Conservation Districts.
  - D. Where access drives meet streets and roads, storm drains may be required where such could connect to municipal storm system. Additional flow into surface gutters is discouraged.
7. Open space requirements:
  - A. A minimum of ten (10) percent of the gross area of the development or 1,000 square feet per dwelling unit, whichever is greater, shall be provided for recreation space. The recreation space shall be suitable for outdoor recreational activity and shall be easily accessible to all units. The applicant shall show how such recreation space shall be maintained permanently and shall present implementing documents to ensure such maintenance.

- B. No part of this open space may be included as part of the buffer or landscape requirements of the property.
  - C. At the determination of the Zoning Hearing Board, this requirement may be reduced by 50% if there is a public park within 500 feet of the proposed development.
8. Multi-family residential developments shall provide landscaping in order to minimize nuisances and protect residents from dirt, litter, pollution, noise, and glare of lights, and excessive heat. These requirements shall apply where a new development is proposed on vacant land, an existing structure will be expanded in gross floor area by 50% or greater, or an existing use is removed and a new development is proposed.
- A. Landscape materials shall meet the following specifications:
    - Canopy tree – deciduous, 35’ minimum mature height
    - Ornamental tree – 6’ high at planting
    - Evergreen tree – 6’ high at planting
    - Shrub – 18” high at planting, reaching a mature size of 40”
  - B. Any part or portion of a lot developed for multi-family uses which is not used for buildings, other structures, parking or loading spaces, or aisles, driveways, sidewalks, and designated storage areas shall be planted and maintained with grass or other all season groundcover vegetation. Grass shall be kept neatly mowed.
  - C. Preservation of existing vegetation is encouraged. Maintaining 1 existing tree on site shall meet the required planting of 2 new trees.
  - D. Minimum building perimeter planting shall be 6’ of planting along any building facade that faces a street or parking area, and shall include the following for each 25’ of building front:
    - One (1) ornamental tree and 3 shrubs, and
    - One (1) canopy tree shall be provided on site for each dwelling unit, to be placed adjacent to either street or parking areas.
  - E. All planting shall be installed and maintained in healthy condition by the developer/owner for a minimum of 18 months from the date of installation.
  - F. Off-street parking areas shall provide landscaping as follows:
    - A minimum five-foot wide landscape planting strip shall be provided where the parking area abuts a street or road, excluding alleys. The planting strip may be interrupted only for permitted entrances or access driveways.
    - At least 5% of the interior parking area shall be landscaped with plantings, and at least one tree for each ten (10) parking spaces shall be installed. Interior parking lot plantings are required exclusive of other planting requirements. At least 50% of

all planting shall occur between the street on which the structure(s) fronts and the front of the parking areas.

Landscaping shall be located in protected areas such as along walkways, in center islands, at the ends of parking bays, or between parking spaces. All landscaping shall be placed so that it does not obstruct the sight distance for automobiles moving within the parking area or entering or exiting the parking area.

Plant types shall include a mixture of canopy and evergreen trees and shrubs. Evergreens should be used along the perimeter of the parking area for screening and canopy trees should be used for shade within the parking area.

9. Adequate sidewalk access to open spaces and parking areas shall be provided for each dwelling unit.
10. In addition to the requirements of a zoning permit application (see Article 12), new construction or the conversion of an existing structure into Multi-family dwellings of 5 or more dwelling units shall comply with the following plan requirements:
  - A. A site plan shall be submitted to the Zoning Officer at a scale of 1"=50', 1"=30', or 1"=20' on up to 24" x 36" pages.
  - B. The site plan shall consist of existing property information including the property survey, existing topography shown at 2' contours, existing utilities, all other significant features whether natural or man-made. The site plan must also show proposed development information including proposed structures, utility connections, parking and access plans, landscaping and buffers, grading and storm water management plan.
  - C. A storm water management plan must be submitted documenting compliance with the previously stated requirements. The storm water management plan must receive a letter of acceptance from the Borough Engineer.
  - D. The site plan shall be reviewed by the Borough Planning Commission and shall show proof of compliance with all provisions of this Zoning Ordinance and the Mercer Borough Subdivision Regulations.

**700.3: Home-based business** – Where permitted, a home-based business shall comply with the following:

1. It shall be conducted entirely within either the dwelling unit or accessory structure provided that such accessory structure is clearly accessory and subordinate to the dwelling.
2. No more than 25% of the combined gross floor area of the dwelling and accessory structure(s) shall be devoted to the home-based business.
3. No more than 2 persons other than the occupants of the dwelling shall be employed at the site.

4. Signage for the home occupation shall conform to signage permitted for residential districts.
5. Sufficient off-street parking shall be provided for the home-based business according to the nature of the business as provided for in Section 900 and shall be located behind the building setback line. Such parking shall be provided in addition to the off-street parking required for the dwelling.
6. The home-based business shall not produce offensive noise, vibration, smoke (or other particulate matter), heat, humidity, glare, other objectionable effects, traffic, or signs which are not consistent with or characteristic of other dwellings in the area.

#### **700.4: Mobile home parks**

1. A mobile home park shall have a minimum size of 5 acres.
2. Parks shall be designed to serve the long-term placement of mobile homes.
3. Individual mobile home lots shall meet the following requirements:
  - A. Each lot shall be immediately adjacent to and have access to an approved internal street without the necessity of crossing any other space.
  - B. Each lot shall have a minimum width of 50 feet and a minimum area of 5,000 square feet.
  - C. Each lot shall have a minimum side and rear yard of 10 feet. Mobile home entrances may utilize stoops, landings, patios, or awnings which may extend up to 5 feet within the 10-foot side or rear yard.
  - D. Each lot shall provide off-street parking in accord with requirements in Article IX.
4. The mobile home park and any mobile home lots shall conform to the building setback requirements for the applicable zoning district where the park or its lots abut a public street or road, except that each mobile home lot shall have a minimum distance of 20 feet between a mobile home and the cartway edge of any internal street built and maintained for private use within the park.
5. No mobile homes shall be permitted to have visible, uncloseable openings that allow penetration of air, outside elements, or animals into the structure's interior.
6. All mobile homes shall be placed on a basement foundation, concrete pad, piers, or other permanent foundation with footings to a minimum depth of 36" and secured, anchored, or tied down to withstand a wind pressure of 15 pounds per square foot on an exposed vertical surface.
7. Internal streets built and maintained for private service to the development shall be paved and shall be located and have capacity to:

- A. Prevent blockage of vehicles entering or leaving the site and minimize conflicts between pedestrian/vehicular and vehicular/vehicular movements within the site.
  - B. Provide adequate area for servicing of the site by delivery trucks, refuse collection, and other service vehicles without blockage or interference with the use of internal streets or off-street parking.
8. Adequate storm drainage facilities shall be installed to ensure that storm water does not flow onto abutting property, sidewalks, or streets in such quantities as to cause detrimental effect or inconvenience.
- A. Design of storm water management shall meet the requirements as specified in the Mercer Borough Subdivision Regulations.
  - B. Maximum rates of storm water runoff from the property after development shall not exceed the rate of runoff prior to development.
  - C. Drainage of increased storm water runoff caused by the development shall be managed so as to be directed away from buildings and prevent ponding, accelerated erosion, or flowing onto adjacent properties using the Best Management Practices as specified by the PA Association of Conservation Districts.
  - D. Where access drives meet streets and roads, storm drains may be required where such could connect to municipal storm system. Additional flow into surface gutters is discouraged.
9. Repair, maintenance, storage areas or facilities, and sewage treatment buildings shall be effectively and attractively screened from the mobile home lots, internal streets, and public roads or streets by man-made screens or natural plant materials. All mobile homes shall be located at least fifty (50) feet from any of the above facilities and structures.
10. A minimum of ten (10) percent of the gross park area or 1,000 square feet per unit, whichever is larger, shall be provided for recreational space. This recreational space shall be suitable for outdoor recreational activity and shall be easily accessible to all manufactured home lots. The applicant shall prepare a Recreation Plan for the required recreational space, including provisions for maintenance.
11. All mobile home lots within the mobile home park shall be improved for use by independent mobile homes, including the provision of adequate and safe water supply, sewage disposal, solid waste disposal, and other utility systems. Underground installation of the utility distribution and service lines is required except where it is infeasible due to site-specific conditions (such as shallow bedrock).
12. The mobile home park owner shall be responsible for the maintenance of all park facilities; including areas designated as open space, recreation areas, streets, sewage disposal and water supply systems, and solid waste collection.

### **700.5: Recreational vehicle parks or campgrounds**

1. Minimum lot area shall be 2 acres.
2. Drainage of increased stormwater runoff caused by the development shall be managed so as to prevent ponding, accelerated erosion, or flooding of adjacent properties and roads.
3. No tent, camp site, or building shall be located within 75 feet of a neighboring lot line or an abutting public street or road.
4. An internal street system and off-street parking shall be provided for access to recreational vehicle or tent sites and for convenient and safe movement of patrons and recreational vehicles with minimal disturbance to the environment.

### **700.6: Establishments for the storage and/or sale of junk**

1. The lot on which such are located shall be enclosed on all sides, except for an entrance or exit not over 25 feet in width, by a solid wall or fence at least 6 feet in height and maintained in good condition. As an alternative, an open fence at least 6 feet in height and surrounded, except for an entrance or exit described above, by evergreens at least 6 feet in height and planted no further than 6 feet apart so as to form a solid screen may be used.
2. It shall not emit any offensive odors or noxious, toxic, or corrosive fumes or gases.
3. It shall not exhaust into the air any excessive dust or smoke.
4. Buildings on the property shall be classified as fire-resistant and activities shall be carried on in such a manner and with such precautions against fire and explosion hazards as to produce no exposure hazards to adjacent properties.
5. Junk shall not be allowed to accumulate or be stacked or piled to a height of greater than six (6) feet above ground level.
6. It shall meet all applicable requirements including but not limited to waste management and air and water quality of state and federal agencies including but not limited to the Pennsylvania Department of Environmental Protection, Pennsylvania Department of Transportation, and U.S. Environmental Protection Agency.

### **700.7: Sanitary landfills, solid waste transfer station, or similar facilities for processing and disposal of solid waste**

1. The applicant shall comply with all applicable regulations and requirements of the Pennsylvania Department of Environmental Protection and shall present to the Borough Council an approved permit for the proposed facility from the Pennsylvania Department of Environmental Protection.

2. The applicant shall provide the Borough with a copy of the permit application submitted to the Pennsylvania Department of Environmental Protection and all accompanying site plans, engineering data, and other information.
3. The applicant shall grant a right of entry to the proposed facility to Borough Council or its authorized representatives, upon written request by the Borough, in order to inspect the facility and ensure that all applicable regulations and requirements are being met while the facility is in operation.
4. The Borough Council may impose other conditions, based on consideration of the unique physical conditions and natural and man-made characteristics of the proposed facility site and its surroundings, which do not violate the minimum standards of the Pennsylvania Department of Environmental Protection and which are reasonably necessary to provide maximum protection to the Borough's underground and surface water supplies and to minimize adverse impacts to surrounding properties.

## **Section 701: Additional R-3 Residential Mixed Use District regulations**

**701.1: Reuse of existing or former residential structure for personal & health service establishments or business & professional offices** – Such reuse may be permitted as a conditional use in the R-3 district provided:

1. It shall be conducted entirely within the existing or former residential structure, provided the structure retains its residential appearance and character, and it shall not produce offensive noise, vibration, smoke, heat, humidity, or glare from lights shining on adjacent properties.
2. Sufficient off-street parking shall be provided in accord with Section 900 and shall be located behind the principal building and accessed from the rear alley. Access from the front street may be utilized only if such access exists and has been historically utilized by the existing or former residential structure. Parking areas shall be screened in accord with Section 901.1, 4.
3. Maximum area for ground signs may be double that provided for in Section 803.2.

## **Section 702: Additional C-1 Commercial Town Center District regulations**

**702.1: Provisions of use** – Any permitted principal and/or accessory use shall be subject to the following use regulations.

1. For commercial uses located on corner lots where one street is predominantly residential and one street is predominantly commercial, any commercial structure shall front on the street which is predominantly commercial.

2. Any business, servicing, or processing shall be conducted within a completely enclosed building, except for parking and loading facilities and for "drive-in" type establishments offering goods or services to customers waiting in parked motor vehicles.
3. All accessory storage of junk, waste, discarded or salvaged material, machinery or equipment, including automobile, truck, or other vehicle parts shall not be permitted except within a completely enclosed structure.
4. Any business establishment shall deal directly with the consumer only and any work done on the premises shall be for sale on the premises.
5. Any display of goods shall be behind the building setback line.
6. Adequate storm drainage facilities shall be installed to ensure that storm water does not flow onto abutting property, sidewalks, or streets in such quantities as to cause detrimental effect or inconvenience. Design of storm water management shall meet the requirements as specified in the Mercer Borough Subdivision Regulations. Maximum rates of storm water runoff from the property after development shall not exceed the rate of runoff prior to development.
7. All exterior lighting shall be so placed and shielded so as not to create a nuisance for adjacent properties.

#### **702.2: Parking and access requirements**

1. For existing structures – Parking requirements in the C-1 district are waived due to the availability of public parking and the character of the existing structures. Where parking is provided on the property, it shall conform to the standards of this ordinance.
2. For new mixed-use structures in the C-1 district – Parking requirements may be reduced to 1 space per use or dwelling unit, when such buildings provide store front area at street level along the build-to-line and provide residential dwelling units or office space on additional floors.
3. Access driveways and entrances shall not be permitted along frontages of properties unless a property or properties in combination containing existing or proposed development have no legal access, whether improved or unimproved, to said property or properties.

### **Section 703: Additional C-2 Commercial General District regulations**

**703.1: Provisions of use** – Any permitted principal and/or accessory use shall be subject to the following use regulations.

1. For commercial uses located on corner lots where one street is predominantly residential and one street is predominantly commercial, any commercial structure shall front on the street which is predominantly commercial.

2. Any business, servicing, or processing shall be conducted within a completely enclosed building, except for parking and loading facilities and for "drive-in" type establishments offering goods or services to customers waiting in parked motor vehicles.
3. All accessory storage of junk, waste, discarded or salvaged material, machinery or equipment, including automobile, truck, or other vehicle parts shall not be permitted except within a completely enclosed structure.
4. Any business establishment shall deal directly with the consumer only and any work done on the premises shall be for sale on the premises.
5. Any display of goods shall be behind the building setback line.
6. Adequate storm drainage facilities shall be installed to ensure that storm water does not flow onto abutting property, sidewalks, or streets in such quantities as to cause detrimental effect or inconvenience. Design of storm water management shall meet the requirements as specified in the Mercer Borough Subdivision Regulations. Maximum rates of storm water runoff from the property after development shall not exceed the rate of runoff prior to development.
7. All exterior lighting shall be so placed and shielded so as not to create a nuisance for adjacent properties.
8. Access driveways and entrances shall be permitted in a number and locations in accord with applicable law. Where a state highway occupancy permit is not required, the Zoning Officer may require the permit applicant to submit engineering data and/or traffic analysis to demonstrate that the proposed plan of access driveways and entrances are of a number and locations in which sight distance is adequate to allow safe movement of traffic in or out of the driveway or entrance, the free movement of normal highway traffic is not impaired, and the driveway or entrance will not create a hazard or an area of undue traffic congestion on highways to which it has access.

**703.2: Landscaping requirements** – Uses and/or developments shall provide landscaping in accord with the following paragraphs in order to minimize nuisances and protect patrons from dirt, litter, pollution, noise, and glare of lights, and excessive heat. These requirements shall apply where a new use/development is proposed on vacant land, an existing use/development will be expanded in gross floor area by 50% or greater, or an existing use/development is removed and a new use/development is proposed.

1. Any part or portion of a lot developed for "C-2" District uses which is not used for buildings, other structures, parking or loading spaces, or aisles, driveways, sidewalks, and designated storage areas shall be planted and maintained with grass or other all season groundcover vegetation. Grass shall be kept neatly mowed. Landscaping with trees and shrubs is permitted and encouraged.
2. Off-street parking areas shall provide landscaping as follows:

- A. A minimum five-foot wide landscape planting strip shall be provided where the parking area abuts a street or road, excluding alleys. The edges of said landscape planting strip shall be curbed. The planting strip may be interrupted only for permitted entrances or access driveways.
- B. At least 5% of the interior parking area shall be landscaped with plantings, and at least one tree for each ten (10) parking spaces shall be installed. Interior parking lot plantings are required exclusive of other planting requirements. At least 50% of all planting shall occur between the front face of the structure(s) and the street on which the structure(s) fronts.
- C. Landscaping shall be located in protected areas such as along walkways, in center islands, at the ends of parking bays, or between parking spaces. All landscaping shall be placed so that it does not obstruct the sight distance for automobiles moving within the parking area or entering or exiting the parking area.
- D. Plant types shall include a mixture of hardy evergreen and deciduous trees. Evergreens should be used along the perimeter of the parking area for screening and deciduous trees should be used for shade within the parking area.

**703.3: Buffer and Screening Requirements for C-2 District Uses** – Where any C-2 District permitted principal and/or accessory use abuts any land zoned Residential, the following buffer and screening shall be required. These requirements shall apply in instances where such use is being newly developed on vacant land, expanded in floor area by 50% or greater, or removed and a new use developed.

- 1. A buffer strip at least 10 feet wide shall be provided and maintained along the entire length of a side or rear yard where it abuts a Residential Zoning District. Buffer strips shall not be used for parking, storage of vehicles, equipment, or materials, nor for any other use incompatible with their purpose as a visual, noise, dust, and pollution barrier.
- 2. The buffer strip shall contain suitable screening, defined as either of the following:
  - A. A solid fence or wall, architecturally compatible with existing structures in the area, no less than 4 feet nor more than 6 feet in height; or
  - B. A sight-obscuring planting of evergreens, not less than 4 feet in height at the time of planting and of a variety that will maintain full, dense growth from the ground up to a height of not less than 6 feet upon maturity, planted at a spacing of the lesser of 8 feet or the diameter of a mature specimen of the species being planted.
- 3. Areas of the buffer strip not covered with a fence, wall, or screening plantings, shall be planted with grass or other appropriate ground cover vegetation.
- 4. Installation and maintenance of the buffer and screening and other landscaping required by Section 703 shall be the responsibility of the owner of the property on which the "C-2" District permitted use is located. Installation must be completed prior to issuance of a Certificate of Use and Occupancy by the Zoning Officer. Fences or walls must be

maintained in safe and structurally sound condition. Dead or diseased plants shall be removed and replaced in a timely manner. Grass shall be kept neatly mowed.

## **Section 704: Additional I Industrial District Regulations**

**704.1: General Provisions of Use** – Any permitted principal and/or accessory use shall be subject to the following use regulations:

1. It shall provide necessary shielding or other protective measures against interference occasioned by mechanical equipment, or uses or processes with electrical apparatus, to nearby residences.
2. Access driveways and entrances shall be permitted in a number and locations in accord with applicable law. Where a state highway occupancy permit is not required, the Zoning Officer may require the permit applicant to submit engineering data and/or traffic analysis to demonstrate that the proposed plan of access driveways and entrances are of a number and locations in which sight distance is adequate to allow safe movement of traffic in or out of the driveway or entrance, the free movement of normal highway traffic is not impaired, and the driveway or entrance will not create a hazard or an area of undue traffic congestion on highways to which it has access.
3. All accessory storage of junk, waste, discarded or salvaged material, machinery, or equipment shall not be permitted except within a completely enclosed structure. Or if the lot area devoted to such use is over two-hundred (200) square feet in area, the owner may have the alternative of enclosing it on all sides, except for an exit and entrance not over twenty-five (25) feet in width, by a solid fence or wall at least six (6) feet in height and maintained in good condition or by a cyclone or equal-wire fence at least six (6) feet in height and surrounded, except for an exit and entrance not over twenty-five feet in width, by evergreens at least six (6) feet in height and planted not further apart than six (6) feet so as to form a solid screen.
4. Adequate storm drainage facilities, as specified in the Mercer Borough Subdivision Regulations, shall be installed to ensure that stormwater does not flow onto abutting property, sidewalks, or streets in such quantities as to cause detrimental effect or inconvenience. Maximum rates of stormwater runoff from the property after development shall not be greater than as existed prior to the development.
5. Any part or portion of a lot developed for industrial uses which is not used for buildings, other structures, active landfilling areas in approved sanitary landfills, parking or loading spaces, or aisles, driveways, sidewalks, and designated storage areas, shall be planted and maintained with grass or other all season ground cover vegetation. Grass shall be kept neatly mowed. Landscaping with trees and shrubs is permitted and encouraged.
6. Any off-street parking area located in a required front yard building setback shall be located at least 5 feet from the road right-of-way with the area in between the road right-of-way and parking maintained according to Section 704.1, 6.

7. All exterior lighting shall be so placed and shielded so as not to create a nuisance for adjacent properties.
8. It shall comply with all applicable pollution control regulations enacted by the federal and state government and other governmental authorities.

**704.2: Buffer and Screening Requirements** – Where any permitted principal and/or accessory use abuts any Residential Zoning District land, the following buffer and screening are required:

1. A buffer strip at least 30 feet wide shall be provided and maintained along the entire length of a side or rear yard where it abuts a Residential Zoning District. Buffer strips shall not be used for buildings, parking, storage of vehicles, equipment, or materials, nor for any other use incompatible with their purpose as a visual, noise, dust, and pollution barrier.
2. The buffer shall be planted with evergreens capable of obtaining and maintaining a dense growth to a full height and a full diameter of no less than 12 feet. The minimum height at the time of planting shall be 4 feet. Plants shall be situated in two rows within the buffer strip, each row being located at least 10 feet from the edge of the buffer strip. Plants in each row shall be spaced no more than 20 feet center-to-center and the two rows shall be situated in an alternating pattern so that the trees in one row are located centrally between the trees in the other row. Plants shall be allowed to obtain a minimum height of 12 feet and shall not be trimmed below that height thereafter.
3. Installation and maintenance of the buffer and screening shall be the responsibility of the owner of the property on which the industrial use is located. Installation must be completed prior to issuance of a Certificate of Use and Occupancy by the Zoning Officer. Dead or diseased plants shall be removed and replaced within one growing season. Grass shall be kept neatly mowed.

## **Section 705: Additional PO Planning Opportunity District regulations**

**705.1: Provisions for planned development containing C-2 or I district permitted uses** – The PO Planned Opportunity Zoning District allows as a conditional use planned developments containing C-2 or I district permitted uses. Such planned developments shall meet the following requirements:

1. Minimum acreage – Planned developments shall contain a minimum of 10 acres.
2. Development standards – Planned developments or portions thereof that contain multi-family dwellings of 5 or more units shall meet additional regulations specified in Section 700.2. Planned developments or portions thereof that contain C-2 district permitted uses shall meet lot, yard, and height requirements specified in the C-2 district and shall meet additional C-2 Commercial General District regulations specified in Section 703. Planned developments or portions thereof that contain I district permitted uses shall meet lot, yard, and height requirements specified in the I district and shall meet additional I Industrial District regulations specified in Section 704.

**705.2: Plan submission requirements** – In addition to zoning permit application requirements specified in Section 1202, applications for planned development containing C-2 or I district permitted uses shall include plans containing the following information accurately portrayed and located:

1. Existing physical features including contour lines at 10 foot intervals, watercourses, vegetation, and official flood hazard areas. Proposed changes to grading, drainage, or any of the previously-stated physical features shall be indicated.
2. Existing and proposed public facilities and utilities including water and sewer lines, streets and highways including rights-of-way and cartways, driveways and access ways, parking areas, and pedestrian ways.
3. Existing and proposed buildings with uses of buildings indicated.
4. Proposed landscaping, buffers, screening, and open spaces.

## **Section 706: Adult entertainment establishment regulations**

### **706.1: Purpose and legislative intent**

1. The location of adult entertainment establishments is of vital concern to the Council of Mercer Borough especially when the location is in or near areas where minors may learn, play, pass by, or would be exposed to the advertising, window displays, or general atmosphere accompanying the operation. Also, the Council acknowledges that adult entertainment establishments have adverse secondary effects including but not limited to unhealthy conditions, the spread of diseases, illegal sexual activities, sexual harassment, obscenity, crime, and neighborhood deterioration.
2. Borough Council in enacting these regulations exercise the power which has been granted to them and do not attempt or intend to absolutely prohibit adult entertainment establishments in the Borough, but rather seek to regulate matters to promote, protect, and facilitate the public health, safety, and general welfare of all of Borough residents.

**706.2: Definitions** – It is the purpose of this subsection, together with its subparagraphs to provide clear and concise definitions of those words, terms and phrases most commonly utilized in the provisions of these regulations in order to assist any interpretations of said provisions and to insure uniformity of application. It is intended that the following words, terms and phrases, whenever used, shall be construed as defined in the following subsections and subparagraphs unless from the context a different meaning is clearly intended. The following definitions are intended to supplement the definitions contained in Article II.

For the purpose of this Article, adult entertainment establishments are defined as follows:

1. Adult bookstore – Any establishment having as a substantial or significant portion (25% or greater) of its stock in:

- A. Books, films, magazines or other periodicals or other forms of audio or visual representation which are distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas;
  - B. Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities.
2. Adult Cabaret – (1) An establishment devoted to adult entertainment, either with or without a liquor license, presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual activities or anatomical genital areas; (2) a cabaret that features topless dancers, go-go dancers, strippers, male or female impersonators, or similar entertainers for observation by patrons.
  3. Adult mini motion picture theater – An enclosed or unenclosed building with a capacity of more than five (5) but less than fifty (50) persons used for presenting any form of audio or visual material, and in which a substantial portion of the total presentation time measured on an annual basis is devoted to the showing of material which is distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.
  4. Adult model studio – Any place where, for any form of compensation or gratuity, figure models who display specified anatomical areas are provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by persons paying such consideration or gratuity, except that this provision shall not apply to any "figure studio" or "school of art" or similar establishment which meets the requirements established in the Education Code of the Commonwealth of Pennsylvania for the issuance of or conferring of, and is in fact authorized thereunder to issue, a diploma.
  5. Adult motel – A motel or similar establishment offering public accommodations for any consideration, which provides patrons with material distinguished or characterized by an emphasis on depiction or descriptions of specified sexual activities or specified anatomical areas.
  6. Adult motion picture arcade – An enclosed or unenclosed building with a capacity of fifty (50) or more persons used for presenting any form of audio or visual material, and in which a substantial portion of the total presentation time measured on an annual basis is devoted to the showing of material which is distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.
  7. Adult motion picture theater – An enclosed or unenclosed building with a capacity of fifty (50) or more persons used for presenting any form of audio or visual material, and in which a substantial portion of the total presentation time measured on an annual basis is devoted to the showing of material which is distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.

8. Adult newsrack – Any coin-operated machine or device which dispenses material substantially devoted to the depiction of specified sexual activities or specified anatomical areas.
9. Adult theater – A theater, concert hall, auditorium or other similar establishment, either indoor or outdoor in nature which regularly features live performances which are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas for observation by patrons.
10. Bath House – An establishment or business which provides the services of baths of all kind, including all forms and methods of hydrotherapy during which specified anatomical areas are displayed or specified sexual activity occurs. This section shall not apply to hydrotherapy treatment practiced by, or under the supervision of a medical practitioner. A medical practitioner for the purpose of this Ordinance shall be a medical doctor, physician, chiropractor or similar professional licensed by the Commonwealth of Pennsylvania.
11. Body painting studio – Any establishment or business which provides the service of applying paint or other substance whether transparent or nontransparent to or on the human body when specified anatomical areas are exposed.
12. Massage Parlor – Any establishment or business which provides the services of massage and body manipulation, including exercises, heat and light treatments of the body, and all forms and methods of physiotherapy, unless operated by medical practitioner, chiropractor or professional physical *or massage* therapist licensed by the Commonwealth. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.
13. Out call service activity – An establishment or business which provides an out call service which consists of individuals leaving the premises upon request or by appointment to visit other premises for a period of time for the purpose of providing any service during which time specified anatomical areas are displayed or specified sexual activity occurs.
14. Sexual encounter center – Any business, agency or person who, for any form of consideration or gratuity, provides a place where two (2) or more persons, not all members of the same family may congregate, assemble, or associate for the purpose of engaging in specified sexual activity or exposing specified anatomical area, excluding psychosexual workshops, operated by a medical practitioner as defined in 2 A (10), licensed by the Commonwealth, to engage in sexual therapy.
15. Any other business or establishment which offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Specified anatomical areas as used herein shall mean and include any of the following:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolae, or;
2. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

Specified sexual activities include the following:

1. Showing of human genitals in a state of sexual stimulation or arousal;
2. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio, cunnilingus, or any other specified sexual activity prohibited by law;
3. Fondling or erotic touching of human genitals, pubic region, buttock or female breasts.

**706.3: Minimum spacing and proximity requirements** – No adult entertainment establishment shall be located within 1,000 feet of the following:

1. Any other adult entertainment establishment.
2. A dwelling.
3. Any parcel of land which contains any one or more of the following specified land uses:
  - A. Amusement park;
  - B. Camp (for minors' activities);
  - C. Child care facility;
  - D. Church;
  - E. Community center;
  - F. Museum;
  - G. Park or playground;
  - H. School and school bus stops;
  - I. Other lands where minors congregate.

The distance between any two adult entertainment establishments shall be measured in a straight line, without regard to intervening structures, from the nearest point on the property line of each establishment. The distance between any adult entertainment establishment and any land use specified in subparagraphs 2. and 3. above shall be measured in a straight line, without regard to intervening structures, from the nearest point on the property line of the adult entertainment establishment to the closest point on the property line of said land use.

**706.4: Visibility from the street** – No person operating an adult entertainment establishment shall permit, or cause to be permitted, any stock in trade which depicts, describes or relates to specified sexual activities and/or specified anatomical areas as defined herein, to be viewed from the street, sidewalk or highway.

**706.5: Sign requirements for adult entertainment establishments**

1. All signs shall be flat wall signs.
2. The gross surface area of a wall sign shall not exceed 5 percent of the area of the wall which such sign is a part of.
3. No signs shall be placed in any window. A one and one half square foot sign may be placed on the door to state hours of operation and admittance to adults only.

# **ARTICLE VIII: SIGN REGULATIONS**

## **Section 800: Application**

Signs may be erected and maintained only in compliance with all applicable provisions of this ordinance and any regulations of the Borough relating to the location, size, height, lighting, alteration or maintenance of signs as defined by this Article.

## **Section 801: Purpose**

These regulations are designed to keep the signs of Mercer simple and in character with the historic values of the community, to maintain the views of the Courthouse and other historic buildings, and to address the following community development objectives:

1. Continue to promote community beautification,
2. Develop community vision for historic preservation,
3. Market local and regional retail opportunities and tourism.

## **Section 802: Sign terms and concepts**

1. Sign – A sign is any structure, device, object or display either painted, attached or standing situated indoors or outdoors, which is used to identify, advertise or attract attention to a business, product, service, organization, event, or location by the use of colors, letters, words, symbols or images.
2. Master Signage Plan - A plan shall be submitted to the zoning officer for the purpose of determining for the benefit of the public that all signs within the Borough provide for the health, safety, welfare and morals of the citizens and visitors of the Borough and meet the requirements of this Ordinance, while allowing for the efficient use of signs for the benefit of the property.

## **Section 803: General provisions and exceptions**

### **803.1: Signs allowed in all zoning districts**

1. One sign shall be required for the purpose of 911 identification and may include name, address, and street number for the building or property - maximum size of 2 square feet.
2. Federal or state historic markers or monuments provided they are 4 square feet or less.
3. Institutional or bulletin board signs – signs of permanent character or structure having changeable words or numbers indicating the services or events to be conducted upon the premises where the sign is located. Typically used by schools or churches and included upon a structure not exceeding 24 square feet.

4. Off site signs may be permitted provided they are included in the master signage plan for the property on which they are placed and meet the area calculations for the zoning district
5. Window signage –painted or otherwise attached lettering shall not cover greater than 25% of the window area. Any poster, picture, or display attached to the window or within 6" and obstructing clear sight into or from within the building in any way shall be considered part of the 25%.

**803.2: Signs allowed in residential zoning districts** – Signs acceptable for use by permitted uses within the specific residential districts:

1. Attached Signs – Maximum height of 12 feet or not higher than the 2nd story window sills of the building, having a maximum size of 6 square feet, with a clear height of 10 feet if projecting over a sidewalk or access.
2. Ground signs – 4 SF per side supported by or erected upon the ground and having a maximum height of 5 feet.
3. Master Signage Plan – Total area of all signs in combination shall total 8 SF or less.

**803.3: Signs in C-1, C-2, I & PO districts** – Signs acceptable for use by permitted uses within the specific districts:

1. Allowable Signage areas shall be 25 SF per road frontage plus 2 SF for each additional 10 (ten) linear feet of road frontage exceeding 100 feet – including address, company identification signs, directional signage.
2. Projecting or overhanging sign provided:
  - A. It is not less than 10 ft. above the sidewalk
  - B. It projects a maximum of 60 inches from the building wall and no closer than 3 feet from the curb line
  - C. Maximum height is 14 ft. or not higher than the sill of the 2nd story windows of the building
3. Company identification sign consisting of the name of the business contained within the building, provided:
  - A. It is attached flush or painted directly to the building or accessory structure
  - B. It is illuminated by exterior, indirect and concealed lighting
  - C. It is scaled to the building in that it is placed above the first floor and below the sill of the second floor (or where historically evident previous signs were placed i.e. Old paint, bolt marks, appropriate cornice treatments remain, etc.)

4. C-2 district – Only signs in the C-2 district may be internally lit and only if all other height, area, and character requirements are met as proved by the overall master signage plan.

#### **803.4: Temporary signs permitted in all districts**

1. Sandwich Boards – signs of an A-frame type of 6 SF per side, that may be used during normal hours of the business it is advertising, placement must not impede pedestrian traffic (5 ft of access free and clear of obstructions). Typically used to promote special sales or menus.
2. Real Estate signs – 6 SF, promoting the sale or rental of property and removed within 7 days of closing or rental of the property
3. Development signs – 15 SF for developments of 3 or more lots, removed within 7 days of project completion
4. Work being performed signs – 6 SF, removed within 7 days after completion of work or expiration or revoking of building permit
5. Political signs – provided they are removed within 5 days after the election
6. Announcement signs, banners, or special displays – 12 SF, maximum time of display 35 days, when authorized by borough council.
7. Temporary signs 2 square feet or smaller advertising garage sales or similar events, maximum time of display 10 days, and may not be attached to utility poles or traffic sign supports.

**Section 803.5: Signs prohibited** – the following types of signs shall not be permitted in order to maintain the historic character and pedestrian orientation of the Borough.

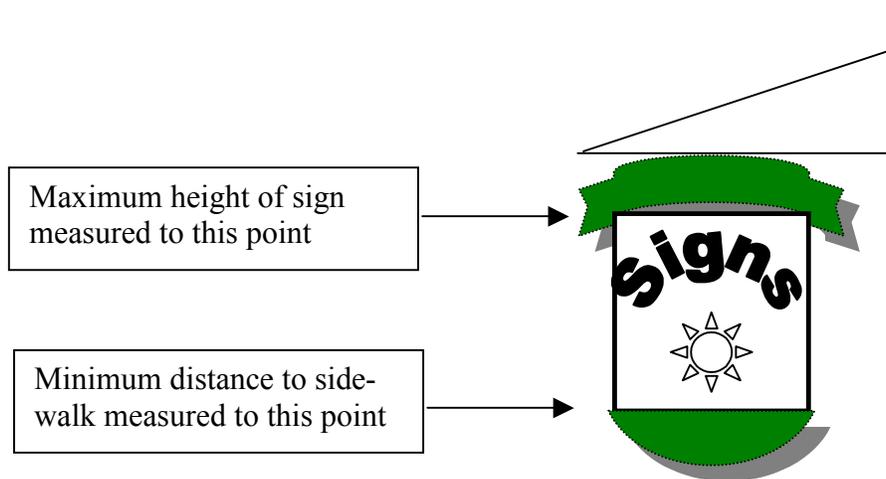
1. Signs which resemble or imitate State or Borough Traffic Control signs
2. Portable, freestanding or transportable trailer signs
3. Signs with flashing illumination or neon lighting
4. Animated, revolving or rotating signs
5. Billboards- a sign having a surface area of 50 square feet or more
6. Roof or canopy signs – a sign attached to or painted onto the roof of any structure including wording upon a canopy or awning
7. No sign may be placed within the street right of way nor on utility poles, street markers, or official transportation signs.

## Section 804: Design and measurement requirements

1. Signs shall be set behind the Right of way and may not block visibility nor create a traffic hazard
2. Overall master signage plan shall be reviewed as part of the zoning permit application required by all permanent signs in the Borough. (Section 805.1)

### 804.1: Measurement of sign areas

1. Signs shall contain a minimum of words to convey the purpose of the use of the property upon which the signs are placed. Areas of signs shall meet the requirements of the zoning districts as outlined in Section 802.
2. Any ornamental scroll work or decorative bracing used above or below the sign shall NOT be included in the calculation of the sign area provided it contains no additional wording and does not exceed the size of the main sign by 50%.
3. The entire sign and all attachments will be included for the purpose of meeting all height requirements.
4. In the example shown below the square is used for calculation of the area of the sign.



### 804.2: Lighting

1. Lighting shall be exterior, indirect and concealed lighting, except as otherwise permitted in the C-2 district.
2. No sign lighting shall cause glare onto adjacent property or street right of way.
3. No flashing, neon or animated signs shall be permitted

### **804.3: Construction**

1. Construction of signs shall be by accepted building standards meeting the requirements for the health, safety and welfare of the public.
2. Information regarding the proposed construction, materials, and connections to the property shall be provided in the master signage application as noted in Section 805.1.

## **Section 805: Permits and fees for signage**

All signs except those noted in Section 802.1, require application for a zoning permit following the approval of a Master Signage Plan.

**805.1: Master Signage Plan Requirements** – As a means of determining that signage meets the any and all requirements as stated in this Ordinance, a master signage plan shall include the following information:

1. Location of the property and the location of every sign to be placed on the property, including proof that such placement is safe, does not obstruct traffic, nor cast glare onto the public right-of-way
2. Size - drawing showing the size, wording and style of each sign to be used
3. Construction proposed – materials to be used, type of connection to property, and type and placement of lighting
4. Application for zoning permit on a form provided by the Zoning Officer, which includes the name, address, phone number and signature of the person responsible for maintenance or removal of the sign(s) if or when necessary.

### **805.2: Fees and Fines**

1. Master Signage Plan Application and Permit shall be accompanied by a fee in an amount as set annually by Borough Council to cover the costs of application review and administration of permits.
2. Fine to be set by Borough Council for placing a sign prior to application approval - fine for each 30 days of non-compliance with the permit requirements.
3. A fine to be set for failure to remove or safely maintain a sign.

# ARTICLE IX: PARKING AND LOADING REGULATIONS

## Section 900: Off-street loading and parking requirements

**900.1: Applicability** – Off-street loading and parking spaces shall be provided in accordance with the specifications of this section in all zoning districts whenever:

1. Any new use of land or structure(s) is established.
2. An existing use of land or structure(s) is enlarged through addition of dwelling units, gross floor area, lot area, or other means.
3. An existing use of land or structure is changed to a different use or a new use is added.

Such new, enlarged, or changed use shall fully comply with the specifications of this section prior to being given a certificate of use and occupancy.

**900.2: Waiver of loading and parking requirements in C-1 district** – Uses that now or later occupy existing buildings in the C-1 Commercial Town Center District shall not have to comply with off-street loading and parking requirements provided herein, nor shall they have to comply if being enlarged within an existing building or changed to a different use.

**900.3: Off-street loading** – Every commercial and industrial use, except those in the C-1 district, which requires the receipt or distribution by vehicles of material or merchandise shall provide off-street loading spaces in sufficient number to adequately serve the number and frequency of vehicle shipping and receiving projected for the use. The permit applicant shall provide supporting evidence of the projected shipping and receiving and how the number of spaces to be provided will be adequate. Each off-street loading space shall not be less than 10 feet wide by 50 feet long. Off-street loading space(s) shall also have adequate adjacent area for vehicle maneuvering so that vehicles using the space(s) are not required to back-up onto or back-up from a public street or alley to use the space.

**900.4: Off-street parking** – Every use, except those in the C-1 district, shall provide off-street parking as specified in this section. Each off-street parking space shall not be less than 9 feet wide by 18 feet long exclusive of access drives and aisles (except that single-family dwellings may use driveways for off-street parking spaces) and shall be in usable shape and condition. The minimum number of off-street parking spaces for each use is specified below:

Use	Required parking spaces
Single & multiple family dwellings	2 for each dwelling unit
Mobile home parks	2 for each mobile home lot

<b>Use</b>	<b>Required parking spaces</b>
Housing for senior citizens	1 for each dwelling unit
Hotels & motels	1 for each guest room
Funeral homes & mortuaries	25 for the first parlor plus 10 for each additional parlor
Hospitals and nursing homes	1 for each bed
Churches	1 for each 3 seats
Schools	1 for each teacher and staff plus 1 for each 4 classrooms plus 1 for each 4 high school students
Auto sales & service	1 for each 200 sq. ft. gross floor area
Roller rinks	1 for each 200 sq. ft. gross floor area
Boarding, lodging or rooming house	1.5 for each sleeping room
Sports arenas, stadiums, theaters, auditoriums, assembly halls	1 for each 3 seats
Community buildings, social halls, dance halls, clubs & lodges	1 for each 60 sq. ft. of public floor area
Bowling alleys	5 for each alley
Banks & offices	1 for each 250 sq. ft. gross floor area
Medical offices & clinics	8 for each doctor
Dental offices	5 for each doctor
Retail stores	1 for each 200 sq. ft. gross retail area
Fast food & drive-in restaurants	1 for each 2 patron seats
Furniture stores	1 for each 400 sq. ft. gross floor area
Food supermarkets	1 for each 200 sq. ft. gross floor area

Use	Required parking spaces
Trailer & monument sales	1 for each 2,500 sq. ft. lot area
Restaurants, taverns & night clubs	1 for each 2.5 patron seats
Industrial & manufacturing establishments, warehouses, wholesale & truck terminals	1 for each employee on the largest shift plus 1 for each 10,000 sq. ft. for visitors up to 10 additional spaces
Miniature golf	1 for each 325 sq. ft. of developed lot area
Commercial recreation (not otherwise covered)	1 for each 3 persons maximum occupancy
For uses not specified herein	1 for each 2 patrons or occupants of the use at peak use times
For a mixture of above uses	The sum of the various uses computed separately

## Section 901: General provisions

**901.1: Construction standards** – Parking areas for the storage of five (5) or more automobiles in any Zoning District: shall be constructed in compliance with the following minimum standards:

1. Parking areas shall be hard surface asphalt or concrete constructed in accord with acceptable engineering practice. Pavement design shall be directly related to projected traffic type and volumes (i.e., automobile, truck). Parking areas shall be so designed to provide positive drainage to natural watercourses and/or municipal storm water systems.
2. Entrance and/or exit - curb cut shall be a minimum of 18 feet for two-way traffic and 9 feet for one-way traffic, with concrete approach ramp and concrete curb returns at a minimum 5-foot radius on each side. Ramps shall slope to street gutter.
3. Striping and Bumpers - each parking space shall be designated by 4 inch wide painted strips, nine foot center to center by 18 feet long, angled to best advantage for each of ingress and egress. Bumpers (wheel stops) shall be installed when necessary to prevent vehicle encroachment upon abutting pedestrian walks, public roads, or private property.

4. Screening or fencing - where parking areas abut residential property on any side, adequate screening of car lights shall be provided by a thick hedge or solid fence a minimum of 4 feet height, not higher than 6 feet.
5. Area lighting - where lots are to be used at night, adequate area lighting shall be provided as approved by the Zoning Officer. Lighting shall be installed in accord with applicable codes.
6. In areas where no curb currently exists, curbed planting islands of 10 feet minimum width shall be provided with appropriately spaced breaks so as to clearly designate ingress and egress points between the parking area and any adjacent street or roadway.

**901.2: Location of off-street loading and parking spaces** – Required off-street loading and parking spaces shall be located on the same lot with the principal use they are intended to serve, but may not be located in the right-of-way of a public street. The Zoning Officer may permit off-street parking spaces to be on a private lot wholly within 300 feet of the lot of said use if it is impractical to provide off-street parking on the same lot as said use. In such cases, the private lot shall be in same ownership as said use or be available in the long-term to the owner of said use via other documented means including deed restriction, lease, or other similar legal interest.

**901.3: Availability of public parking** – The Zoning Hearing Board may grant a variance to the off-street parking requirements of a use upon determination that it is both impractical to provide off-street parking on the same lot as said use and that there is adequate off-street or on-street public parking available within reasonable walking distance of said use.

**901.4: Shared use of required loading and parking spaces** – In no case shall a required loading space be part of the area used to satisfy the parking requirements and vice versa. Also, in no case shall the required loading or parking space(s) of one use be used to satisfy the loading or parking space requirements of another use. The Zoning Hearing Board may grant a variance to allow shared use of spaces where normal periods of use are staggered and will not result in parking use conflicts.

**901.5: Encroachment or reduction** – A required loading or parking space shall not be encroached upon by a structure, storage, or other use, nor shall the number of spaces be reduced without replacement of a commensurate number of spaces in accordance with this section.

## **Section 902: Parking and storage of major recreational equipment and non-agricultural commercial vehicles**

### **902.1: Definitions**

1. Major recreational equipment – For purposes of these regulations includes travel trailers, motor homes, camper/tent trailers, pickup campers or coaches, boats and boat trailers, and the like as well as cases or boxes used for transporting recreational equipment whether occupied by such equipment or not.

2. Commercial vehicle – For purposes of these regulations is one (1) licensed truck-tractor or one (1) licensed trailer or a combination of one (1) licensed truck-tractor and one (1) licensed trailer that: a) has a gross weight of over 26,000 pounds (including combined weight if towed unit weighs over 10,000 pounds); b) is designed to transport 16 or more persons including the driver; or c) is used to transport hazardous materials.

**902.2: Parking or storage** – No major recreational equipment or non-agricultural commercial vehicle may be parked or stored on a lot in a residential district except in a garage or car port or behind the nearest portion of a building to a street, provided, however, that:

1. Major recreational equipment may be parked anywhere on a residential lot for not more than twenty-four hours consecutive during loading or unloading.
2. No more than one (1) non-agricultural commercial vehicle may be parked or stored on a lot.

**902.3: Occupancy** – No major recreational equipment or commercial vehicles shall be used for living, sleeping, housekeeping, or human habitation purposes except that travel trailers, motor homes, camper/tent trailers, pickup campers or coaches may be temporarily parked and occupied for sleeping purposes only by visitors and house guests in accordance with the following:

1. The temporary parking or occupancy period shall not exceed seven (7) days.
2. Such vehicles and/or trailers shall have adequate off-street areas to be parked behind the nearest portion of the principal building to a street.

**902.4: Derelicts** – No major recreation equipment or non-agricultural commercial vehicle shall be stored out of doors on residential premises unless it is in condition for safe and effective performance of the function for which it is intended or can be made so at a cost not exceeding the current market value of the equipment. In no case shall any such equipment be so stored for a period of more than six months if not in condition for safe and efficient performance of the function for which it was intended.

# ARTICLE X - SUPPLEMENTARY REGULATIONS

## Section 1000: Supplementary lot and yard regulations

**1000.1: Number of principal structures on a lot** – Not more than one principal structure shall be located on a lot except in the case of planned developments associated with permitted uses, for example a cemetery, church, college, multiple-family dwelling development, farms, governmental or governmental authority facility, hospital, nursing home, public utility facility, school, or planned commercial or industrial development. A plot plan showing the location and arrangement of multiple structures in planned developments shall be submitted with the zoning permit application. Building arrangements and spacing within such developments shall comply with any additional regulations specified elsewhere in this ordinance.

**1000.2: Projection into and occupancy of yards or other open spaces** – The following building attachments shall be permitted to project into and/or occupy required yards or other open spaces provided the projection into the yard shall not exceed four (4) feet:

1. Steps, stoop, window sill, awning, belt course, similar architectural feature, rain leader and/or chimney.
2. Exterior stairway, fire tower, balcony, fire escape or other required means of egress.

**1000.3: Porches, carports, and similar attached accessory structures whether open or enclosed** – Shall be located in compliance with minimum yard and setback requirements.

**1000.4: Determination of yards and minimum distance to lot lines on irregularly shaped lots** – On an irregularly shaped lot, no point of a building shall be located closer to a lot line than the minimum yard or setback distance.

**1000.5: Subdivision of lot** – The subdivision of lot(s) shall be permissible only in accordance with the standards of this Zoning Ordinance and the Mercer Borough Subdivision and Land Development Ordinance, as amended.

**1000.6: Use of yards for fences** – The yard and setback requirements of this Ordinance shall not be deemed to restrict any otherwise lawful fence provided that:

1. In any Residential Zoning District no fence or wall shall exceed a height of three (3) feet in any front yard or eight (8) feet in any side or rear yard.
2. No fence shall be located within the right-of-way of any public street or road.

### **1000.7: Use of yards for driveways and parking**

1. Residential uses – Yard areas for residential uses may contain a driveway and a turnaround areas.
2. Other uses – Yard areas for other uses may contain driveways and turnaround areas and may include off-street parking spaces.
3. Uses in R-1 and R-2 districts – Front yards shall be kept free of parking except in permitted driveways and parking shall be related to the use of the lot and not for service to other uses on other lots

**1000.8: Visibility at Intersections and Driveways** – On a corner lot in any district, no structure, sign, solid fence or wall, hedge or other planting shall be erected, placed or maintained at a height of more than 3 feet above the curb line within the triangle formed by the street lot lines and a straight line joining said street lot lines at points which are 20 feet distant from the point of intersection of the street lot lines.

## **Section 1001: Supplementary height regulations**

**1001.1: Exceptions to height requirements** – The maximum height limitations for this ordinance shall not apply to:

1. The following appurtenances attached to or part of a principal or accessory structure: Church spire, belfry, cupola, dome, monument, smoke-stack, derrick, conveyor, flag pole, mast, antenna, aerial, roof tank; ventilating air conditioning and similar building service equipment; roof structure, chimney and/or parapet wall, provided it shall be set back in conformance with the setback and yard requirements plus 1 foot horizontally for each 2 feet in which it exceeds the maximum height permitted in the Zoning District in which it is located.
2. Existing designed structures: The vertical extension of a structure existing at the effective date of the Zoning Ordinance may be erected to such height as the original drawings of said building indicated, provided the building was actually designed and constructed to support the additional stories necessary for such height.

## **Section 1002: Floodplain regulations**

All lands within the jurisdiction of the Borough of Mercer which are located within any General Floodplain Districts (FA), Floodway Districts (FW), and Flood-Fringe Districts (FF) as specified by the Mercer Borough Floodplain Management Ordinance (Ordinance No. 2 of 1983) are subject to the provisions of said regulations.

# ARTICLE XI - NON-CONFORMING USES, STRUCTURES AND LOTS

## Section 1100: Intent and standards

Within the districts established by this ordinance or amendments that may later be adopted there exist lots, structures, and uses of land and structures which were lawful before this ordinance was passed or amended, but which would be prohibited under the terms of this ordinance or future amendment.

**1100.1: Intent** – It is the intent of this ordinance to permit these non-conformities to continue until they are removed or abandoned. Such uses are declared by this ordinance to be incompatible with permitted uses in the districts involved.

**1100.2: Standard** – A non-conforming use of a structure, a non-conforming use of land, or a non-conforming structure shall not be extended or enlarged after passage of this ordinance by any means including attachment of additional signs to a building or the placement of additional signs or display devices on the land outside the building, nor shall there be a change to or addition of a use prohibited in the particular zoning district. Non-conformities may be enlarged, expanded, changed, or added to only by variance granted by the Zoning Hearing Board provided any such enlargements or expansions of uses as approved by the Board shall meet any and all conditions and provisions specified for that type of use in this zoning ordinance.

**1100.3: Construction in progress** – Nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been diligently carried on. Actual construction is defined to include the placing of construction materials in permanent position and fastened in a permanent manner, and demolition, elimination, and removal of an existing structure in connection with such construction, provided that actual construction work shall be diligently carried on until the completion of the building involved.

## Section 1101: Non-conforming lots of record

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements and other requirements not involving area or width, or both, of lot shall be obtained only through action of the Zoning Hearing Board.

If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance, and if all or part of the lots do not meet the requirements for lot width and area in the respective district, the lands involved shall be considered to be an undivided parcel for the purpose of this ordinance, and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this ordinance.

## **Section 1102: Non-conforming uses of land**

Where, at the effective date of adoption or amendment of this ordinance, lawful use of land exists that is made no longer permissible under the terms of this ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

**1102.1** – No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance, except as specified by Section 1100.2 of this ordinance.

**1102.2** – No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance.

**1102.3** – If any such non-conforming use of land is abandoned by discontinuance for any reason for a period of more than twelve (12) consecutive months, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.

## **Section 1103: Non-conforming uses of structures**

If a lawful use of a structure, or of a structure and premises in combination, exists at the effective date of adoption or amendment of this ordinance, that would be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

**1103.1** – An existing structure devoted to a use not permitted by this ordinance in the district in which it is located may not be enlarged, extended, constructed, reconstructed, or structurally altered except as specified by Section 1100.2 of this ordinance.

**1103.2** – A non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.

**1103.3** – If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use provided that the Zoning Hearing Board, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Zoning Hearing Board may

require appropriate conditions and safeguards in accord with the provisions of this ordinance.

**1103.4** – Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the non-conforming use may not thereafter be resumed.

**1103.5** – When a non-conforming use of a structure, or structure and premises in combination, is abandoned by discontinuance for twelve (12) consecutive months, the structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.

## **Section 1104: Non-conforming structures**

Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on areas, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

**1104.1** – A structure may be enlarged or altered only in a way that such enlargement or alteration does not result in a new structural non-conformity or increase an existing structural non-conformity. Any other enlargement or alteration must be approved by variance granted by the Zoning Hearing Board.

**1104.2** – Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after moved.

## **Section 1105: Damage or destruction of non-conformities**

Any non-conforming building, structure, or use which is damaged or destroyed by fire or any other means beyond the control of the property owner may be reconstructed and used as before, if such reconstruction is commenced within one (1) year of the date of said damage or destruction. The reconstructed building and use may cover no greater area and contain no greater cubic content than the building and use prior to damage or destruction and must conform to lot, yard, and height requirements of the zoning district and provide required off-street loading and parking spaces for the intended use(s), unless a variance is granted by the Zoning Hearing Board.

## **Section 1106: Repairs and maintenance**

On any building, devoted in whole or in part to any non-conforming use, work may be done on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing without the requirement of a variance.

Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

**Section 1107: Special exceptions and conditional uses not non-conforming uses**

Any use for which a special exception or conditional use is authorized as provided in this ordinance shall not be deemed a non-conforming use, but shall without further action be deemed a conforming use in such district.

## ARTICLE XII: ADMINISTRATION AND ENFORCEMENT

### Section 1200: Office of Zoning Officer

**1200.1: Creation of office** – The Office of Zoning Officer is hereby created.

**1200.2: Appointment** – The Zoning Officer shall be appointed by the Borough Council as prescribed by the Pennsylvania Municipalities Planning Code (Act 247 of 1968, as amended). The Borough Council shall establish qualifications for the position of Zoning Officer which require candidates to demonstrate a working knowledge of municipal zoning to the satisfaction of the Borough.

**1200.3: Official records** – An official record shall be kept of all business of the Zoning Officer and shall be open to public inspection at all appropriate times.

**1200.4: Compensation of the zoning officer** – The compensation of the Zoning Officer shall be as determined by the Borough Council.

### Section 1201: Duties and powers of the Zoning Officer

The Zoning Officer shall interpret and enforce all provisions of the Zoning Ordinance in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to the Zoning Ordinance.

**1201.1: Zoning permits and certificates of use and occupancy** – The Zoning Officer shall issue zoning permits and certificates of use and occupancy. Zoning permits and certificates of use and occupancy for construction and uses which are permitted as a conditional use shall be issued only upon approval of the Borough Council. Zoning permits and certificates of use and occupancy for construction and uses which are permitted as a special exception or variance shall be issued only upon approval of the Zoning Hearing Board.

**1201.2: Annual report** – The Zoning Officer shall submit monthly plus an annual summary to the Borough Council a report of all zoning permits and certificates of use and occupancy, notices issued, and orders.

**1201.3: Inspections** – The Zoning Officer shall have the authority to examine or cause to be examined all structures and/or land for which an active or pending application for a zoning permit and/or certificate of use and occupancy has been filed for purposes of enforcing this zoning ordinance. Visual inspections may be legally made from any public right-of-way, sidewalk, or public place. The Zoning Officer may enter upon property of a private home or business from time to time during construction only during daylight hours between 8:00 a.m. and 8:00 p.m. and only after obtaining permission from a responsible adult upon presentation of proper identification. The right of inspection conferred herein shall be written out on every zoning permit issued and an acknowledgement that it has been read and accepted shall be signed by the applicant before a zoning permit may be issued.

## **Section 1202: Application for zoning permit and certificate of use and occupancy**

**1202.1: When zoning permit is required** – A zoning permit shall be required for any of the following (except where otherwise indicated in this ordinance):

1. Commencing a use, changing the use or intensity of use, or extending or displacing the use of any building, structure, and/or land in the Borough.
2. Construction, erection, enlargement, reconstruction, demolition, or structural alteration of any building, structure, and/or sign including placement of a mobile home on a property.

An application for a zoning permit must be submitted in writing to the Zoning Officer. A fine of \$25.00 shall be added to the cost of the zoning permit for failure to obtain a zoning permit before construction.

**1202.2: When a certificate of use and occupancy is required** – It shall be unlawful to use and/or occupy any building, other structure and/or land for which a zoning permit is required until a certificate of use and occupancy for such building, other structure and/or land has been issued by the Zoning Officer. The purpose of the certificate is to confirm that the work or development described in the zoning permit application has been completed in compliance with this ordinance. The application for issuance of a certificate of use and occupancy shall be made at the same time an application for a permit is filed with the Zoning Officer and may be on the same form.

**1202.3: Forms of application** – The application for a zoning permit and a certificate of use and occupancy shall be submitted in such form as the Zoning Officer may prescribe and shall be accompanied by the required fee as prescribed in Section 1204.

**1202.4: Plot diagram** – Applications shall be accompanied by a plot plan diagram in duplicate. The plot plan shall be drawn to a suitable scale and shall clearly and accurately show dimensions of buildings and lots, both existing and proposed, abutting streets, proposed uses of buildings and lots, north arrow and scale, and other information which the Zoning Officer may require to make a decision on the zoning permit. One copy shall be returned to the applicant indicating approval or disapproval; one copy shall be retained by the Zoning Officer.

**1202.5: Additional application requirements for uses specified in Article VII** – An application for a use specified in Article VII shall be accompanied by additional information and drawings as appropriate to demonstrate how the proposed use and the design of that use will comply with the conditions, criteria, and standards specified for that use in Article VII. If such use is a conditional use or special exception, further information and drawings may be required by the Borough Council or Zoning Hearing Board respectively to address compliance with any other conditions imposed.

**1202.6: Amendments to a zoning permit** – Amendments to a zoning permit or other records accompanying it may be filed at anytime before completion of the work. The

Zoning Officer shall approve all such amendments except for those to zoning permits which have been authorized by action of the Borough Council or Zoning Hearing Board in which case the Council or Board respectively shall approve any amendments. Amendments shall be deemed part of the original application.

**1202.7: Expiration of zoning permits** – If work described in any zoning permit has not begun within 180 days from the date of issuance, the permit shall expire. A written notice shall be given by the Zoning Officer to the persons affected. If permitted work has not been substantially completed within one year of the date of issuance, the permit shall expire. A written notice shall be given by the Zoning Officer to the persons affected. Upon expiration of a zoning permit, work may not continue until either a permit extension or a new permit has been obtained. The Zoning Officer may issue a zoning permit extension when the proposed activities, information, and conditions contained in the original permit application will be continued without change. The zoning permit extension shall include limitations on time not to exceed one year allowed for substantial completion of the work. The Zoning Officer may require the provision of a reasonable performance bond to ensure completion with the time limit specified in the permit extension.

## **Section 1203: Action on zoning permits and certificates of use and occupancy**

**1203.1: Action on zoning permit application** – The Zoning Officer shall act on all applications for zoning permits and amendments thereto within 10 days after filing except where otherwise indicated. He shall conduct a preliminary inspection of all structures and/or land for which an application has been filed for a zoning permit. He shall also review the application to ensure that the proposed activities comply with the Borough Floodplain Management Ordinance (Ordinance No. 2 of 1983). If the application and preliminary inspection indicate compliance with the Zoning Ordinance and the Floodplain Management Ordinance, a zoning permit shall be issued. Disapproval of a zoning permit shall be in writing to the applicant.

**1203.2: Posting of zoning permit** – The zoning permit issued by the Zoning Officer shall be posted at the work site and be visible from the street until the completion of the permitted work.

**1203.3: Revoking a zoning permit** – The Zoning Officer may revoke an issued zoning permit in case of any false statement in the application for the permit.

**1203.4: Action upon completion** – Upon completion of the permitted work and prior to use and occupancy, the holder of the zoning permit shall notify the Zoning Officer of such completion. The Zoning Officer shall conduct a final inspection of all permitted structures and/or land. All violations of the approved zoning permit and plans shall be recorded and presented in writing to the holder of the permit.

If the Zoning Officer is satisfied that the completed work conforms with the issued zoning permit and complies with the Zoning Ordinance, he shall issue a certificate of use and occupancy for the use indicated in the zoning permit.

The Zoning Officer shall conduct the final inspection and issue either a written record of violations or an approved certificate of use and occupancy within 10 days after receiving notice of completion of the permitted work.

## **Section 1204: Fees**

**1204.1: Payment of fees** – No zoning permit or certificate of use and occupancy shall be issued until the fees prescribed by resolution of the Borough Council have been paid.

**1204.2: Exemptions** – Any accessory structure used solely for agricultural purposes or any building less than 100 square feet in floor area shall be exempt from payment of fees.

## **Section 1205: Enforcement notice**

Where the Zoning Officer finds that any provisions of this Ordinance are being violated, he shall initiate enforcement proceedings by sending an enforcement notice to the owner of the parcel on which the violation has occurred, any person who has filed a written request to receive enforcement notices regarding that parcel, and to other appropriate parties in accordance with Article VI of the Pennsylvania Municipalities Planning Code (Act 247 of 1968, as amended) with copies provided to the Borough Secretary and Borough Solicitor. As specified in the Planning Code, the enforcement notice shall state the nature and location of the violation, the actions and deadline dates for achieving compliance, possible enforcement proceedings, and other information.

## **Section 1206: Prosecution of violation**

If the enforcement notice is not complied with, the Zoning Officer shall request the Borough Council to authorize the Borough Solicitor to institute appropriate proceedings to prosecute such violations. Such proceedings are provided for and shall be in accordance with Article VI of the Planning Code (Act 247 of 1968, as amended).

## **ARTICLE XIII: ZONING HEARING BOARD**

### **Section 1300: Creation, membership and organization**

A Zoning Hearing Board shall be created for the purpose of considering applications for variances or exceptions to the Zoning Ordinance and making decisions on appeals and challenges within the legal jurisdiction granted to zoning hearing boards by the Commonwealth of Pennsylvania. It shall be created and maintained in accordance with the applicable provisions of Article IX of the Pennsylvania Municipalities Planning Code (Act 247 of 1968, as amended) and this Ordinance. Its membership, organization and rules and procedures shall be as prescribed in the Planning Code.

### **Section 1301: Jurisdiction and functions**

The Zoning Hearing Board shall have exclusive jurisdiction to hear and render decisions on applications for variances and special exceptions, and certain challenges and appeals in accordance with all applicable requirements of Article IX of the Pennsylvania Municipalities Planning Code (Act 247 of 1968, as amended).

### **Section 1302: Hearings**

In consideration of challenges and appeals and applications for variances and special exceptions, the Zoning Hearing Board shall conduct hearings and make decisions in accordance with all applicable requirements of Article IX of the Pennsylvania Municipalities Planning Code (Act 247 of 1968, as amended).

### **Section 1303: Termination and modification of permit**

Where a decision of the Zoning Hearing Board authorizes issuance of a zoning permit, the following shall apply:

**1303.1: Termination of permits** – If after a permit has been authorized by the Board, such permit is not applied for within a period of six (6) months from the date of authorization, then such authorization shall be null and void and no permit shall be issued thereunder.

**1303.2: Modification of a permit** – Any permit so issued shall not be modified except by action of the Board.

### **Section 1304: Parties appellant before the board**

Appeals and challenges within the jurisdiction of the Zoning Hearing Board as prescribed by the Planning Code may be filed with the Board in writing by the landowner affected, any officer or agency of the municipality, or any person aggrieved. Applications for variance or special exception may be filed with the Board by any landowner or tenant with the permission of such landowner.

## **Section 1305: Applications and fees**

Requests for a hearing and action for appeals, challenges, variances, or special exceptions shall be accompanied by an application in such form as shall be required by the Zoning Hearing Board and submitted to the Zoning Officer. Such application shall include payment of a reasonable fee based upon cost to be established by resolution of the Borough Council and in accordance with the Pennsylvania Municipalities Planning Code (Act 247 of 1968, as amended).

## **Section 1306: Special exceptions**

Upon application in accordance with the provisions of the Zoning Ordinance and the rules of the Zoning Hearing Board, the Board shall determine the reasonableness and propriety in particular cases of any below-listed special exceptions to the Zoning District regulations of the Zoning Ordinance. The proposed use shall also conform with all the provisions for the use in the particular Zoning District in which it is to be located, and all other pertinent provisions of the Zoning Ordinance, except as wherein prescribed in this Article. The Board shall consider, explain and record its finding and determination in conformity with the spirit of the Zoning Ordinance and may authorize the issuance of a Permit for the following:

### **1306.1: Other principal uses not explicitly permitted within a zoning district –**

A use which is not explicitly listed as a permitted principal use within the regulations of a zoning district may be permitted provided that the use is similar to and not more objectionable to the general welfare than the permitted uses listed in that zoning district. Such uses shall be permitted as a special exception only upon the judgment and approval of the Zoning Hearing Board which may also require compliance with such conditions as may be necessary to protect and promote the general welfare of the Borough.

## ARTICLE XIV: AMENDMENT

### Section 1400: Procedure for amendments

The Zoning Ordinance or parts thereof may be amended by the Borough Council in accordance with provisions of the Pennsylvania Municipalities Planning Code (Act 247 of 1968, as amended) and with the following procedures:

**1400.1: Initiation** – Any amendment may be initiated by:

1. The Borough Planning Commission.
2. The Borough Council.
3. A notarized petition to the Borough Council by the owner of the property involved or by a party having legal interest therein.

**1400.2: Public review and input** – If and when considering an amendment and before voting on enactment, the Borough Council shall provide opportunity for public review and input in accord with the Pennsylvania Municipalities Planning Code (Act 247 of 1968, as amended). At a minimum, such shall include:

1. A public hearing on the proposed amendment.
2. Public notice of the proposed amendment and public hearing published in a newspaper of general circulation and posted on the affected tract of land.
3. Referral of the proposed amendment to the Borough Planning Commission and Mercer County Planning Commission for review and comment.

**1400.3: Application form** – An application for amendment shall be submitted in a form prescribed by the Borough Council containing the following minimum information:

1. Name, address, and phone number of the applicant or his agent.
2. The applicant's legal interest in the affected property(ies).
3. A map showing the location of the affected property(ies), the present and proposed zoning classification and boundaries, and a perimeter sketch of the affected property(ies) showing dimensions and size.

**1400.4: Fee** – Any application for amendment to the Zoning Ordinance shall be accompanied by a reasonable fee in such amount as set by resolution of the Borough Council.

## **ARTICLE XV: APPEALS**

### **Section 1500: Zoning Appeals**

The review or appeal of any provision of this Ordinance or decision, determination, order or finding of the Borough Council or its agencies or officers shall follow the procedures set forth in Article X-A "Appeals to Court" of the Pennsylvania Municipalities Planning Code (Act 247 of 1968, as amended).

**ARTICLE XVI: EFFECTIVE DATE & ADOPTION**

**Section 1600: Effective date**

The Zoning Ordinance shall take effect thirty (30) days after the date of adoption by the Borough Council of Mercer Borough, Mercer County, Pennsylvania.

**Section 1601: Adoption**

We hereby certify that the Mercer Borough Zoning Ordinance was adopted by the Borough Council of Mercer Borough, Mercer County, Pennsylvania this \_\_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_\_.

Mercer Borough, Mercer County, Pennsylvania

\_\_\_\_\_

PRESIDENT OF BOROUGH COUNCIL

\_\_\_\_\_

MAYOR

(SEAL)

ATTEST:

\_\_\_\_\_

BOROUGH SECRETARY

## ARTICLE XVII: CERTIFICATION

### Section 1700: Certification

I do hereby certify that the foregoing is a true copy of Ordinance Number \_\_\_\_\_, adopted by the Borough Council of Mercer Borough, Mercer County, Pennsylvania on \_\_\_\_\_, A.D., \_\_\_\_\_.

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BOROUGH SECRETARY