

AKRON BOROUGH ZONING ORDINANCE



Adopted:

Zoning Ordinance

Of Akron Borough 2023



Revised Date by Ordinance _____

ZONING ORDINANCE

TABLE OF CONTENTS

<u>ARTICLE I. GENERAL PROVISIONS.....</u>	<u>1-1</u>
SECTION 27-101. TITLE.....	1-1
SECTION 27-102. PURPOSE.....	1-1
<u>ARTICLE II. INTERPRETATION.....</u>	<u>2-1</u>
<u>ARTICLE III. APPLICABILITY.....</u>	<u>3-1</u>
SECTION 27-301. CONFORMITY WITH APPLICABLE PROVISIONS.....	3-1
SECTION 27-302. NON-SPECIFIED USES.....	3-4
<u>ARTICLE IV. ZONING DISTRICTS.....</u>	<u>4-1</u>
SECTION 27-401. ESTABLISHMENT OF DISTRICTS.....	4-1
SECTION 27-402. DISTRICT BOUNDARIES.....	4-1
SECTION 27-403. ZONING MAP.....	4-2
<u>ARTICLE V. TERMINOLOGY.....</u>	<u>5-1</u>
SECTION 27-501. WORD USAGE.....	5-1
SECTION 27-502. INTERPRETATION.....	5-1
SECTION 27-503. DEFINITIONS.....	5-2
<u>ARTICLE VI. Residential 1 (R-1)</u>	<u>6-1</u>
SECTION 27-601. PURPOSE	6-1
SECTION 27-602. USES BY RIGHT.....	6-1
SECTION 27-603. SPECIAL EXCEPTION USES.....	6-2
SECTION 27-604. CONDITIONAL USES.....	6-2
SECTION 27-605. AREA AND BULK REGULATIONS FOR PRINCIPAL BUILDINGS AND PERMITTED USES BY RIGHT.....	6-2
SECTION 27-606. AREA AND BULK REGULATIONS FOR PRINCIPAL BUILDINGS AND PERMITTED USES BY SPECIAL EXCEPTION.....	6-3
SECTION 27-607. AREA AND BULK REGULATIONS FOR PRINCIPAL BUILDINGS AND PERMITTED USES BY CONDITION.....	6-4
SECTION 27-608. SUPPLEMENTAL REGULATIONS.....	6-5

<u>ARTICLE VII. RESIDENTIAL DISTRICT R-2</u>	7-1
SECTION 27-701. PURPOSE	7-1
SECTION 27-702. USES BY RIGHT	7-1
SECTION 27-703. SPECIAL EXCEPTION USES	7-1
SECTION 27-704. CONDITIONAL USES	7-2
SECTION 27-705. AREA AND BULK REGULATIONS FOR PRINCIPAL BUILDINGS AND USES PERMITTED BY RIGHT	7-2
SECTION 27-706. AREA AND BULK REGULATIONS FOR PRINCIPAL BUILDINGS AND USES PERMITTED BY SPECIAL EXCEPTION	7-3
SECTION 27-707. AREA AND BULK REGULATIONS FOR PRINCIPAL BUILDINGS AND USES PERMITTED BY CONDITION	7-5
SECTION 27-708. SUPPLEMENTAL REGULATIONS	7-5
<u>ARTICLE VIII. RESIDENTIAL DISTRICT R-3</u>	8-1
SECTION 27-801. PURPOSE	8-1
SECTION 27-802. USES BY RIGHT	8-1
SECTION 27-803. SPECIAL EXCEPTION USES	8-1
SECTION 27-804. CONDITIONAL USES	8-1
SECTION 27-805. AREA AND BULK REGULATIONS FOR PRINCIPAL BUILDINGS AND USES PERMITTED BY RIGHT	8-2
SECTION 27-806. AREA AND BULK REGULATIONS FOR PRINCIPAL BUILDINGS AND USES PERMITTED BY SPECIAL EXCEPTION	8-5
SECTION 27-807. AREA AND BULK REGULATIONS FOR PRINCIPAL BUILDINGS AND USES PERMITTED BY CONDITION	8-5
SECTION 27-808. SUPPLEMENTAL REGULATIONS	8-5
<u>ARTICLE IX. COMMERCIAL DISTRICT – C-1</u>	9-1
SECTION 27-901. PURPOSE	9-1
SECTION 27-902. USES BY RIGHT	9-1
SECTION 27-903. SPECIAL EXCEPTION USES	9-1
SECTION 27-904. CONDITIONAL USES	9-2
SECTION 27-905. AREA AND BULK REGULATIONS FOR PRINCIPAL BUILDINGS AND USES PERMITTED BY RIGHT	9-3

SECTION 27-906. AREA AND BULK REGULATIONS FOR PRINCIPAL BUILDINGS AND USES PERMITTED BY SPECIAL EXCEPTION.....	9-4
SECTION 907. AREA AND BULK REGULATIONS FOR PRINCIPAL BUILDINGS AND USES PERMITTED BY CONDITION.....	9-5
SECTION 908. SUPPLEMENTAL REGULATIONS.....	9-5
<u>ARTICLE X. COMMERCIAL MIXED – C-M</u>	10-1
SECTION 27-1001. PURPOSE.....	10-1
SECTION 27-1002. USES BY RIGHT.....	10-1
SECTION 27-1003. SPECIAL EXCEPTION USES.....	10-1
SECTION 27-1004. CONDITIONAL USES.....	10-2
SECTION 27-1005. AREA AND BULK REGULATIONS FOR PRINCIPAL BUILDINGS AND USES PERMITTED BY RIGHT.....	10-2
SECTION 27-1006. AREA AND BULK REGULATIONS FOR PRINCIPAL BUILDINGS AND USES PERMITTED BY SPECIAL EXCEPTION.....	10-5
SECTION 27-1007. AREA AND BULK REGULATIONS FOR PRINCIPAL BUILDINGS AND USES PERMITTED BY CONDITION.....	10-5
SECTION 27-1008. SUPPLEMENTAL REGULATIONS.....	10-6
<u>ARTICLE XI. SIGNS</u>	11-1
SECTION 27-1101. PURPOSE.....	11-1
SECTION 27-1102. DEFINITIONS.....	11-3
SECTION 27-1103. SIGN AREA AND HEIGHT.....	11-3
SECTION 27-1104. GENERAL REGULATIONS.....	11-4
SECTION 27-1105. SPECIFIC REGULATIONS.....	11-7
SECTION 27-1106. SUPPLEMENTAL REGULATIONS.....	11-8
SECTION 27-1107. NONCONFORMING SIGNS.....	11-11
<u>ARTICLE XII. OFF-STREET PARKING AND LOADING</u>	12-1
SECTION 27-1201. COMPLIANCE REQUIRE.....	12-1
SECTION 27-1202. MINIMUM OFF-STREET PARKING REQUIREMENTS.....	12-1
SECTION 27-1203. PARKING SPACE COMPUTATION.....	12-3
SECTION 27-1204. PARKING AREA SURFACE.....	12-3
SECTION 27-1205. PARKING AREA DIMENSIONS.....	12-3
SECTION 27-1206. PARKING AREA RESERVATION.....	12-3

SECTION 27-1207. OFF-STREET LOADING AND UNLOADING SPACE.....	12-4
SECTION 27-1208. HANDICAP PARKING.....	12-4
SECTION 27-1209. RESIDENTIAL DRIVEWAYS.....	12-4
<u>ARTICLE XIII. ACCESSORY USE REGULATIONS.....</u>	13-1
SECTION 27-1301. ANIMALS AND ANIMAL SHELTERS.....	13-1
SECTION 27-1302. DETACHED PRIVATE GARAGES.....	13-1
SECTION 27-1303. OTHER OUTBUILDINGS/STRUCTURES (SHEDS).....	13-2
SECTION 27-1304. SWIMMING POOLS.....	13-2
SECTION 27-1305. TENNIS COURTS.....	13-2
SECTION 27-1306. PATIOS AND PAVED TERRACES.....	13-3
SECTION 27-1307. PUBLIC NUISANCES.....	13-3
SECTION 27-1308. FENCES AND FREESTANDING WALLS.....	13-3
SECTION 27-1309. SATELLITE ANTENNAS.....	13-4
SECTION 27-1310. HOME OCCUPATIONS.....	13-4
SECTION 27-1311. SOLAR ENERGY SYSTEMS.....	13-11
SECTION 27-1312. GARDEN PONDS.....	13-11
SECTION 27-1313. BEEKEEPING.....	13-12
<u>ARTICLE XIV. GENERAL REGULATIONS.....</u>	14-1
SECTION 27-1401. UNSAFE DWELLINGS, STRUCTURES OR LAND.....	14-1
SECTION 27-1402. VISIBILITY AT STREET INTERSECTIONS.....	14-1
SECTION 27-1403. REMOVAL OF NATURAL RESOURCES.....	14-1
SECTION 27-1404. PUBLIC UTILITIES AND MUNICIPAL USES.....	14-1
SECTION 27-1405. CORNER LOTS.....	14-2
SECTION 27-1406. REQUIRED YARDS.....	14-2
SECTION 27-1407. LOT WIDTH, DEPTH, AND AREA EXCEPTIONS FOR LOTS OF RECORD	14-2
SECTION 27-1408. BUILDING HEIGHT EXCEPTIONS.....	14-3
SECTION 27-1409. FLOODPLAIN REGULATIONS.....	14-3
SECTION 27-1410. DRIVEWAYS.....	14-3
SECTION 27-1411. VEHICULAR ACCESS; FLAG LOTS.....	14-3

SECTION 27-1412. OBSCENITY.....	14-3
<u>ARTICLE XV PROFORMANCE STANDARDS</u>	15-1
SECTION 27-1501. APPLICABILITY.....	15-1
SECTION 27-1502. ADULT ESTABLISHMENTS.....	15-1
SECTION 27-1503. BED AND BREAKFAST ESTABLISHMENTS.....	15-2
SECTION 27-1504. BODY ART ESTABLISHMENTS.....	15-3
SECTION 27-1505. DAYCARE CENTERS COMMERCIAL.....	15-3
SECTION 27-1506. GROUP HOMES.....	15-4
SECTION 27-1507. SCREENING OF SPECIFIC USES.....	15-4
SECTION 27-1508. ACCESSORY DWELLING UNITS.....	15-5
SECTION 27-1509. TELECOMMUNICATIONS FACILITIES.....	15-7
SECTION 27-1510. SOLAR ENERGY SYSTEMS.....	15-14
SECTION 27-1511. GEOTHERMAL ENERGY SYSTEMS.....	15-17
SECTION 27-1512. SHORT TERM RENTALS.....	15-18
SECTION 27-1513. MIXED-USE.....	15-18
<u>ARTICLE XVI. MOBILE HOME AND MOBILE HOME PARKS</u>	16-1
SECTION 27-1601. INDIVIDUAL MOBILE HOMES.....	16-1
SECTION 27-1602. MOBILE HOME PARKS.....	16-2
<u>ARTICLE XVII. FLOODPLAIN DISTRICTS</u>	17-1
SECTION 27-1700. APPLICABILITY.....	17-1
SECTION 27-1701. INTENT.....	17-1
SECTION 27-1702. PROHIBITED CONDUCT.....	17-1
SECTION 27-1703. PERMITTED USES, HEIGHT, BULK, AND AREA REGS.....	17-1
SECTION 27-1704. SEVERABILITY.....	17-2
SECTION 27-1705. WARNING AND DISCLAIMER OF LIABILITY.....	17-2
SECTION 27-1706. ADMINISTRATION.....	17-2
SECTION 27-1707. PERMITS REQUIRED.....	17-3
SECTION 27-1708. DUTIES AND RESPONSIBILITIES OF FLOODPLAIN ADMIN.....	17-3
SECTION 27-1709. APPLICATION PROCEEDURES.....	17-5
SECTION 27-1710. REVIEW BY COUNTY CONSERVATION DISTRICT.....	17-7

SECTION 27-1711.REVIEW OF APPLICATION BY OTHERS.....	17-8
SECTION 27-1712.CHANGES.....	17-8
SECTION 27-1713. PLACARDS.....	17-8
SECTION 27-1714. START OF CONSTRUCTION.....	17-8
SECTION 27-1715 ENFORCEMENT.....	17-9
SECTION 27-1716. APPEALS.....	17-9
SECTION 27-1717. IDENTIFICATION.....	17-10
SECTION 27-1718. DISCRIPTION AND SPECIAL REQUIREMENTS	17-10
SECTION 27-1719. CHANGES IN IDENTIFICATION OF AREA.....	17-11
SECTION 27-1720. BOUNDRY DISPUTES.....	17-12
SECTION 27-1721.JURISDICTIONAL BOUNDARY CHANGES.....	17-12
SECTION 27-1722.GENERAL REQUIREMENTS.....	17-12
SECTION 27-1723. ELEVATION AND FLOODPROOFING REQUIREMENTS.....	17-13
SECTION 27-1724. DESIGN AND CONSTRUCTION STANDARDS.....	17-17
SECTION 27-1725 DEVELOPMENT WHICH MAY ENDANGER HUMAN LIFE.....	17-21
SECTION 27-1726. SPECIAL REQUIREMENTS FOR SUBDIVISIONS AND DEVEL....	17-24
SECTION 27-1727. SPECIAL REQ. MANUFACTURED HOMES.....	17-24
SECTION 27-1728. PROHIBITED ACTIVITIES.....	17-24
SECTION 27-1733. EXISTING STRUCTURES.....	17-25
SECTION 27-1734. IMPROVEMENTS.....	17-25
SECTION 27-1735. GENERAL PROVISIONS.....	17-26
SECTION 27-1736 VARIANCE PROCEEDURES AND CONDITIONS.....	17-26
SECTION 27-1737. INTERPRETATION.....	17-28
SECTION 27-1738 SPECIFIC DEFINITIONS.....	17-28
SECTION 27-1739 FEE AND ESCROW DEPOSITS.....	17-36
SECTION 27-1740. EXPENSES COVERED BY FEES.....	17-36
<u>ARTICLE XVIII. ADMINISTRATION AND ENFORCEMENT.....</u>	18-1
SECTION 27-1801. ZONING OFFICER.....	18-1
SECTION 27-1802. DUTIES AND RESPONSIBILITIES OF ZONING OFFICE.....	18-1
SECTION 27-1803. PERMITS.....	18-2

SECTION 27-1804. CONDITIONS OF PERMIT.....	18-3
SECTION 27-1805. CERTIFICATE OF USE AND OCCUPANCY.....	18-3
SECTION 27-1806. ENFORCEMENT, VIOLATIONS AND PENALTIES.....	18-4
<u>ARTICLE XIV. ZONING HEARING BOARD; ADMINISTRATIVE PROCEEDINGS</u>	19-1
SECTION 27-1801. ESTABLISHMENT OF ZONING HEARING BOARD; MEMBERSHIP TERMS VARIANCES.....	19-1
SECTION 27-1802. ORGANIZATION OF ZONING HEARING BOARD.....	19-1
SECTION 27-1803. HEARINGS.....	19-1
SECTION 27-1804. JURISDICTION OF ZONING HEARING BOARD.....	19-3
SECTION 27-1805. VARIANCES; SPECIAL EXCEPTIONS.....	19-4
SECTION 27-1806. PARTIES APPELLANT BEFORE THE BOARD.....	19-6
SECTION 27-1807. TIME LIMITATIONS.....	19-7
SECTION 27-1808. EFFECT OF BOARD'S DECISION.....	19-7
SECTION 27-1809. STAY OF PROCEEDINGS.....	19-8
SECTION 27-1810. JURISDICTION OF THE BOROUGH COUNCIL.....	19-8
SECTION 27-1811. CHALLENGES TO VALIDITY OF ORDINANCE.....	19-11
SECTION 27-1812. PROCEDURE TO OBTAIN PRELIMINARY OPINION.....	19-12
SECTION 27-1813. APPEAL TO THE COURT.....	19-14
SECTION 27-1814. AMENDMENTS.....	19-14
<u>ARTICLE XX. VALIDITY AND SEVERANCE</u>	20-1
<u>ARTICLE XXI. REPEALER</u>	20-1
<u>ARTICLE XXII. EFFECTIVE DATE</u>	20-1

APPENDICES

APPENDIX A. ZONING MAP AMENDMENTS

APPENDIX B. ZONING MAP

ARTICLE I. GENERAL PROVISIONS

SECTION 27-101. TITLE

This ordinance shall be known and may be cited as the "Zoning Ordinance of Akron Borough 2023 as amended."

SECTION 27-102. PURPOSE

This ordinance is enacted to reflect the policy goals of Borough of Akron, as set forth in the Borough of Akron Comprehensive Plan, with consideration for the character of the Borough, its various parts, and the suitability of the various parts for particular uses. This ordinance is enacted for the following purposes:

1. To promote, protect, and facilitate the public health, safety, morals, and the general welfare; coordinated and practical community development and proper density of population; emergency management preparedness and operations; the provision of adequate light and air; access to incident solar energy; police protection; vehicle parking and loading space; transportation; water; sewerage; schools; recreational facilities; public grounds; the provision of a safe, reliable and adequate water supply for domestic, commercial, agricultural, or industrial use; and other public requirements; as well as preservation of the natural, scenic, and historic values in the environment and preservation of forests, wetlands, aquifers, and floodplains.
2. To prevent overcrowding of land; blight; overburdening of public improvements and facilities; and loss of health, life, or property from fire, flood, panic, or other dangers.
3. To promote safe and adequate travel and transportation facilities and controls.
4. To provide for the use of land within the Borough for residential housing of various dwelling types encompassing all basic forms of housing.
5. To accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwelling types and nonresidential uses.

ARTICLE II. INTERPRETATION

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience, and general welfare. Where the provisions of this Ordinance impose greater restrictions than those of any statute, other ordinance, or regulation, the provision of this Ordinance shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this Ordinance, the provisions of such statute, other ordinance, or regulation shall be controlling. This Ordinance is not intended to interfere with, abrogate, or annul any easement, covenant, or other agreement between private parties. However, where this Ordinance imposes greater restrictions than those imposed by any such easement, covenant, or agreement, the provisions of this Ordinance shall govern.

ARTICLE III. APPLICABILITY

SECTION 27-301. CONFORMITY WITH APPLICABLE PROVISIONS

The provisions, regulations, limitations, and restrictions of this ordinance shall apply to all structures, buildings, and/or land and their appurtenant and accessory structures and buildings and accessory additions and shall apply with equal force to municipal, county, state, and private buildings, structures, and/or land which are otherwise specifically provided for by statute.

Nonconforming signs shall be in accordance with Section 27-1108.

1. Conformity of existing structures, buildings, and/or land. From and after the effective date of this ordinance, any existing structure, building, land, and/or premises shall not be reconstructed, altered, repaired, extended, replaced, restored, or converted, except in conformity with the regulations hereto specified for the zoning district in which it is located or intended to be located.
2. Conformity of proposed structures, buildings, and/or land. From and after the effective date of this ordinance, any proposed structure, building, or portion thereof shall not be erected, constructed, or placed and any proposed structure, building, land, and/or premises shall not be used or occupied so as to produce greater heights, smaller yards, or less unoccupied area or greater occupancy than prescribed for such structure, building, land, and/or premises in the zoning district in which it is located or intended to be located or except in conformity with the regulations herein specified in the zoning district, as shown on the Zoning Map, in which it is located or intended to be located.
3. Conformity of open spaces. From and after the effective date of this ordinance, any yard or open space, or part thereof, shall not be included as a part of the yard or open space similarly required for any other building or structure under this ordinance.
4. Existing nonconformity. From and after the effective date of this ordinance, any existing structure, building, and/or land or any existing use of a structure, building, and/or land not in conformity with the regulations, limitations, restrictions, and provisions herein prescribed shall be regarded as nonconforming, but may be continued in such nonconformity subject to the following limitations:
 - A. Continuation. Any lawful use of buildings, structures, or lands existing at the effective date of this ordinance, or authorized by a building permit issued prior thereto, may be continued in its existing condition, although such use does not conform to the provisions of this ordinance.
 - B. Expansion. No expansion of a nonconforming structure, building or use shall hereafter be made unless written application has been filed with the Zoning Hearing Board, and such expansion has been approved as a special exception subject to the following standards and criteria and those contained in Section 27-1805.2 of this ordinance:

- (1) The expansion of the nonconforming use shall be limited to an area equal to 25% of the floor area of buildings devoted to the nonconforming use as they existed on the date on which such use first became nonconforming.
- (2) Any expansion of a nonconforming use or structure shall be limited to the lot of record upon which the nonconforming use or structure existed on the date the use of the structure became nonconforming.
- (3) The expansion of nonconforming uses shall comply with the provisions for building height, yard setback, and lot coverage required for permitted uses in the district in which the nonconformity in question is located.
- (4) The expansion shall not create new dimensional nonconformities or further increase existing dimensional nonconformities.

C. Damage or destruction. A nonconforming structure or building which is damaged or destroyed may be rebuilt and occupied for the same use as before the damage after obtaining appropriate permits pursuant to Section 27-1503 of this ordinance and provided that:

- (1) The damage or destruction is unintentional or, if intentional, with the appropriate permit from the Borough and all other applicable agencies.
- (2) The previous foundation is to be used for restoration.
- (3) The reconstructed structure or building shall not be larger than the damaged structure.
- (4) The reconstruction shall start within one year from the time of damage to the structure or building.
- (5) The repair of a nonconforming structure or building shall not cause the structure to create further expansion in a nonconforming dimension or aspect.

D. Discontinuance and abandonment. If a nonconforming use is discontinued for a period of more than one year, then this shall be deemed to be an intent to abandon such use. No nonconforming use may be reestablished after it has been determined to have been discontinued and abandoned. Any subsequent use shall conform to the regulations of this ordinance.

E. Change of nonconforming use. Upon written application, the Zoning Hearing Board, by special exception, may permit the substitution of another nonconforming use in accordance with the following criteria and limitations:

- (1) The proposed use to be substituted shall be:

- [a] Permitted by right, by special exception, or by conditional use in a district in which the existing nonconforming use would be a permitted use; or
 - [b] Permitted by right, special exception or conditional use in a more restrictive zoning district than the existing nonconforming use would be permitted.
 - (2) The proposed use shall not generate more traffic than the existing nonconforming use.
 - (3) The proposed use, if commercial or industrial in nature, shall not have longer hours of operation than the existing nonconforming use.
 - (4) The proposed use shall not generate higher levels of noise, smoke, or glare off the property than the existing nonconforming use.
 - (5) The proposed use shall not be more detrimental to the neighboring properties and uses than the existing nonconforming use.
 - (6) The Zoning Hearing Board may attach any reasonable conditions.
- F. Previously expanded nonconforming uses, buildings, and structures. If a building, structure, or land was expanded to the limits of expansion for a nonconforming building, structure, or use of land as authorized by a prior zoning regulation or ordinance, no further expansion of said building, structure, or land shall be authorized. In the event a nonconforming building, structure, or use of land was expanded to a portion of the limits of expansion authorized by a prior zoning regulation or ordinance, additional expansion, if permitted by this, shall only be authorized to the amount of expansion not previously utilized pursuant to said prior zoning regulation or ordinance.
- G. Dimensional nonconformity.
- (1) Applicability. A structure which is nonconforming as to setbacks or lot area may be expanded in accordance with the requirements of Section 27-301.4.G.(2) herein. Only structures which are used for a permitted use in the district in which the structure is located shall be permitted to expand in accordance with this section.
 - (2) Expansion limitations. Structures or buildings which are dimensionally nonconforming may be expanded in accordance with the following regulations:
 - [a] A structure or building which is located within the required front yard area of the district in which it is located is permitted to expand, provided that the expanded part of the structure will not extend nearer to the street than the part of the existing structure which

is nearest to the street and that the minimum side yard and rear yard areas of the district are met.

- [b] A structure or building which is located within the required rear yard area of the district in which it is located is permitted to expand, provided that the expanded part of the structure will not extend nearer to the rear property line than that part of the existing structure which is nearest to the property line and that the minimum side yard and front yard areas of the district are met.
- [c] A structure or building which is located within a required side yard area of the district in which it is located is permitted to expand, provided that the expanded part of the structure will not extend nearer to the side property line than that part of the existing structure which is nearest to the side property line and that the minimum front yard, rear yard and other side yard areas of the district are met.

- (3) Restoration of a dimensionally nonconforming structure or building. A dimensionally nonconforming structure which is unintentionally destroyed or damaged may be rebuilt and occupied in accordance with the regulations set forth in Section 27-301.4.C. herein.

- H. Substitution of a conforming use. Any use which complies with the regulations for the district in which the nonconforming use is located may be substituted for the nonconforming use. Once a conforming use is established, no nonconforming use shall be permitted in the future. If a nonconforming use is proposed to be eliminated and a conforming use substituted but certain regulations cannot be met (such as area, yard, etc.), the Zoning Hearing Board, upon written application, may grant a special exception to permit such conforming use, with such appropriate conditions and safeguards as the Board may see fit.

SECTION 27-302. NON-SPECIFIED USES

Where a use is not specifically permitted, it shall be assumed to be prohibited, unless, in the opinion of the Zoning Officer, upon review and approval by the Zoning Hearing Board, it shall be considered to be of the same general character as the uses permitted in the specific zoning district.

ARTICLE IV. ZONING DISTRICTS

SECTION 27-401. ESTABLISHMENT OF DISTRICTS

1. The Borough is hereby divided into the following 6 districts:

Residential District R-1

Residential District R-2

Residential District R-3

Commercial District C-1

Commercial District C-M

Floodplain FP

SECTION 27-402. DISTRICT BOUNDARIES

The boundaries of the zoning districts are hereby established as shown on the Borough of Akron Zoning Map, which is made a part hereof by reference.

1. Interpretation of district boundary lines. The district boundary lines shall be as shown on the Zoning Map. Such lines are intended to coincide with property lines, center lines of streets, utility rights-of-way, bodies of water, or the corporate boundary of the Borough, unless the contrary is indicated on the Zoning Map. In case of dispute, the Zoning Hearing Board shall determine the exact location of the district boundaries.
2. District regulations apply to school, parks, and other public uses. Public parks, playgrounds, cemeteries, public utilities, street rights-of-way, or other public uses shall be subject to the zoning regulations of the zoning district in which they are located. In case of doubt, the zoning regulations of the most restricted adjoining zoning district shall govern.
3. Vacation of public ways. Whenever any street, alley, or other public way is vacated in the manner authorized by law, the zoning district adjoining each side of such street, alley, or public way shall be automatically extended to the center of such vacation, and all area included in the vacation shall then and henceforth be subject to all regulations of the extended zoning districts.

SECTION 27-403. ZONING MAP

The official Borough of Akron Zoning Map shall be filed in the Borough office. This map shall be the final determination of all questions relative to the boundaries of the zoning districts. As evidence of the authenticity of the map, it shall be duly certified by the Borough Manager-Secretary. Whenever said Zoning Map is amended, the same form of authentication shall be duly followed.

ARTICLE V. TERMINOLOGY

SECTION 27-501. WORD USAGE

Words not herein defined shall take on the meanings as defined in the latest edition of the Merriam-Webster Collegiate Dictionary. Words and phrases shall be presumed to be used in their ordinary context, unless such word or phrase is defined differently within this article.

SECTION 27-502. INTERPRETATION

In this ordinance, when not inconsistent with the context:

1. Words in the present tense imply also the future tense.
2. The singular includes the plural.
3. The male gender includes the female gender.
4. The word "person" includes a natural person, partnership, firm, association, corporation, organization, trust, estate, company or any other legally recognized entity as well as an individual and the officers of any corporation and the members of any partnership and shall include both singular and plural.
5. The term "shall" or "must" is always mandatory; the word may is discretionary.
6. References to codes, ordinances, resolutions, plans, maps, governmental bodies, commissions or agencies or officials are to codes, ordinances, resolutions, plans, maps, governmental bodies, commissions or agencies or officials of the Township or the Commonwealth of Pennsylvania as in effect or office from time to time, including amendments thereto or revisions or successors thereof, unless the text indicates another reference is intended.
7. Terms not defined in this Ordinance, in such other ordinances, or in § 107 of the MPC shall have the meaning assigned to them in the most recent edition of Merriam-Webster's Collegiate Dictionary.

SECTION 27-503. DEFINITIONS

ADULT BOOKSTORE - An establishment having, as a substantial and significant portion of its stock-in-trade, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, or an establishment with a segment or section devoted to the sale or display of such publications.

ADULT ESTABLISHMENT - An adult bookstore, adult mini motion-picture theater, adult motion-picture theater, adult novelty store, adult theater, or a massage establishment.

ADULT MINI MOTION-PICTURE THEATER - An enclosed building with a capacity of less than 50 persons used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specific anatomical areas, for observation by patrons therein.

ADULT MOTION-PICTURE THEATER - An enclosed building with a capacity of 50 or more persons used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, for observation by patrons therein.

ADULT NOVELTY STORE - An establishment having, as a substantial and significant portion of its stock-in-trade, sexually oriented devices, or an establishment with a segment or section devoted to the sale or display of such devices.

ADULT THEATER - An establishment featuring live performances on a regular basis which are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

ALLEY - A minor right-of-way, privately or publicly owned, primarily for secondary means of access to the rear or sides of properties.

ALTERATION - A change or rearrangement in the parts of a building or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another which would change its use classification, other than an addition.

AMENDMENT - Any revision to a regulation or ordinance that is formally adopted by the governing body charged with the keeping of such regulations, which includes revisions to an ordinance or map, Amendments to this ordinance lie solely with the Borough of Akron Council.

ANTENNA - Any exterior apparatus designed for the sending and/or receiving of electromagnetic waves for telephonic, radio, television, or personal wireless services. These uses include, without limitation, such apparatus for cellular or other wireless telephones, pagers and beepers.

APPLICANT — A landowner, as herein defined, or agent of the landowner, who has filed an application for a zoning, building or driveway permit and/or an application for development, including his heirs, successors, and assigns.

APPLICATION FOR DEVELOPMENT - Every application, whether preliminary, tentative, or final, required to be filed and approved prior to the start of construction or development, including but not limited to an application for a building permit, for the approval of a subdivision plat or plan or for the approval of a development plan. Every application for development must include the form designated by the Borough and all other plans and information required by this ordinance.

APPOINTING AUTHORITY - The Borough Council.

APPROVED - Approved by the recognized authoritative agency or official as specified in the respective regulations.

AREA - The extent of surface contained within the boundaries or extremities of land or a building.

ATTIC - That part of a building which is immediately below and wholly or partly within the roof framing. Within a dwelling unit, an attic shall not be counted as floor area unless it is constructed as or modified into a habitable room by the inclusion of dormer windows, an average ceiling height of five feet or more, and a permanent stationary interior-access stairway to a lower building story.

AWNING - A structure attached to a building, typically consisting of a frame, and covered with fabric or any other material.

BASEMENT - That portion of a building that is partly or completely below grade.

BEEKEEPING - Raising or keeping of bees.

BED-AND-BREAKFAST ESTABLISHMENT - An owner-occupied single-family detached dwelling in which bed-and-breakfast units are provided for compensation on a nightly basis. Meals may be offered only to registered overnight guests.

BED-AND-BREAKFAST UNIT - A room within a bed-and-breakfast establishment used as lodging for no more than four persons.

BILLBOARD – See definition in Article XI.

BODY ART ESTABLISHMENT - Any business or portion thereof where tattooing or body piercing is practiced or provided to customers.

BUILDING - Any structure used for a resident, business, industry, or other public or private purpose, or accessory thereto, and including covered porches, greenhouses, stables, garages, roadside stands, mobile homes, and similar structures, whether stationary or movable, but excluding fences and walls which are part of the landscaping, signs, steps, and awnings.

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 ADDITION - Any exterior structural enlargement to a building or structure.

BUILDING FOOTPRINT - The total areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of uncovered porches, awnings, steps and patios.

BUILDING, HEIGHT OF - The vertical distance from grade to the top of the highest roof beams of a flat roof or the top of the eave of a hip or gable roof.

BUILDING LENGTH - The horizontal measurement of any continuous building wall, regardless of offsets.

BUILDING LINE - A line formed by the intersection of a horizontal plane and a vertical plane that coincides with the exterior surface of the building on any side. In case of a cantilevered or projected section of a building, except overhanging eaves, gutters and cornices, the vertical plane will coincide with the most projected surface.

BUILDING, MIXED-USE - A building with two or more principal uses, where the uses are typically located one over the other and may include apartments over commercial uses.

BUILDING, PRINCIPAL - A building in which is conducted the principal use of the lot on which the building is located, including any attached structures, such as garages, decks, patios, etc.

BUILDING SETBACK LINE - A line defining the minimum required distance within a lot from and parallel to a street right-of-way line and side and rear lot lines which designates the minimum location of future buildings and structures.

CAMPUS – A lot in single ownership on which are developed one or more buildings and accessory uses directly related to the purposes of an organization.

CARPORT - An unenclosed structure, which is open on at least two sides, with a permanent floor and roof supported by columns or posts, that is primarily used for the storage of one or more vehicles in the same manner as a private garage. Carports not open on at least two sides shall be considered a garage.

CARTWAY - The surface of a street, access drive or alley available for vehicular traffic.

CEMETERY - Land used or intended to be used, as an accessory use, for the burial of the deceased, including columbariums, mausoleums and mortuaries when operated in conjunction with the cemetery and within the boundaries thereof. This definition shall not include crematoria, which shall be considered to be funeral homes.

CERTIFICATE OF USE AND OCCUPANCY - A certificate issued by the Borough upon completion of the construction of a new building or upon a change or conversion of the structure

or use of a building, which certifies that all requirements and regulations as provided herein and within all other applicable requirements have been complied with.

CO-LOCATION - The use of a common telecommunications tower or common site by two or more wireless communications services.

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

COMMON OPEN SPACE - A parcel or parcels of land or an area of water, or a combination of land and water, within a development site and designed and intended for the use or enjoyment of residents of a development, not including streets, off-street parking areas, and areas set aside for public facilities.

COMMUNITY CLUB - An organization catering exclusively to members and their guests for social, educational, cultural, civic, recreational, and administrative purposes, provided vending stands, merchandising or commercial activities are not conducted except as required for the membership of such club. "Clubs" shall include but not be limited to service and political organizations and labor unions, as well as social clubs. "Community clubs" shall not include adult establishments, as defined herein.

COMPREHENSIVE PLAN - The official Borough of Akron public document consisting of maps, charts and textual material that constitutes a policy guide to decisions about the physical and social development of the Borough of Akron, as amended from time to time.

CONDOMINIUM - A set of individual dwelling units or other areas of buildings, each owned by an individual person(s) in fee simple, with such owners assigned a proportionate interest in the remainder of the real estate, which is designated for common ownership, and which is created under the Pennsylvania Uniform Condominium Act of 1980.

CONFERENCE/EVENT CENTER - A property and/or facility which is utilized to host a variety of business, educational and social events, including but not limited to conferences, exhibitions, meetings, seminars, training, parties, receptions, and galas. Such use may include the provisions, sale and/or consumption of food and/or alcoholic beverages incidental to the above-referenced uses but not as a separate principal use. Additionally, a Conference/Event Center may include any one or more of the following as a separate, but secondary use of the property and/or facility; a public restaurant, a café, and/or commercial recreation facility.

CONVENIENCE STORE - A store or shop, less than 10,000 square feet, that may sell items such as food products, groceries, toiletries, lottery tickets, tobacco products, newspapers and magazines, along with a selection of processed food and groceries. Dining areas may be offered and are included in the total floor area, whether located inside or outside the building. Stores that offer gas may also sell motor oil, windshield washer fluid, radiator fluid, and maps. The outdoor sales or dining area shall be a maximum of 600 square feet

COUNTY PLANNING COMMISSION - The Lancaster County Planning Commission.

DAY-CARE CENTER - The offering of care or supervision over minors, or adults who require supervision because of mental or physical condition, in lieu of care or supervision by family members. This term is not synonymous with the terms "recreation area" or "commercial recreation facility."

DAY-CARE CENTER, ADULT - A building, or space in a building, and grounds in which, on a regular basis, for a fee, care is provided to adults who are in need of supervision because of their mental or physical condition. It does not include any establishment which provides overnight care or stays of any kind. It does not include establishments which provide overnight stays of any kind.

DAY-CARE CENTER, COMMERCIAL - A day-care facility that is a principal use and is licensed by the Commonwealth of Pennsylvania for the care or supervision of minors or adults. It does not include any establishment which provides overnight care or stays of any kind.

DAY-CARE CENTER, FAMILY MAJOR - A day-care facility that is operated as an accessory use to a detached single-family dwelling that is registered by the Commonwealth of Pennsylvania and offers care and supervision to no more than six children unrelated to the operator during any calendar day.

DAY-CARE CENTER, FAMILY MINOR - A day-care facility that is operated as an accessory use to a detached single-family dwelling that is registered by the Commonwealth of Pennsylvania and offers care and supervision to no more than three children unrelated to the operator during any calendar day.

DECK - A constructed flat surface capable of supporting weight, similar to a floor but constructed outdoors and usually (though not always) connected to a building. A deck shall not be completely enclosed, except for any side which may adjoin a structure or for any fences, walls, shrubs, or hedges. For the purposes of this ordinance, a deck is considered to be an impervious surface and part of the principal building.

DENSITY - The number of dwelling units in relation to the total land area proposed to be used for residential purposes, including but not limited to rights-of-way, interior parking areas, access drives, private streets, sidewalks, common open space, public or semipublic parks and playgrounds and floodplain boundaries.

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

DEVELOPMENT - Any man-made change to improved or unimproved real estate, including but not limited to buildings, or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

.

DEVELOPMENT PLAN - The provisions for development, including a planned residential development, a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways and parking facilities, common open space, and public facilities

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

DOMESTIC ANIMALS - Animals that are normally considered to be kept in conjunction with a dwelling for the pleasure of the resident family, rather than for economic reasons. This shall include dogs, cats, small birds, racing pigeons, gerbils, rabbits, lizards and other nonpoisonous animals commonly sold in retail pet shops.

DRIVE-THROUGH SERVICE/FACILITY - A restaurant, bank, drug store or other use that provides service to customers who remain seated in automobiles where customers are served either through an exterior window in the establishment, or directly to parked automobiles on the premises.

DRIVEWAY - An improved private cartway designed and constructed to provide vehicular and pedestrian movement between a public road and a tract of land serving one single-family dwelling unit.

DWELLING - Any building or portion thereof designed and used exclusively for residential occupancy, including those listed below, but not including hospitals, hotels, boardinghouses, rooming and lodging houses, institutional houses, tourists courts, and the like, offering overnight accommodations for guests or patients. All dwellings must be permanently affixed to a completely enclosed foundation constructed of currently accepted materials that shall be an entire perimeter wall and extend from below the frost line to the first floor of the building. Such foundation shall be constructed to provide sufficient structural integrity to prevent the building from heaving, shifting, or settling unevenly due to frost action. In addition, all dwellings shall be properly connected to approved and permanently designed sewer, water, electrical and other utility systems.

DWELLING, APARTMENT - A dwelling containing three or more dwelling units which may be separated horizontally and/or vertically. This may include but is not limited to apartments and quadruplexes. The individual dwelling units may or may not be in separate ownership; however, the land shall be in single ownership or in common ownership.

DWELLING, ATTACHED DUPLEX - A building containing a minimum of two and a maximum of five duplex dwellings arranged in a side-by-side configuration with one or more vertical party walls.

DWELLING, CARRIAGE HOUSE - A single dwelling located on the second floor above a detached garage and having a maximum of 1000 square feet.

DWELLING, DUPLEX - A dwelling containing two dwelling units, one of which is located above the other.

DWELLING, MULTIPLE-FAMILY - A dwelling containing three or more dwelling units which may be separated horizontally and/or vertically. This may include but is not limited to apartments and quadruplexes. The individual dwelling units may or may not be in separate ownership; however, the land shall be in single ownership or in common ownership.

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

DWELLING, SINGLE-FAMILY SEMIDETACHED - A dwelling containing two dwelling units which are attached side by side by the use of a common wall.

DWELLING, TOWNHOUSE - A building containing at least three dwelling units but not more than eight dwelling units arranged in a side-by-side configuration with two or more common party walls and arranged on fee simple lots.

DWELLING UNIT - A single habitable living unit occupied by only one family. See definition of "family." Each dwelling unit shall have its own toilet, bath or shower, sink, sleeping and cooking facilities and separate access to the outside or to a common hallway or balcony that connects to outside access at ground level.

DWELLING UNIT, ACCESSORY - An independent, self-sufficient dwelling unit, with complete kitchen and bath facilities, which is either entirely contained within a single-family dwelling unit and has direct access to the outdoors or which has a common hall with a single-family detached dwelling for occupancy by either an elderly, handicapped, or disabled person related by blood, marriage, or adoption to the occupants of the principal dwelling.

EASEMENT - A right-of-way granted for limited use of private land for a public, quasi-public or private purpose, and within which the owner of the property shall not have the right to make use of the land in a manner that violates the right of the grantee.

EMPLOYEES - Whenever "employees" or the expression "number of employees" is herein referred to, it shall mean the greatest number of persons to be employed in the building in question during any season of the year and at any time of the day or night.

ENGINEER - A professional engineer registered in the Commonwealth of Pennsylvania.

FACADE - A building face or wall.

FAMILY - An individual or individuals related by blood, marriage, or adoption that maintain one common household and live within one dwelling unit.

FENCE - A man-made barrier placed or arranged as a line of demarcation, an enclosure, or a visual barrier that is constructed of wood, chain-link metal, vinyl or aluminum and/or plastic inserts. This definition does not include man-made barriers or walls constructed principally of masonry, concrete, cinder block or similar materials.

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

FLOOD-FRIDGE - The portion of the floodplain beyond the limits of the floodway.

FLOODPLAIN - An area of land adjacent to the channel of a watercourse which has been or is likely to be flooded, or any area subject to the unusual and rapid accumulation or runoff of surface waters from any source by designation in accordance with the Floodplain Ordinance.

FLOODPLAIN ORDINANCE -The Official Borough of Akron Floodplain Ordinance.

FLOODWAY - The channel and adjacent overbank areas through which the primary floodwaters are discharged. This portion of the floodplain is where the highest flood velocities and greatest flood depths usually occur.

FLOOR AREA - The maximum amount of usable space within a building.

FLOOR AREA, GROSS - The sum of the floor areas of usable space within a building as measured from the interior face of walls and including all areas intended and designed for the conduct of a business or use.

FLOOR AREA, NET - The total of all floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading.

FUNERAL HOME - A building devoted to the care, embalming, and holding of services for the dead, including the sale of funeral equipment as an incidental part of the business. Funeral homes shall not include cemeteries, columbariums, mausoleums or entombments, but do include mortuaries and crematoriums as accessory uses.

GARAGE, PRIVATE - An accessory structure for the storage of one or more vehicles and/or other vehicles accessory and incidental to the primary use of the premises; provided, however, that one commercial vehicle of not more than three-quarter ton capacity may be stored therein where the use of such vehicle is not incidental to the use of the premises. No business, occupation or service shall be conducted therein.

GARAGE, PUBLIC - A structure or any portion thereof used for the parking and storage of vehicles owned by the general public.

GARDEN POND - An artificially enclosed body of water or receptacle for water having a depth of less than two feet that may be used or intended to be used as an ornamental feature

constructed, installed, or maintained in or above the ground. It may include a fountain display, water plants or fish.

GOODS - A finished product.

GROUP HOME - A group of handicapped persons, as defined by the Fair Housing Act and the Fair Housing Amendments Act of 1988, as amended, living and cooking together in a single-family detached dwelling operated by a responsible individual, family, or organization with a program to provide a supportive living arrangement for individuals where special care is needed. Group homes must be licensed where required by any appropriate government agencies, and a copy of any such licenses must be delivered to the Borough prior to beginning the use. Group homes shall be subject to the same limitations and regulations by the Borough as single-family detached dwellings and in accordance with Section 27-1506.

HOME OCCUPATION - A business, profession, occupation, or trade conducted for financial gain or profit and located entirely within a residential dwelling or within a detached private garage located on a residential lot and in existence on the effective date of this ordinance, which use is accessory, incidental, and secondary to the use of the dwelling for residential purposes and does not change the residential character or appearance of the dwelling or detached garage.

HOSPITAL, VETERINARY - Any establishment offering veterinary services. Animal hospitals can treat all types of animals and can include overnight boarding of animals for medical or surgical treatment.

HOTEL, FULL-SERVICE - A building or buildings containing rooms designated to be rented temporarily for sleeping purposes by guests, which such facilities may include a full-service kitchen and restaurant facility and meeting and conference facilities for use by the general public.

HOTEL, LIMITED-SERVICE - A building or buildings containing rooms designated to be rented temporarily for sleeping purposes by guests, which such facilities shall not include a full-service kitchen and restaurant facility or meeting and conference facilities for use by the general public but may include incidental kitchen and dining facilities and meeting facilities for use by hotel guests.

HOUSE OF WORSHIP - A building, structure or group of buildings or structures, including accessory uses, designed, or intended for worship. This definition shall include a church, chapel, cathedral, synagogue, temple, mosque, or other facility that is principally used for prayer by persons of similar beliefs; or a special purpose building that is architecturally designed and particularly adapted for the primary use of conducting formal religious services on a regular basis and shall include cemeteries as an accessory use.

IMPERVIOUS SURFACE - Any material that covers the land which inhibits the percolation of stormwater directly into the soil, including, but not limited to, buildings, pavement, stone areas and stormwater facilities that discharge stormwater off the site.

IMPROVEMENTS - Physical changes to the land, including, but not limited to, buildings/structures, grading, paving, curbs, gutters, storm sewers and drains, stormwater management facilities, improvements to existing watercourses, sidewalks, streets, signs, monuments, water supply facilities and sewage disposal facilities.

KENNEL - Any lot on which more than six animals as specified in Section 27-1301. that are older than six months (except related to a farm) are kept, boarded, raised, bred, treated or trained for a fee, including, but not limited to, dog or cat kennels. Operations of kennels shall comply with the Dog Law, Act of December 7, 1982, P.L. 784, No. 225, as amended, 3 P.S. § 459-101 et seq., and all applicable regulations of the Department of Agriculture.

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

LINE, BUILDING SETBACK - See "building setback line."

LINE, FRONT LOT - The line separating such lot from any street or other public right-of-way.

LINE, INTERIOR LOT - Any lot line other than one adjoining a street.

LINE, LOT/PROPERTY - A recorded boundary of a lot forming the front, rear and sides of lots. Any property line which abuts a street or other public right-of-way shall be measured from the right-of-way.

LINE, REAR LOT - That lot line which is opposite and most distant from the front line. But, in the case of corner lots, the owner shall, for the purpose of this ordinance, have the privilege of selecting any lot line other than one of the front lot lines to be the rear lot line, provided that such choice, in the opinion of the Zoning Officer, will not be injurious to the existing or to the desirable future development of adjacent property. The rear lot line of any irregular or triangular lot shall, for the purpose of this ordinance, be a line entirely within the lot, 10 feet long.

LINE, SIDE LOT - Any lot line not a front lot line or a rear lot line

LOADING SPACE - A paved, off-street space logically and conveniently located for the temporary loading or unloading of goods and having direct usable access to a street, access drive or alley. Off-street loading spaces do not count towards off-street parking requirements and shall not infringe on any required buffer planting strip.

LOT - A parcel of land held in single and separate ownership, occupied or capable of being occupied by buildings, structures, accessory buildings or structures, signs, and uses customarily incidental to it, including such open spaces as required, and which is described by reference on a recorded plat or by metes and bounds.

LOT AREA - The area contained within the property lines of the individual parcels of land.

LOT, CORNER - A parcel of land at the junction of and abutting on two or more intersecting streets. Such lot shall be considered as having as many front yards as there are streets to which it abuts.

LOT COVERAGE - A percentage of the lot area covered by an impervious surface, including buildings, driveways, parking areas, and sidewalks.

LOT DEPTH - The horizontal distance measured between the street right-of-way line and the average rear property line. On reverse frontage lots, the depth shall be measured from the street right-of-way line of the street of address to the directly opposite property line.

LOT, DOUBLE FRONTAGE - A lot with front and rear street frontage with possible vehicular access to both streets. Double frontage lots shall have two front yards and two side yards.

LOT, FLAG - A lot not fronting on or abutting a public road and where access to the public road is by a narrow, private right-of-way.

LOT, FRONTAGE OF - Distance measured along the front lot line. When a lot fronts on a curved street, the frontage shall be determined by utilizing the arc distance.

LOT, INTERIOR - A lot other than a corner lot, the sides of which do not abut a street.

LOT, NONCONFORMING - A lot, the area or dimension of which was lawful prior to the adoption or amendment of this ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.

LOT OF RECORD - A lot identified on a subdivision plan or on a deed or other instrument of conveyance recorded in the office of the Recorder of Deeds in and for Lancaster County, Pennsylvania.

LOT, PERCENTAGE OF - The maximum impervious area of any building, structure or use, expressed as a percentage of a lot area.

LOT, REVERSE FRONTAGE - A lot that abuts public rights-of-way to the front and rear of the property, where vehicular access is prohibited to and from the higher classified street. The yard abutting the higher classified street shall be considered a rear yard.

LOT SIZE - The required area of a lot.

LOT WIDTH - The horizontal distance measured between side property lines. Unless otherwise noted, lot width shall be measured at the building setback line and the street line.

MANUFACTURED HOME - A fully prefabricated, transportable, single-family detached dwelling unit intended for household occupancy contained in one or more units designed to be joined into one integral unit, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations and household furnishings. It is constructed as required by the Borough Building Code and shall be placed on a permanent foundation with the same, or equivalent, electrical, plumbing, and sanitary facilities as for a

conventional stick-built single-family detached dwelling. A manufactured home may include any addition or accessory structure, such as porches, sheds, or decks, which is attached to it.

MASSAGE - The manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping by hand, mechanical device, or other means.

MASSAGE ESTABLISHMENT - An establishment which provides the services of massage, except where operated by a medical practitioner, chiropractor or professional physical therapist licensed by the commonwealth or a qualified massage therapist. 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. "Massage establishment" shall not include adult establishments as defined herein.

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

MOBILE HOME - A transportable, single-family dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation. Mobile homes do not include recreational vehicles.

MOBILE HOME LOT - A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home, which is sold or leased by the park owner to the occupants of the mobile home erected on the lot.

MOBILE HOME PARK - A parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes.

MODEL HOME - A dwelling unit in a new residential subdivision, typically built first and used as a sales office for the development.

MONOPOLE TOWER – A telecommunication tower consisting of a single pole constructed without guy wires.

MORTUARY - See "funeral home."

MOTEL (MOTOR LODGE) - See "hotel, full-service" or "hotel, limited-service," as applicable.

MOTOR VEHICLE - A self-propelled device, except that which uses human power only, used for the transporting of persons or goods. This would include automobiles, trucks, boats, trailers, farm equipment, all-terrain vehicles, dune buggies, and snowmobiles.

MOTOR VEHICLE, COMMERCIAL - A licensed, motorized vehicle designed for transportation of commodities, merchandise, produce, freight, animals, or passengers and operated in conjunction with a business, occupation, or home occupation. This term shall include, but is not limited to, automobiles, trucks, tractor-trailers, and vans.

MOTOR VEHICLE SALES AREA - An open area, other than a public or private street, right-of-way or driveway, used for the display or sale or lease of new and used motor vehicles, boats, trucks, trailers, recreational vehicles, farm equipment, construction equipment, and accessories and where no repair work is done.

MOTOR VEHICLE SALES BUILDING - Any premises or structure used for the sale, lease or renting of motor vehicles, boats, trucks, trailers, recreational vehicles, farm equipment, construction equipment, and accessories.

MOTOR VEHICLE SERVICE STATION OR GARAGE - Any premises used for supplying gasoline, oil, motor vehicle accessories, motor vehicle services or motor vehicle repairs.

MOTOR VEHICLE WASHING FACILITY - Any premises used for the washing and/or cleaning of motor vehicles, boats, trailers, and accessories.

MOTOR VEHICLE WRECKING - The dismantling or wrecking of used motor vehicles, trucks, trailers, farm equipment, or construction equipment, or the storage, sale, or dumping of dismantled, partially dismantled, obsolete, or wrecked vehicles and equipment or their parts.

MPC - See "Municipalities Planning Code."

MUNICIPAL ENGINEER - A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the Engineer for the Borough of Akron.

MUNICIPALITIES PLANNING CODE - The Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P.L. 805, No. 247, as amended and reenacted, 53 P.S. § 10101 et seq.

MUNICIPALITY – Borough of Akron, Lancaster County, Pennsylvania.

NO-IMPACT HOME-BASED BUSINESS - A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client, or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises in excess of those normally associated with residential use.

- A. The business activity shall be compatible with the residential use of the property.
- B. The business shall employ no employees other than family members residing in the dwelling.
- C. There shall be no display or sale of retail goods and no stockpiling of inventory.
- D. There shall be no outside appearance of a business.

E. The business or activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electronic interference, including interference with radio or television reception.

F. The business activity may not generate any solid waste or sewage discharge which is not normally associated with residential use.

G. The business activity conducted may not occupy more than 25% of the floor area.

H. The business activity may not involve any illegal activity.

OFFICE, MEDICAL OR DENTAL - A facility for human ailments operated by a group of state licensed physicians, dentists, chiropractors, or other licensed practitioners for the treatment and examination of outpatients, provided that no patients shall be kept overnight on the premises. As an accessory use, this use may involve the testing of tissue, blood or other human materials for medical or dental purposes.

OFFICE, PROFESSIONAL - A facility where the primary use is conducting the affairs of a business, profession, service, or government, including administration, recordkeeping, clerical work, and similar business functions. An office shall not involve manufacturing, fabrication, production, processing, assembling, cleaning, testing, repair, or storage of materials, goods or products or the sale or delivery of any materials, goods, or products which are physically located on the premises. Office supplies used in the office may be stored as an incidental use. "Professional office use" shall not include medical or dental offices.

OPEN AREA - The required ground surface which must remain uncovered by building and/or paved surfaces, the extent of which is expressed as a percentage of the lot size.

OPEN SPACE - Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

PA DCNR - The Pennsylvania Department of Conservation and Natural Resources.

PA DEP - The Pennsylvania Department of Environmental Protection.

PA UCC - The Pennsylvania Uniform Construction Code.

PARK - A tract of land designated and used for active or passive recreation.

PATIO - An unroofed area or courtyard which shall not be completely enclosed, except for any side which may adjoin a structure or be lined by fences, walls, shrubs, or hedges. Outdoor areas covered by a roof, trellis, or fixed awning shall be considered to be a structure and not a patio. For the purposes of this ordinance, a patio is considered to be an impervious surface and not part of the principal building.

PAVED AREA - Any impervious paving or other durable surface for, including but not limited to, driveways, sidewalks, and parking facilities, exclusive of the building footprint, the permitted

extent of which is expressed as a percentage of the lot size. PENNDOT - Pennsylvania Department of Transportation.

PERMIT - A license issued by the recognized official or authoritative agency, as specified in the respective regulations, which permits the applicant to proceed with the work certified by said official or authoritative agency in the permit application.

PERSONAL SERVICE BUSINESS - Shops, including but not limited to a barber, beauty shop, nail salon, tailor, dressmaking, shoe repair, photographer, travel agency or similar service uses, including a dry-cleaning storefront for pickup and drop-off, but excluding a dry-cleaning establishment. This definition includes incidental uses and additional related cosmetic and/or beauty services such as facials, waxing and the minor retail sale of cosmetic products. Personal Service Businesses do not include adult establishments as defined herein.

PORCH - A roofed-over structure projecting from the front, side, or rear wall of a building. For the purpose of this ordinance, a porch is considered a part of the principal building and is not permitted to extend into any required yards.

PROFESSIONAL CONSULTANT - Persons who provide expert or professional advice, including, but not limited to, architects, attorneys, certified public accountants, engineers, geologists, land surveyors, landscape architects or planners.

PUBLIC HEARING - A formal meeting held pursuant to public notice by the Akron Borough Council, intended to inform and obtain public comment, prior to taking action in accordance with the Borough provisions.

PUBLIC NOTICE - A notice of a public hearing and/or meeting published in accordance with the Pennsylvania Municipalities Planning Code, as amended.

PUBLIC SEWER - A municipal sanitary sewer or a comparable common or package sanitary facility approved and permitted by the Pennsylvania Department of Environmental Protection. Such systems are capable of serving multiple users.

PUBLIC TRANSPORTATION SHELTER - A small structure with a roof used by passengers awaiting the arrival of public transportation that provides cover or protection, as from weather. Any associated advertisements shall comply with the appropriate sign regulations for public use.

PUBLIC USES - Public and nonprofit semipublic use of a welfare and educational nature, such as schools, parks, houses of worship, cemeteries, historical landmarks, nonprofit recreational facilities. For the purposes of this definition, fire stations and public utilities shall be considered municipal uses.

PUBLIC UTILITY - A use which is operated, owned or maintained by a public utility corporation and regulated by the Pennsylvania Public Utility Commission in accordance with the requirements of the Pennsylvania Public Utility Code, 66 Pa.C.S.A. § 101 et seq., or which is operated, owned or maintained by a municipality or a municipal authority organized under the laws of the Commonwealth of Pennsylvania to provide public water service, public sewer service or similar services. A public utility shall not include cellular telephone transmission facilities and

similar facilities or entities which are not governmentally owned and operated or not regulated by the Public Utility Commission.

PUBLIC UTILITY INSTALLATION - Any facility, equipment, or structure necessary to conduct a service by a government or public utility, including telephone, electric, and cable television lines, poles, equipment and structures; water or gas pipes, mains, valves, or structures; sewer pipes, valves, or structures; pumping stations; telephone exchanges and repeater stations; and microwave antenna and related structures. This definition does not include line replacement installations.

PUBLIC WATER - A municipal water supply system or a comparable common water facility approved and permitted by the Pennsylvania Department of Environmental Protection. Such systems are capable of serving multiple users.

QUALIFIED MASSAGE THERAPIST - An individual who:

A. Has graduated from a massage school that is accredited and licensed as a private school by the Commonwealth of Pennsylvania or by any state within the United States of America and which requires the successful completion of a program of at least 500 hours of supervised instruction; and

B. Holds and maintains a current certification by the National Certification Board of Therapeutic Massage and Body Work or its successor or a national certification program maintaining similar standards.

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

RESTAURANT - A public eating place primarily offering indoor or outdoor counter or table service seating and custom-prepared foods for on-premises consumption.

RESTAURANT, DRIVE-IN/DRIVE-THROUGH - An establishment that serves prepared food generally packaged in paper wrappers and/or disposable plates and containers. Such food can be consumed in automobiles parked on the premises, whether brought to said automobiles by the customers or by the employees of the restaurant, or for consumption at some location other than inside the restaurant building itself.

RESTAURANT, FAST-FOOD - An establishment whose principal business is the sale of prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building or off premises. Such establishments do not provide waiter or waitress service. It is not to include the sale of alcoholic beverages. It often includes drive-through or carry-out facilities.

RETAIL - Those businesses whose primary activities involve the display and sales of goods and products to the general public. This term shall not include adult establishments or body art establishments as defined herein.

RETAIL SALES - Business establishments whose principal activities involve the display and sale of goods and products to the general public. This term shall not include adult establishments or body art establishments as defined herein.

RETAIL SERVICES - Establishments providing services or entertainment, as opposed to goods or merchandise, to the general public. This term shall include personal service businesses, but not include adult establishments or body art establishments as defined herein.

RIGHT-OF-WAY - The total width of any land reserved or dedicated as a street, alley, pedestrian way, or for other public or private use.

SATELLITE ANTENNA - A parabolic reflector, together with its pedestal and any other attachments and parts thereof, commonly referred to as a "dish-shaped antenna," used or intended to receive radio or electromagnetic waves from an overhead satellite.

SCHOOL, BUSINESS - A secondary or higher education facility teaching primarily usable skills that prepares students for jobs in business.

SCHOOL, ELEMENTARY - Any school licensed by the Pennsylvania Department of Education and which meets the requirements for elementary education for grades K through 6.

SCHOOL, SECONDARY - Any school licensed by the Pennsylvania Department of Education and which is authorized to award diplomas for secondary education for grades 7 through 12.

SEATS - Whenever the word "seats" is referred to, it shall mean the seating capacity of a particular building as determined by the plans filed with the Zoning Officer; in the event individual seats are not provided, each 20 inches of benches or similar accommodations shall be considered as one seat for the purpose of this ordinance.

SETBACK - The required horizontal distance between a setback line and a property or street right-of-way line.

SETBACK, FRONT YARD - The required minimum yard area contained between the street right-of-way line, private street, or common open space (when such principal structure is oriented towards the common open space) and the principal structure. On corner lots there shall be two front yards, being the area contained between the street right-of-way lines and the principal structure.

SETBACK LINE - A line within a property and parallel to a property or street line which delineates the required minimum distance between a structure and that property or street line.

SETBACK, REAR YARD - The required minimum yard area contained between the rear property line and the principal structure. On corner and reverse frontage lots, the rear yard shall be considered that area between the principal structure and the property line directly opposite the street of address.

SETBACK, SIDE YARD - The required minimum yard area between a principal structure and the adjacent side lot line, extending from the front yard to the rear yard.

SEXUALLY ORIENTED DEVICES - Without limitation, any artificial or stimulated specified anatomical area or other devices or paraphernalia that are designed in whole or part for specified sexual activities.

SHORT TERM RENTALS – A fully furnished single family or portion of a single family dwelling owned by a Akron Borough resident that is rented on a short term basis to registered guests for a period less than 30 days.

SIDEWALK - A paved, surfaced, or leveled area, paralleling and usually separated from the vehicular travel way, that is an integral part of the right-of-way and used as a pedestrian walkway.

SIGHT DISTANCE - The length of road visible to the driver of a passenger vehicle at any given point in the road when viewing is unobstructed.

SIGHT TRIANGLE - A triangle-shaped portion of land established at a street intersection on which nothing above 30 inches shall be erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the clear sight distance of motorists entering or leaving the intersection.

SIGN - A device for visual communication that is used to bring the subject to the attention of the public. Signs include lettering, logos, trademarks, or other symbols which are an integral part of the architectural design of a building, which are applied to a building, or which are located elsewhere on the premises; flags and insignia of civic, charitable, religious, fraternal, patriotic, or similar organizations; insignia or flags of governments or government agencies; banners, streamers, pennants, spinners, reflectors, ribbons, tinsel, and similar materials; and inflatable objects. Signs do not include architectural features which may be identified with a particular business; backlit awnings that include no lettering, logos, or other symbols; signs within a building which are obviously intended to be seen primarily from within the building; outdoor signs intended for use within a property, such as menu signs by fast-food restaurant drive - through lanes, signs with regulations within a park; decorative seasonal and holiday banners on residential properties; and displays of merchandise either behind store windows or outdoors. Refer to Article XI. for individual sign definitions.

SPECIAL EVENT - A temporary event held indoors or outdoors on private or public property such as an auction, flea market, festival, carnival, meal, holiday event or fund-raising event, but not including any recurring event, such as sporting or social events.

SPECIAL EXCEPTION - A use to be permitted or denied by the Akron Borough Zoning Hearing Board in a particular zoning district pursuant to expressed standards and criteria.

SPECIFIED ANATOMICAL AREAS - Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, female breasts below a point immediately above the top of areolae, and/or human male genitals in a discernible turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES - For the purposes of this ordinance, this term shall include any of the following:

- A. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following depicted sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or
- B. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or
- C. Use of human or animal masturbation, sodomy, oral copulation, coitus, ejaculation; or
- D. Fondling or touching of nude human genitals, pubic region, buttocks or female breast; or
- E. Masochism, erotic or sexually oriented torture, beating, or the infliction of pain; or
- F. Erotic or lewd touching, fondling or other contact with an animal by a human being; or
- G. Human excretion, urination, menstruation, vaginal or anal irrigation.

STORMWATER MANAGEMENT ORDINANCE - The Official Borough of Akron Stormwater Management Ordinance.

STORY - That portion of a building included between the upper surface of any floor and the upper surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it and including basements used for the principal use.

STORY, HEIGHT OF - The vertical distance from top to top of two successive tiers of beams or finished floor surfaces and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, when there is not a ceiling, to the top of the roof rafters.

STREET - A strip of land, including the entire right-of-way, publicly or privately owned, serving primarily as a means of vehicular and pedestrian travel, and furnishing access to abutting properties, which may also be used to provide space for sewers, public utilities, street trees, and sidewalks.

STREET LINE - A line defining the edge of a street right-of-way and separating the street from abutting property or lots. The street line shall be the same as the right-of-way line.

STREET, PRIVATE - A street not offered for dedication or whose dedication was not accepted by the Borough.

STRUCTURE - Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land, including, but not limited to, buildings, sheds, cabins, mobile homes, trailers, dams, culverts, roads, railroads, bridges, storage tanks, solar energy systems, wind energy systems, signs and transmission or receiving towers or dishes.

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

STRUCTURE, EXISTING - Any structure, building, silo, smokestack, water tower, utility or power pole, church steeple, or a support structure other than an existing antenna tower or telecommunications tower.

STRUCTURE, HEIGHT OF - The vertical distance from the average grade to the top of the highest point of structures, other than principal or accessory buildings, such as, but not limited to, telecommunications towers, light poles, flagpoles, silos, and water tanks.

STRUCTURE, NONCONFORMING - A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions in this ordinance, or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment or prior to the application of such ordinance or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.

STRUCTURE, PRINCIPAL - A structure in which is conducted the principal use of the lot on which the structure is located, including any attached structures, such as garages, decks, patios, etc.

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.

SUBDIVISION AND LAND DEVELOPMENT ORDINANCE - The Official Akron Borough Subdivision and Land Development Ordinance.

SURVEYOR - A professional land surveyor licensed in the Commonwealth of Pennsylvania.

SWIMMING POOL, PRIVATE - Any structure intended for swimming or recreational bathing that contains water over 24 inches (610 mm) deep. This includes in-ground, aboveground and on-ground swimming pools, hot tubs and spas. Farm ponds and/or lakes are not included.

SWIMMING POOL, PUBLIC - Any open or enclosed place open to the public for swimming or recreational bathing, whether or not a fee is charged for admission or for the use thereof.

TELECOMMUNICATIONS FACILITY - A facility containing antennas and towers, either individually or together, including all incidental structures and fenced areas.

TELECOMMUNICATIONS TOWER - A structure, such as a lattice tower, guy tower, or monopole tower, constructed as a freestanding structure or in association with a building, other permanent structure or equipment, on which is located one or more antennas intended for transmitting or receiving analog, digital, microwave, cellular, telephone, personal wireless

service or similar forms of electronic communication. The term includes microwave towers, common-carrier towers, and cellular telephone towers.

TELECOMMUNICATIONS TOWER, ATTACHED - An antenna mounted on an existing structure, building, silo, smokestack, water tower, utility or power pole, or a support structure other than an existing antenna tower or telecommunications tower.

TELECOMMUNICATIONS TOWER HEIGHT - The height of a telecommunications tower shall be measured from the average grade at the tower base to the highest point of the tower. The average grade shall be the average grade existing at the time of construction or the average grade existing prior to construction and prior to any earth disturbance at the site. No person(s) shall artificially increase the maximum height of a telecommunications tower by altering the grade at the base of the tower by any means. Overall antenna tower height includes the base pad, mounting structures, whip antennas and panel antennas, but shall exclude lightning rods.

TOWER - A structure, such as a lattice tower, guy tower, or monopole tower, constructed as a freestanding structure or in association with a building, other permanent structure or equipment on which a telecommunications tower or an attached telecommunications tower may be located.

TRAILER - A portable, vehicular structure built on a chassis and designed for travel, recreation, or hauling.

USE - The specific purpose for which land, a structure, a sign or a building is arranged, designed, or intended or for which either land, a structure, a sign or a building is or may be used, occupied, or maintained. The term "permitted use" or "uses by right" or equivalent shall not be deemed to include any nonconforming use.

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

USE, BY RIGHT - A permitted use as distinguished from a use not requiring a special exception or conditional use.

USE, CHANGE OF - An alteration of a building, structure or tract of land which changes the use heretofore existing to a new use classification.

USE, COMMERCIAL - A use of land or improvements thereto for the purpose of engaging in retail, wholesale or service activities for profit.

USE, CONDITIONAL - A use which may not be appropriate to a particular zoning district as a whole, but which may be suitable in certain localities within the district only when specific conditions and criteria prescribed for such uses have been complied with. Conditional uses are reviewed by the Borough Council after recommendations by the Planning Commission.

USE, MIXED - A development which combines residential and nonresidential uses within the same building or on the same lot, planned and designed as a complex of related structures and circulation (vehicular and pedestrian) patterns and designed, constructed, or managed as a total

entity with customer and employee parking provided on site and with provision for delivery of goods separate from customer access.

USE, MUNICIPAL - Those uses, and facilities designed to furnish necessary support for the general public health, safety and welfare of a municipality that are typically the responsibility of local governments or local government authorities. Such uses shall include, but not be limited to:

- A. Borough offices and halls.
- B. Police, fire, and ambulance stations.
- C. Borough authority facilities.
- D. Uses accessory to the above permitted uses, including parking and loading spaces, signs, offices, rest rooms, maintenance equipment storage areas and buildings, lights, waste receptacles and dumpsters, bleachers, and other similar uses.

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

USE, PRINCIPAL - The primary use of a building, structure, or lot.

USE, RESIDENTIAL - An existing or proposed dwelling or dwelling unit(s) on a lot, to include a single-family detached dwelling; single-family semidetached dwelling; duplex dwelling; quadruplex dwelling; multiple-family dwelling; townhouse dwelling and apartment dwellings. This definition also includes residential units located on upper floors above commercial uses.

USE, TEMPORARY - Any use not to exceed 180 consecutive days.

VARIANCE - Relief of any provision of this ordinance granted by the Zoning Hearing Board.

VETERINARY OFFICE - A building used primarily for the treatment, by a veterinarian, of small domestic animals such as dogs, cats, rabbits and birds or fowl. Boarding of such animals shall be for medical or surgical treatment. No outdoor boarding of animals is permitted.

WALL, FREESTANDING - A man-made structure erected for purposes of property delineation, decoration, or enclosure, that is not part of a building or other structure and is typically constructed of brick or stone. This definition shall not include retaining walls.

WALL HEIGHT - The vertical distance from the foundation wall or other immediate support of such wall to the top of the wall.

WALL, RETAINING - A structure that holds back earth or water from a building or other structure. Retaining walls stabilize soil and/or rock from downslope movement or erosion and provide support for vertical or near-vertical grade changes. Retaining walls are generally made of masonry, stone, brick, concrete, vinyl, steel or timber. Retaining wall designs must be certified by a professional engineer licensed in the Commonwealth of Pennsylvania.

WAREHOUSING - A facility for handling goods with or without maintenance facilities.

WHOLESALE - Any distribution procedure involving persons who, in the normal course of business, do not engage in sales to the general public.

WHOLESALE CLUBS - Establishments which are engaged in selling merchandise at reduced or wholesale prices to its club members only.

WHOLESALE SALES - Establishments engaged primarily in selling and/or renting merchandise to retailers, to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling and/or renting merchandise to, such individuals or companies, but not excluding related retail sales and/or rentals which comprise less than half of their business activities.

WIND-ENERGY CONVERSION SYSTEM (WECS) - An energy conversion system, which converts wind energy to mechanical or electrical energy, consisting of a wind turbine, a tower, blades and associated controls and appurtenances that convert wind energy to a usable form of energy to meet all or part of the energy requirements of the on-site user and which has a rated capacity that does not exceed the rated capacity appropriate to the on-site user.

WIND ENERGY SYSTEM HEIGHT - The distance measured from the ground surface of the wind energy system tower base to the highest point of the extended blade tip or highest point of the wind energy system.

WIND ENERGY SYSTEM TURBINE - The parts of a wind energy system, including the blades, generator, and tail.

WIRELESS COMMUNICATIONS SERVICE - Any personal wireless services as defined in the Telecommunications Act of 1996, which includes FCC-licensed commercial wireless telecommunications services, including cellular, personal communication services, specialized mobile radio, enhanced specialized mobile radio, paging, and similar services that currently exist or that may in the future be developed.

YARD - An open, unoccupied space, other than a courtyard, that lies between the principal building or buildings and the lot lines.

YARD, MINIMUM AREA - The least distance at any point, measured at grade from and parallel to a lot line to the building line.

YARD WASTE - All garden residues, shrubbery, tree pruning's of less than 1/4 inch, sod and similar materials, grass clippings and leaves.

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

ZONING MAP - The Official Borough of Akron Zoning Map.

ZONING OFFICER - The person appointed by the Akron Borough Council who is charged with the administration and enforcement of this ordinance.

ZONING ORDINANCE - The Official Borough of Akron Zoning Ordinance.

ZONING PERMIT - A written statement issued by the Zoning Officer authorizing buildings, structures or uses consistent with the terms of this chapter and for the purpose of carrying out and enforcing its provisions.

Borough of Akron

Uses within Residential Districts

	R-1	R-2	R-3
Accessory Dwelling Unit	SE	SE	SE
Apartment Dwellings	NP	NP	X
Bed and breakfast establishments	SE	SE	SE
Cemetery	NP	SE	NP
Duplex Dwellings	NP	SE	X
Elementary and Secondary Schools	SE	SE	NP
Group Homes	X	X	X
Home Occupation Major	SE	SE	SE
Home Occupation Minor	X	X	X
Houses of Worship	SE	SE	NP
Mobil Home Park	NP	NP	CU
Multi Family Dwelling (Apartment)	NP	NP	X
Municipal Uses	X	X	X
No Impact Home Based Business	X	X	X
Public Parks and Recreational Areas	X	X	X
Public Utility Installations	CU	CU	CU
Short Term Rentals	X	X	X
Single Family Detached Dwellings	X	X	X
Single Family Semidetached Dwellings	NP	SE	X
Townhouse Dwellings	NP	NP	X

Key:

X = Right

SE = Special Exception

CU = Conditional Use

NP = Not Permitted

ARTICLE VI RESIDENTIAL 1 (R-1)

SECTION 27-601. PURPOSE

1. From the late 1950s to the present, the type of housing in the Borough changed substantially from that found in the central core of the Borough to that found in those areas other than the central core.
2. The primary type of housing previously was single-family detached dwellings on small lots. Such dwellings were constructed of wood or similar materials, with vary small yards.
3. That changed in the 1950s and continues to this day, so that almost all the construction of single-family detached dwellings has been on substantially larger lots (12,000 square feet or more) and a substantial number of those dwellings have been built of brick, stone or masonry and have significant setbacks and yards. The purpose of the R-1 District is to recognize the historical evolution of those types of dwellings in those areas and to preserve that legitimate dwelling type for future generations. The Borough has made adequate provisions for other types of dwellings in its other districts and believes that the preservation of single-family detached dwellings on what are relatively large lots (although quite small compared to surrounding municipalities and surrounding townships) is a legitimate community development objective of the Borough that shall be pursued.

SECTION 27-602. USES BY RIGHT

Uses by right shall be as follows:

1. Single-family detached dwellings.
2. Public parks and public recreation areas.
3. Home occupation, minor
4. No-impact home-based business.
5. Group Home
6. Municipal Uses.
7. Short-term rentals in single-family dwellings, subject to§ 27-1512.
8. Accessory buildings and uses customarily incidental to the above permitted uses.

SECTION 27-603. SPECIAL EXCEPTION USES

The following uses are permitted as a special exception when authorized by the Zoning Hearing Board. In granting the special exception, the Board may attach certain conditions to its approval which, in addition to the requirements listed within this ordinance, it feels are necessary requirements in order to preserve and protect the character of the district in which the proposed use would be located.

1. Elementary and secondary schools.
2. Houses of worship.
3. Bed-and-breakfast establishments.
4. Accessory dwelling units.
5. Home occupation, major.
6. Accessory uses customarily incidental to the above special exception uses.

SECTION 27-604. CONDITIONAL USES

The following uses are permitted by conditional use when authorized by Akron Borough Council:

1. Public utility installation.
2. Accessory buildings and uses customarily incidental to the above conditional uses.

SECTION 27-605. AREA AND BULK REGULATIONS FOR PRINCIPAL BUILDINGS AND USES PERMITTED BY RIGHT

1. Maximum building height: 35 feet.
 - A. Single-family detached dwellings.
 - [a] Minimum lot area: 10,000 square feet.
 - [b] Minimum lot width:
 - [i] At street line: 60 feet.
 - [ii] At front yard setback line: 100 feet.
 - [c] Minimum lot depth: 100 feet.
 - [d] Minimum yard dimensions:
 - [i] Front yard: 25 feet.

[ii] Side yard, each side: 10 feet.

[iii] Rear yard: 35 feet.

[e] Minimum open area: 40%.

B. Public Parks and recreation areas:

(1) Minimum lot area: none.

(2) Minimum lot width: 50 feet.

(3) Minimum lot depth: none

(4) Minimum yard dimensions:

(a) Front yard: 35 feet

(b) Side yard: 20 feet.

(c) Rear yard: 35 feet.

(5) Minimum open area: none.

C. Home occupation, minor. Such uses shall comply with the requirements of Section 27-1310.

SECTION 27-606. AREA AND BULK REGULATIONS FOR PRINCIPAL BUILDINGS AND USES PERMITTED BY SPECIAL EXCEPTION

A. Houses of worship:

(1) Sewer and water. Both public sewer and public water service are required.

(2) Minimum lot area: 5 acres.

(3) Minimum lot width:

[a] At street line: 100 feet.

[b] At front yard setback line: 150 feet.

(4) Minimum lot depth: 200 feet.

(5) Minimum yard dimensions:

[a] Front yard: 35 feet.

[b] Side yard, each side: 50 feet.

[c] Rear yard: 50 feet.

(6) Minimum open area: 50%.

- (7) Landscaping and screening.
- C. Elementary and secondary schools:
 - (1) Sewer and water. Both public sewer and public water service are required.
 - (2) Minimum lot area: 10 acres.
 - (3) Minimum lot width:
 - (a) At street line: 100 feet.
 - (b) At front yard setback line: 150 feet.
 - (4) Minimum lot depth: 200 feet.
 - (5) Minimum yard dimensions:
 - (a) Front yard: 35 feet.
 - (b) Side yard, each side: 50 feet.
 - (c) Rear yard: 50 feet.
 - (6) Minimum open area: 65%.
- D. Bed-and-breakfast establishments. Such uses shall comply with the requirements of Section 27-1503.
- E. Accessory dwelling units. Such uses shall comply with the requirements of Section 27-1508.
- F. Home occupation, major. Such uses shall comply with the requirements of Section 27-1310.

SECTION 27-607. AREA AND BULK REGULATIONS FOR PRINCIPAL BUILDINGS AND USES PERMITTED BY CONDITION

- A. Public Utility installations
- B. Accessory buildings and uses customarily incidental to the above conditional uses.
 - 1. Public utility installations:
 - A. Minimum lot area: none.
 - B. Minimum lot width: none.
 - C. Minimum lot depth: none.
 - D. Minimum yard dimensions:
 - (1) Front yard: 25 feet.

(2) Side yard, each side: 10 feet.

(3) Rear yard: 10 feet.

E. Minimum open area: none.

SECTION 27-608. SUPPLEMENTAL REGULATIONS

The uses in this district are also subject to applicable regulations contained in the following articles:

1. Article XI, Signs.
2. Article XII, Off-Street Parking and Loading.
3. Article XIII, Accessory Uses.
4. Article XIV, General Regulations.
5. Article XV, Performance Standards.

ARTICLE VII RESIDENTIAL 2 (R-2)

SECTION 27-701. PURPOSE

The purpose of this district is to provide a transition between the R-1 and the R-3 zoning districts. This district permits medium density residential development by permitting a variety of dwelling types.

SECTION 27-702. USES BY RIGHT

Uses by right shall be as follows:

1. Single-family detached dwellings.
2. Public parks and public recreation areas.
3. Home occupation, minor
4. No-impact home-based business.
5. Municipal Uses.
6. Short-term rentals in single-family dwellings, subject to § 27-1512
7. Accessory buildings and uses customarily incidental to the above permitted uses.

SECTION 27-703. SPECIAL EXCEPTION USES

The following uses are permitted as a special exception when authorized by the Zoning Hearing Board. In granting the special exception, the Board may attach certain conditions to its approval which, in addition to the requirements listed within this ordinance, it feels are necessary requirements in order to preserve and protect the character of the district in which the proposed use would be located.

1. Elementary and secondary schools.
2. Houses of worship.
3. Bed-and-breakfast establishments.
4. Cemetery
5. Single-family semidetached dwellings
6. Duplex dwellings
7. Accessory dwelling units.
8. Home occupation, major.
9. Accessory uses customarily incidental to the above special exception uses.

SECTION 27-704. CONDITIONAL USES

The following uses are permitted by conditional use when authorized by Akron Borough Council:

1. Public utility installation.
2. Accessory buildings and uses customarily incidental to the above conditional uses

SECTION 27-705. AREA AND BULK REGULATIONS FOR PRINCIPAL BUILDINGS AND USES PERMITTED BY RIGHT

1. Maximum building height: 35 feet.
 - A. Single-family detached dwellings.
 - [a] Minimum lot area: 7,500 square feet.
 - [b] Minimum lot width:
 - [i] At street line: 50 feet.
 - [ii] At front yard setback line: 75 feet.
 - [c] Minimum lot depth: 125 feet.
 - [d] Minimum yard dimensions:
 - [i] Front yard: 25 feet.
 - [ii] Side yard, each side: 10 feet.
 - [iii] Rear yard: 35 feet.
 - [e] Minimum open area: 40%.
 - B. Public Parks and recreation areas:
 - (1) Minimum lot area: none.
 - (2) Minimum lot width: 50 feet.
 - (3) Minimum lot depth: none
 - (4) Minimum yard dimensions:
 - (a) Front yard: 35 feet
 - (b) Side yard: 20 feet.
 - (c) Rear yard: 35 feet.
 - (5) Minimum open area: none.

C. Home occupation, minor. Such uses shall comply with the requirements of Section 27-1310.

SECTION 27-706. AREA AND BULK REGULATIONS FOR PRINCIPAL BUILDINGS AND USES PERMITTED BY SPECIAL EXCEPTION

A. Single-family semidetached dwellings:

- (1) Sewer and water. Both public sewer and public water service are required.
- (2) Minimum lot area: 6,000 square feet per dwelling unit.
- (3) Minimum lot width:
 - [a] At street line: 40 feet per dwelling unit.
 - [b] At front yard setback line: 50 feet per dwelling unit.
- (4) Minimum lot depth: 125 feet.
- (5) Minimum yard dimensions:
 - [a] Front yard: 25 feet.
 - [b] Side yard, one side: 15 Feet.
 - [c] Interior yard: none; however, any building or structural additions or revisions to a dwelling unit shall be constructed to a common wall on an interior lot line or shall be constructed a minimum distance of three feet from an interior lot line.
 - [d] Rear yard: 35 feet.
- (6) Minimum open area: 35%.

B. Duplex dwellings:

- (1) Sewer and water. Both public sewer and public water service are required.
- (2) Minimum lot area: 6,000 square feet per dwelling unit.
- (3) Minimum lot width:
 - [a] At street line: 50 feet.
 - [b] At front yard setback line: 75 feet.
- (4) Minimum lot depth: 125 feet.
- (5) Minimum yard dimensions:

- [a] Front yard: 25 feet.
- [b] Side yard, each side: 10 feet.
- [c] Rear yard: 35 feet.
- (6) Minimum open area: 35%

C. Houses of worship:

- (1) Sewer and water. Both public sewer and public water service are required.
- (2) Minimum lot area: 5 acres.
- (3) Minimum lot width:
 - [a] At street line: 100 feet.
 - [b] At front yard setback line: 150 feet.
- (4) Minimum lot depth: 200 feet.
- (5) Minimum yard dimensions:
 - [a] Front yard: 35 feet.
 - [b] Side yard, each side: 50 feet.
 - [c] Rear yard: 50 feet.
- (6) Minimum open area: 50%.
- (7) Landscaping and screening.

D. Elementary and secondary schools:

- (1) Sewer and water. Both public sewer and public water service are required.
- (2) Minimum lot area: 10 acres.
- (3) Minimum lot width:
 - (a) At street line: 100 feet.
 - (b) At front yard setback line: 150 feet.
- (4) Minimum lot depth: 200 feet.
- (5) Minimum yard dimensions:
 - (a) Front yard: 35 feet.
 - (b) Side yard, each side: 50 feet.
 - (c) Rear yard: 50 feet.

- (6) Minimum open area: 65%.
- E. Bed-and-breakfast establishments. Such uses shall comply with the requirements of Section 27-1503.
- F. Accessory dwelling units. Such uses shall comply with the requirements of Section 27-1508.
- G. Home occupation, major. Such uses shall comply with the requirements of Section 27-1310.

SECTION 27-707. AREA AND BULK REGULATIONS FOR PRINCIPAL BUILDINGS AND USES PERMITTED BY CONDITION

- A. Public Utility installations
- B. Accessory buildings and uses customarily incidental to the above conditional uses.
 - 1. Public utility installations:
 - A. Minimum lot area: none.
 - B. Minimum lot width: none.
 - C. Minimum lot depth: none.
 - D. Minimum yard dimensions:
 - (1) Front yard: 25 feet.
 - (2) Side yard, each side: 10 feet.
 - (3) Rear yard: 10 feet.
 - E. Minimum open area: none.

SECTION 27-708. SUPPLEMENTAL REGULATIONS

The uses in this district are also subject to applicable regulations contained in the following articles:

- 1. Article XI, Signs.
- 2. Article XII, Off-Street Parking and Loading.
- 3. Article XIII, Accessory Uses.
- 4. Article XIV, General Regulations.
- 5. Article XV, Performance Standards.

ARTICLE VIII RESIDENTIAL 3 (R-3)

SECTION 27-801. PURPOSE

It is the purpose of this district to permit medium- and higher-density residential development by permitting a variety of dwelling types.

SECTION 27-802. USES BY RIGHT

Uses by right shall be as follows:

1. Single-family detached dwellings.
2. Single-family semidetached dwellings.
3. Duplex dwellings.
4. Townhouse dwellings.
5. Apartment dwellings
6. Public parks and public recreation areas.
7. Home occupation, minor
8. No-impact home-based business.
9. Municipal Uses.
10. Short-term rentals in single-family dwellings, subject to§ 27-1512.
11. Accessory buildings and uses customarily incidental to the above permitted uses.

SECTION 27-803. SPECIAL EXCEPTION USES

The following uses are permitted as a special exception when authorized by the Zoning Hearing Board. In granting the special exception, the Board may attach certain conditions to its approval which, in addition to the requirements listed within this ordinance, it feels are necessary requirements in order to preserve and protect the character of the district in which the proposed use would be located. Mobile home parks.

1. Home occupation, major.
2. Accessory dwelling units.

SECTION 27-804. CONDITIONAL USES

The following uses are permitted by conditional use when authorized by Akron Borough Council:

1. Mobile home parks
2. Public utility installation.

3. Accessory buildings and uses customarily incidental to the above conditional uses.

SECTION 27-805. AREA AND BULK REGULATIONS FOR PRINCIPAL BUILDINGS AND USES PERMITTED BY RIGHT

1. Maximum building height: 35 feet.
 - A. Single-family detached dwellings.
 - [a] Minimum lot area: 7,000square feet.
 - [b] Minimum lot width:
 - [i] At street line: 50 feet.
 - [ii] At front yard setback line: 75 feet.
 - [c] Minimum lot depth: 100 feet.
 - [d] Minimum yard dimensions:
 - [i] Front yard: 25 feet.
 - [ii] Side yard, each side: 10 feet.
 - [iii] Rear yard: 35 feet.
 - [e] Minimum open area: 40%.
 - B. Public Parks and recreation areas:
 - (1) Minimum lot area: none.
 - (2) Minimum lot width: 50 feet.
 - (3) Minimum lot depth: none
 - (4) Minimum yard dimensions:
 - (a) Front yard: 35 feet
 - (b) Side yard: 20 feet.
 - (c) Rear yard: 35 feet.
 - (5) Minimum open area: none.
 - C. Single-family semidetached dwellings:
 - (1) Sewer and water. Both public sewer and public water service are required.
 - (2) Minimum lot area: 6,000 square feet per dwelling unit.

- (3) Minimum lot width:
 - [a] At street line: 40 feet per dwelling unit.
 - [b] At front yard setback line: 50 feet per dwelling unit.
- (4) Minimum lot depth: 100 feet.
- (5) Minimum yard dimensions:
 - [a] Front yard: 25 feet.
 - [b] Side yard, one side: 15 Feet.
 - [c] Interior yard: none; however, any building or structural additions or revisions to a dwelling unit shall be constructed to a common wall on an interior lot line or shall be constructed a minimum distance of three feet from an interior lot line.
 - [d] Rear yard: 35 feet.
- (6) Minimum open area: 35%.

D. Duplex dwellings:

- (1) Sewer and water. Both public sewer and public water service are required.
- (2) Minimum lot area: 6,000 square feet per dwelling unit,
- (3) Minimum lot width:
 - [a] At street line: 50 feet.
 - [b] At front yard setback line: 75 feet.
- (4) Minimum lot depth: 100 feet.
- (5) Minimum yard dimensions:
 - [a] Front yard: 25 feet.
 - [b] Side yard, each side: 15 feet.
 - [c] Rear yard: 35 feet.
- (6) Minimum open area: 35%

E. Apartment dwellings.

- (1) In those areas of the district where both public water and public sewer are provided, lots are permitted as follows:

- [a] Minimum lot area: Six thousand (6,000) square feet per dwelling unit; provided, however, that the minimum lot area shall be 20,000 square feet.
- [b] Minimum lot width:
 - [i] At street line: 100 feet.
 - [ii] At front yard setback line: 150 feet.
- [c] Minimum lot depth: 150 feet.
- [d] Minimum yard dimensions:
 - [i] Front yard: 25 feet.
 - [ii] Side yard: 30 feet from all property lines.
 - [iii] Rear yard: 50 feet all property lines.
 - [iv] Interior yards: open space between buildings on the same lot.
 - [a] When front to front, rear to rear, or front to rear, parallel buildings shall have 35 feet between faces of the building. If the front or rear faces or obliquely aligned, the above distance may be decreased by as much as 10 feet at one end if increased by similar or greater distance at the other end.
 - [b] A yard space of 30 feet is required between end walls of buildings. If the buildings are at right angles to each other, the distance between the corners of the end walls of the building may be reduced to a minimum of 25 feet.
 - [c] A yard space of 50 feet is required between end walls and front or rear faces of buildings.
 - [e] Length of building. No building shall exceed 200 feet in length unless otherwise specified in the applicable T-Zone Overlay.
 - [f] Minimum open area: 35%

F. Home occupation, minor. Such uses shall comply with the requirements of Section 27-1310.

SECTION 27-806. AREA AND BULK REGULATIONS FOR PRINCIPAL BUILDINGS AND USES PERMITTED BY SPECIAL EXCEPTION

- E. Bed-and-breakfast establishments. Such uses shall comply with the requirements of Section 27-1503.
- F. Accessory dwelling units. Such uses shall comply with the requirements of Section 27-1508.
- G. Home occupation, major. Such uses shall comply with the requirements of Section 27-1310.

SECTION 27-807. AREA AND BULK REGULATIONS FOR PRINCIPAL BUILDINGS AND USES PERMITTED BY CONDITION

- 1. Mobil home parks. Such uses shall comply with the requirements of Article XV. Mobile Home and Mobile Home Parks.
- 2. Public utility installations:
 - A. Minimum lot area: none.
 - B. Minimum lot width: none.
 - C. Minimum lot depth: none.
 - D. Minimum yard dimensions:
 - (1) Front yard: 25 feet.
 - (2) Side yard, each side: 10 feet.
 - (3) Rear yard: 10 feet.
 - E. Minimum open area: none.
 - F. Landscaping and screening. (See Section 27-1507)

SECTION 27-808. SUPPLEMENTAL REGULATIONS

The uses in this district are also subject to applicable regulations contained in the following articles:

- 1. Article XI, Signs.
- 2. Article XII, Off-Street Parking and Loading.
- 3. Article XIII, Accessory Uses.
- 4. Article XIV, General Regulations.

5. Article XV, Performance Standards.

Borough of Akron

Uses within Commercial Districts

	C-1	C-M
Adult establishments	CU	NP
Banks and financial institutions	X	NP
Bed-and-breakfast establishments	SE	SE
Body art establishments	SE	NP
Houses of worship	SE	NP
Commercial recreation facilities	X	SE
Community facilities	X	X
Convenience stores	X	NP
Conversion apartments	SE	SE
Day-care center	SE	SE
Day-care, family,home	SE	SE
Funeral home	SE	SE
Group home	X	X
Home Occupation (Minor)	X	X
Home Occupation (Major)	SE	SE
Hotels and motels, full service	SE	NP
Hotels and motels, limited service	SE	NP
Mixed Commercial	CU	NP
Motor vehicle sales	SE	NP
Motor vehical service station or garage	SE	NP
Motor vehical washing facilities	SE	NP
Municipal uses	X	X
Offices, professional	X	SE
Office, medical or dental	X	SE
Public parks and recreation areas	X	X
Public utility installations	SE	SE
Resturants	X	X
Retal sales of goods and services	X	SE
Short term rentals	X	X
Self-service storage facility	SE	NP
Telecommunications tower	SE	SE
Telecommunications tower, attached	SE	SE
Veterinary office	X	SE

Key:

X = Right

SE = Special Exception

CU = Conditional Use

NP = Not Permitted

ARTICLE IX. Commercial District – C-1

SECTION 27-901. PURPOSE.

It is the purpose of this district to provide for various office and commercial uses for residents, as well as the general public. These uses may be independent activities or part of a coordinated grouping of stores within a single building or center.

SECTION 27-902. USES BY RIGHT

Uses by right shall be as follows:

1. Banks and financial institutions.
2. Commercial Recreation Facilities
3. Community Facilities
4. Convenience Stores
5. Group Home
6. Municipal Use
7. Offices Professional
8. Office, Medical or Dental
9. Public Parks and Recreation Areas
10. Restaurants
11. Retail Sales of Goods and Services
12. Short Term Rentals
13. Telecommunications Tower, attached
14. Veterinary Office
15. Accessory Uses incidental to the above permitted uses

SECTION 27-903. SPECIAL EXCEPTION USES

The following uses are permitted as a special exception when authorized by the Zoning Hearing Board. In granting any special exception, the Board may attach certain conditions to its approval which, in addition to the requirements listed within this ordinance, it feels are necessary requirements in order to preserve and protect the character of the district in which the proposed use would be located.

1. Bed and Breakfast Establishments

2. Body Art Establishments
3. Day-Care Centers
4. Funeral Home
5. Hotel and Motel, full service
6. Hotel and Motel, limited service
7. Mini Warehouse
8. Motor Vehicle Sales
9. Motor Vehicle Service Station or Garage
11. Motor Vehicle Washing Facilities
12. Public Utilities Installations
13. Telecommunications Tower
14. Accessory Uses incidental to the above special exception uses.

SECTION 27-904. CONDITIONAL USES

Conditional uses shall be as follows:

1. Adult establishments. (See Section 27-1502)
2. Mixed Commercial (See Section 27-1512)

SECTION 27-905. AREA AND BULK REGULATIONS FOR PRINCIPAL BUILDINGS AND USES PERMITTED BY RIGHT

1. Maximum building height: 35 feet
2. Minimum lot requirements:
 - A. Public parks and public recreation areas:
 - (1) Minimum lot area: none.
 - (2) Minimum lot width: 50 feet.
 - (3) Minimum lot depth: none.
 - (4) Minimum yard dimensions:2
 - [a] Front yard: 25 feet.
 - [b] Side yard, each side: 10 feet.
 - [c] Rear yard: 25 feet.
 - (5) Minimum open area: none.

B. Public utility installations:

- (1) Minimum lot area: none.
- (2) Minimum lot width: none.
- (3) Minimum lot depth: none.
- (4) Minimum yard dimensions:
 - [a] Front yard: 25 feet.
 - [b] Side yard: 10 feet.
 - [c] Rear yard: 10 feet.
- (5) Minimum open area: none.
- (6) Landscaping and screening. (See Section 27-1507)

C. Telecommunication tower. Such use shall comply with the requirements of Section 27-1509.

D. Other permitted uses by right:

- (1) Sewer and water. Public sewer and/or public water service are required.
- (2) Minimum lot area: none
- (3) Minimum lot width: 50.
- (4) Minimum lot depth: 150 feet.
- (5) Minimum yard dimensions:
 - [a] Front yard: 25 feet.
 - [b] Side yard, each side: 10 feet.
 - [c] Rear yard: 20 feet.
- (6) Minimum open area: 20%.

SECTION 27-906. AREA AND BULK REGULATIONS FOR PRINCIPAL BUILDINGS AND USES PERMITTED BY SPECIAL EXCEPTION

1. Maximum building height: 35 feet
2. Minimum lot requirements:
 - A. Day Care Business. Such use shall comply with the requirements of Section 27-1505..
 - B. Bed and Breakfast establishments. Such use shall comply with the requirements of Section 27-1503.
 - C. Body Art establishment. Such use shall comply with the requirements of Section 27-1504
 - D. Other permitted uses by right:
 - (1) Sewer and water. Public sewer and/or public water service are required.
 - (2) Minimum lot area: none
 - (3) Minimum lot width: 50.
 - (4) Minimum lot depth: 150 feet.
 - (5) Minimum yard dimensions:
 - [a] Front yard: 25 feet.
 - [b] Side yard, each side: 10 feet.
 - [c] Rear yard: 20 feet.
 - (6) Minimum open area: 20%.

SECTION 27-907 USES PERMITTED BY CONDITION

1. Maximum building height: 35 feet.
2. Minimum lot requirements:
 - A. Adult establishments. Such use shall comply with the requirements of Section 1502.
 - (1) Sewer and water. Both public sewer and public water service are required.
 - (2) Minimum lot area: 40,000 square feet.
 - (3) Minimum lot width:
 - [a] At street line: 150 feet.
 - [b] At front yard setback line: 150 feet.
 - (4) Minimum lot depth: 150 feet.
 - (5) Minimum yard dimensions:
 - [a] Front yard: 50 feet.
 - [b] Side yard, each side: 25 feet.
 - [c] Rear yard: 50 feet.
 - (6) Length of building. 150 feet.
 - (7) Minimum open area: 20%.
 - (8) Perimeter buffer: 20 feet.

SECTION 907. SUPPLEMENTAL REGULATIONS

The uses in this district are also subject to applicable regulations contained in the following articles:

1. Article XI, Signs.
2. Article XII, Off-Street Parking and Loading.
3. Article XIII, Accessory Uses.
4. Article XIV, General Regulations.
5. Article XV, Performance Standards.

ARTICLE X Commercial Mixed -C-M

SECTION 27-1001. PURPOSE

It is the purpose of this district to permit medium- and higher-density residential development by permitting a variety of dwelling types.

SECTION 27-1002. USES BY RIGHT

Uses by right shall be as follows:

1. Single-family detached dwellings.
2. Single-family semidetached dwellings.
3. Duplex dwellings.
4. Apartment dwellings
5. Public parks and public recreation areas.
6. No-impact home-based business.
7. Home occupation, minor
8. Municipal Uses.
9. Short-term rentals in single-family dwellings, subject to§ 27-1512.
10. Accessory buildings and uses customarily incidental to the above permitted uses.

SECTION 27-1003. SPECIAL EXCEPTION USES

The following uses are permitted as a special exception when authorized by the Zoning Hearing Board. In granting the special exception, the Board may attach certain conditions to its approval which, in addition to the requirements listed within this ordinance, it feels are necessary requirements in order to preserve and protect the character of the district in which the proposed use would be located.

1. Home occupation, major.
2. Health Services
3. Cemetery.
4. Funeral Homes
5. Offices.
6. Retail Sales of goods and services

7. Parking Lot
8. Day-care Center, Commercial
9. Day-care Center, Family Major
10. Day-care Center, Family Minor
11. Bed and Breakfast Establishment
12. Accessory buildings and uses customarily incidental to the above special exception uses.

SECTION 27-1004. CONDITIONAL USES

The following uses are permitted by conditional use when authorized by Akron Borough Council:

1. Mobile home parks
2. Public utility installation.
3. Accessory buildings and uses customarily incidental to the above conditional uses
- .

SECTION 27-1005. AREA AND BULK REGULATIONS FOR PRINCIPAL BUILDINGS AND USES PERMITTED BY RIGHT

1. Maximum building height: 35 feet.
 - A. Single-family detached dwellings.
 - [a] Minimum lot area: 7,500 square feet.
 - [b] Minimum lot width:
 - [i] At street line: 50 feet.
 - [ii] At front yard setback line: 75 feet.
 - [c] Minimum lot depth: 125 feet.
 - [d] Minimum yard dimensions:
 - [i] Front yard: 25 feet.
 - [ii] Side yard, each side: 10 feet.
 - [iii] Rear yard: 35 feet.
 - [e] Minimum open area: 40%.
 - B. Public Parks and recreation areas:

- (1) Minimum lot area: none.
- (2) Minimum lot width: 50 feet.
- (3) Minimum lot depth: none
- (4) Minimum yard dimensions:
 - (a) Front yard: 35 feet
 - (b) Side yard: 20 feet.
 - (c) Rear yard: 35 feet.
- (5) Minimum open area: none.

B. Single-family semidetached dwellings:

- (1) Sewer and water. Both public sewer and public water service are required.
- (2) Minimum lot area: 6,000 square feet per dwelling unit.
- (3) Minimum lot width:
 - [a] At street line: 40 feet per dwelling unit.
 - [b] At front yard setback line: 50 feet per dwelling unit.
- (4) Minimum lot depth: 125 feet.
- (5) Minimum yard dimensions:
 - [a] Front yard: 25 feet.
 - [b] Side yard, one side: 15 Feet.
 - [c] Interior yard: none; however, any building or structural additions or revisions to a dwelling unit shall be constructed to a common wall on an interior lot line or shall be constructed a minimum distance of three feet from an interior lot line.
 - [d] Rear yard: 35 feet.
- (6) Minimum open area: 35%.

C. Duplex dwellings:

- (1) Sewer and water. Both public sewer and public water service are required.
- (2) Minimum lot area: 6,000 square feet per dwelling unit,
- (3) Minimum lot width:

- [a] At street line: 50 feet.
- [b] At front yard setback line: 75 feet.
- (4) Minimum lot depth: 125 feet.
- (5) Minimum yard dimensions:
 - [a] Front yard: 25 feet.
 - [b] Side yard, each side: 10 feet.
 - [c] Rear yard: 35 feet.
- (6) Minimum open area: 35%

E. Apartment dwellings.

- (1) In those areas of the district where both public water and public sewer are provided, lots are permitted as follows:
 - [a] Minimum lot area: Six thousand (6,000) square feet per dwelling unit; provided, however, that the minimum lot area shall be 20,000 square feet.
 - [b] Minimum lot width:
 - [i] At street line: 100 feet.
 - [ii] At front yard setback line: 150 feet.
 - [c] Minimum lot depth: 150 feet.
 - [d] Minimum yard dimensions:
 - [i] Front yard: 25 feet.
 - [ii] Side yard: 30 feet from all property lines.
 - [iii] Rear yard: 50 feet all property lines.
 - [iv] Interior yards: open space between buildings on the same lot.
 - [a] When front to front, rear to rear, or front to rear, parallel buildings shall have 35 feet between faces of the building. If the front or rear faces are obliquely aligned, the above distance may be decreased by as much as 10 feet at one end if increased by similar or greater distance at the other end.
 - [b] A yard space of 30 feet is required between end walls of buildings. If the buildings are at right angles to each other, the distance between the corners of the end walls of the building may be reduced to a minimum of 25 feet.

- [c] A yard space of 50 feet is required between end walls and front or rear faces of buildings.
- [d] Length of building. No building shall exceed 200 feet in length unless otherwise specified in the applicable T-Zone Overlay.
- [e] Minimum open area: 35%

F. Home occupation, minor. Such uses shall comply with the requirements of Section 27-1310.

SECTION 27-1006. AREA AND BULK REGULATIONS FOR PRINCIPAL BUILDINGS AND USES PERMITTED BY SPECIAL EXCEPTION

E. Bed-and-breakfast establishments. Such uses shall comply with the requirements of Section 27-1503

F. Accessory dwelling units. Such uses shall comply with the requirements of Section 27-1508.

G. Home occupation, major. Such uses shall comply with the requirements of Section 27-1310

SECTION 27-1007. AREA AND BULK REGULATIONS FOR PRINCIPAL BUILDINGS AND USES PERMITTED BY CONDITION

- A. Mobil home parks.
- B. Public Utility installations
- C. Accessory buildings and uses customarily incidental to the above conditional uses.

2. Public utility installations:

- A. Minimum lot area: none.
- B. Minimum lot width: none.
- C. Minimum lot depth: none.
- D. Minimum yard dimensions:
 - (1) Front yard: 25 feet.
 - (2) Side yard, each side: 10 feet.

- (3) Rear yard: 10 feet.
- E. Minimum open area: none.
- F. Landscaping and screening. (See Section 1507.)

SECTION 27-1008. SUPPLEMENTAL REGULATIONS

The uses in this district are also subject to applicable regulations contained in the following articles:

1. Article XI, Signs.
2. Article XII, Off-Street Parking and Loading.
3. Article XIII, Accessory Uses.
4. Article XIV, General Regulations.
5. Article XV, Performance Standards.

ARTICLE XI. SIGNS

SECTION 27-1101. PURPOSE

The purposes of this article are as follows:

1. To provide for signs as a means of effective visual communication.
2. To promote adopted comprehensive planning and zoning objectives.
3. To assure compatibility of signs with land uses and buildings in the vicinity of the signs and in the community. As a whole.
4. To improve the safety of pedestrians, vehicular traffic, and property.
5. To enhance the economic value of the community.
6. To enhance the aesthetic environment.
7. To minimize adverse effects of signs on nearby property.
8. To otherwise promote the public health, safety, morals, and general welfare of the community.
9. To regulate the use of signs through a sign permitting process.
10. To enable the fair and consistent enforcement of this article.

SECTION 27-1102. DEFINITIONS

The following definitions shall apply to those terms whenever they appear in this article. Any word used in this article which is not defined herein and which is defined in Article V of this ordinance, shall, for the purpose of this article, have the meaning defined therein.

BILLBOARD - An off-premises, permanent sign which directs attention to a product, service, or cause.

BUILDING SIGN - A sign attached to or painted on a building which has a use in addition to supporting the sign; this includes wall signs and roof signs.

BUSINESS SIGN - An on-premises sign which directs attention to any business, professional, commercial, or industrial activity which is sold, offered, or conducted, other than incidentally, on the premises on which the sign is located. Business signs shall include center signs, but not a home occupation sign. (Also see "center sign.")

CENTER SIGN - A business sign which provides identification (but is not an identification sign) at the primary vehicular entrance(s) to a center such as a shopping center, or office complex.

CONTRACTOR SIGN - A sign which carries the name and information about a contractor, designer, architect, developer or similar entity who is actively involved in construction work or design work occurring on the premises on which the sign is located.

DEVELOPMENT SIGN - An identification sign at a residential development and located at its entrance.

ELECTRONIC VARIABLE MESSAGING SIGN (EVMS) - A sign, or a portion thereof, where the message copy includes characters, letters or illustrations that can be changed or rearranged electronically from a remote location without touching or physically altering the primary surface of the sign.

FREESTANDING SIGN - A sign not attached to or painted on a building, or a sign attached to or painted on a structure that is erected for the sole purpose of supporting the sign.

GARAGE/YARD SALE SIGN - A temporary sign which directs attention to the sale of personal goods at a private residence or at a residential development.

GOVERNMENT SIGN - An off-premises sign placed by a federal, state or municipal government or government agency, such as a traffic, directional, informational, or street name sign or an historical marker.

HOME OCCUPATION SIGN - A sign providing information about a business activity conducted within a dwelling unit on the premises on which the sign is located.

IDENTIFICATION SIGN - An on-premises sign used to identify the name and display information about an individual, organization, agency, institution, facility, or development, other than a business, professional, commercial, or industrial facility. (Also see "development sign" and "public use sign.")

INCIDENTAL SIGN - An informational sign, no more than four square feet in size and not including any commercial message or logo, which carries a message such as "enter," "open," "telephone," "rest rooms," "no parking," "no trespassing," "warning," a listing of hours when open, an on-site direction, or anything similar, except that one "enter" sign per entrance may include a logo or business name, as long as the entrance is exclusively for that business, and the logo or business name is subordinate to the word "enter."

ISSUE SIGN - A sign that directs attention to an opinion of a public or private nature, such as, but not limited to, a community, social, religious, political, or ballot issue.

LOT - When used in Article XI, Signs, the word "lot" shall mean a designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit (e.g., the area used by a dwelling unit in a townhouse structure or a tenant space in a multiple-tenant building).

NIT - A measure of light emitted from an LED or like type of display and equaling one candela per square meter. Brightness of light.

NONPROFIT ORGANIZATION SIGN - An off-premises sign displaying information about a house of worship, service club, or other organization which does not operate for the purpose of making a profit.

OFF-PREMISES SIGN - A sign that does not apply to the property on which it is displayed.

ON-PREMISES SIGN - A sign that applies to the property on which it is displayed.

OPEN HOUSE SIGN - A temporary sign which provides information about a real estate open house, including the words "open house" and the name of the realtor.

OVERHEAD SIGN - A sign located such that pedestrian or vehicular traffic can safely pass beneath any part of it.

PERMANENT SIGN - A sign intended to be maintained and displayed for an unlimited period of time.

PUBLIC USE SIGN - An identification sign used to identify the name and display information about a public use such as a government building, school, park, firehouse, or house of worship.

PUBLIC UTILITY SIGN - A sign with a message relating to a business organization performing a public service and subject to special governmental regulations (e.g., an electric company, sewer authority, gas, cable, or telephone company).

REAL ESTATE SIGN - A temporary sign which advertises the sale, lease, rent, financing or development of the property on which the sign is placed, but not including an open house sign, temporary business sign, or an auction sign. (See "special event sign.")

ROOF SIGN - A sign attached to or painted on a roof.

SIDEWALK SIGN - A temporary sign placed on the sidewalk or behind the public right-of-way adjacent to the commercial activity it advertises, but not including a contractor sign, a garage/yard sale sign, a home occupation sign, an open house sign, a real estate sign, a sandwich board sign or a special event sign.

SPECIAL EVENT SIGN - A temporary sign which carries information about a special event, such as an auction, flea market, festival, carnival, meal, holiday event, or fund-raising event, but not including any business sign, such as a "sale" sign at a store or recurring event such as a sporting or social event.

TEMPORARY BUSINESS SIGN - A temporary business sign that indicates special events, such as the pending opening, official opening ("Grand Opening"), pending closing or temporary retail sales.

TEMPORARY SIGN - A sign that is displayed for a limited period in any given year, not to exceed three (3) months in any one year, unless stated otherwise in this ordinance.

WALL SIGN - A sign attached to or painted on the wall of a building.

SECTION 27-1103. SIGN AREA AND HEIGHT

The following guidelines shall apply when interpreting area and height regulations in this article:

1. Area. The area of a sign shall be the area of the smallest rectangle, triangle, or circle that will encompass all elements of the sign, such as letters, figures, symbols, designs, or other display.
 - A. When the sign is a separate unit, the area shall include any borders, framing, trim, decorative attachments, background, and space between elements; it shall not include any supporting structure, unless that structure is illuminated, is in the form of a symbol, or contains advertising elements.
 - B. When the sign is applied to a wall or otherwise does not have definable edges, the area shall include all color, artwork, or other means used to differentiate the sign from the surface upon which it is placed.
 - C. When a single sign structure has more than one face with the same message, and no two sign faces are more than three feet apart at any point, the area shall be computed by determining the greatest total area of all sign faces visible from any single location.
2. Height. The height of a sign shall be measured from the average ground level beneath the sign to the highest point of the sign structure. The ground level shall be the lower of the ground level existing at the time of construction or the ground level existing prior to construction and prior to any earth disturbance at the site. This prior ground level may be established by a reliable source, including, without limitation, existing topographic maps, aerial photographs, photographs of the site, or affidavits of people who are personally familiar with the site. No person(s) shall artificially increase the maximum height of a sign by altering the grade at the base of the sign by any means.

SECTION 27-1104. GENERAL REGULATIONS

The following regulations shall apply to all signs, in addition to the specific regulations and supplemental regulations contained in the following provisions of this article. Where the general regulations are contradicted by the specific or supplementary regulations, the specific or supplementary regulations shall control.

1. All signs shall reflect the general character of the neighborhood.
2. All signs shall be constructed of durable materials, maintained in good condition, and secured in a safe manner.
3. When a sign becomes unsafe, the Zoning Officer or designated code official shall give written notice to the owner of the premises on which the sign is located that the sign must be made safe or removed immediately.

4. The areas surrounding all signs shall be maintained in a neat, clean, and attractive condition.
5. All signs shall be removed within three months if the purpose for which they were erected no longer exists.
6. Each property which displays one or more permanent freestanding signs, and which is in an area where street addresses have been assigned must prominently display the address on one permanent freestanding sign visible from the street. The address must include the street number; the street name is optional. The address must be of a size and design which is easily identifiable and legible from moving traffic in the street at a distance of 100 feet (six-inch-high numerals with a three-fourths-inch stroke). Such numerals shall be a contrasting color to the sign background. The area taken up by the address does not count as part of the sign area. Center signs are exempt from this requirement.
7. Temporary signs, including temporary business signs, shall be permitted as authorized in Table 1 of this Article.
8. No sign shall be located within a street right-of-way, except a government sign, a public utility sign, a sidewalk sign, a nonprofit organization sign, or another sign approved by the governing body or the Pennsylvania Department of Transportation.
9. No sign within the clear sight triangle should obstruct vision between the heights of 30 inches and eight feet above the elevation of the center line of the street.
10. No signs shall be painted, pasted, nailed, stapled, taped or otherwise attached to utility poles, trees, fences, fire hydrants, speed limit sign posts, signal control boxes, Borough owned utilities, or in an unauthorized manner to walls or other signs, except insofar as such signs comply with generally applicable rules, regulations, or policies formally adopted by the governing body.
11. Any freestanding sign within a floodplain must receive specific approval as a special exception.
12. No sign shall be placed so as to obstruct any door, stairway, window, fire escape, handicapped-accessible route, or other means of egress or ingress.
13. No sign shall be placed so as to obstruct ventilation or light from a building.
14. No overhead sign shall have a clearance of less than eight feet between any pedestrian walk and the lowest part of the sign; and less than 17 feet six inches between any roadway and the lowest part of the sign.
15. No sign which is parallel to and attached to the face of a building shall project more than 18 inches over a public sidewalk.
16. No sign which is perpendicular to and attached to the face of a building shall project more than 48 inches from the building.

17. No sign shall have lights or other illuminating devices which constitute a public safety or traffic hazard.
18. No sign shall be permitted which imitates or which might be confused with an official traffic sign or signal, such as by containing the words "stop" or "danger" or by including red, green, or yellow lights.
19. No sign shall include a revolving beam or beacon of light resembling an emergency vehicle or facility.
20. No sign shall advertise activities or products which are illegal under federal, state, or local municipal laws or regulations.
21. No sign shall include statements, words, or pictures which are considered to be vulgar, obscene, or pornographic.
22. No streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, feather flags, bow flags, wind flags, inflatable flags, flags (other than as described in Section 1804.23.) below, air dancer puppets or similar materials shall be displayed outside a building. (See Section 1806.13. for regulations which apply to banners used as special events signs.)
23. In addition to any other signage permitted by this article, any nonresidential property may display a maximum of three flags where each flag is a maximum of 35 square feet in area and is located on an approved, standard flagpole. Such flags may display the company or corporate identification logo, the United States flag or the flag of the Commonwealth of Pennsylvania. In addition, nonresidential properties shall be permitted to display one decorative flag not to exceed fifteen (15) square feet in area.
24. No animated, sequential, intermittent, flashing, rotating, or oscillating signs shall be permitted except for electronic variable messaging signs in accordance with Section 27-1106.4.
25. No sign shall emit smoke, visible vapors, particles, sound, or odor.
26. No signs shall be placed on an automobile, truck, trailer, or other vehicle if that vehicle is being used primarily for displaying such sign. An automobile, truck, trailer or other vehicle used for business purposes may not be parked off-premise in a manner used to exhibit the automobile, truck, trailer, or vehicle as a sign display.
27. No inflatable structures shall be permitted on the premises of nonresidential properties.
28. No open flames shall be permitted as part of a sign or in any other way to attract attention.
29. Advertising painted upon or displayed upon a barn or other structure shall be considered a sign and shall comply with the regulations of this article.
30. Signs may be interior lighted with non-glaring lights; signs may be externally lighted by lights which are shielded so there is no direct light transmitted to other properties or

public rights-of-way, and the source of such light is not visible to other properties or public rights of-way.

31. The light from any illuminated sign shall not adversely affect safe vision of operators of vehicles moving on public or private streets or parking areas, any residential district, or any part of a building or property used for residential purposes.
32. No lighting shall be permitted to outline buildings or structures or architectural elements thereof through the use of exposed skeleton or neon tubing, strings of lights, or other illumination means, with the exception of customary holiday decorations, which may be installed 30 days prior to and removed not later than 21 days after the holiday, and accent lighting around the perimeter of a sign, in which case the lighting shall be incorporated into the calculation of total sign area.
33. No signs for permitted nonresidential uses in residential districts shall be illuminated when the nonresidential use is closed.
34. All electrically illuminated signs shall be constructed to the standards and listing of the Underwriters Laboratories, Inc., or other approved nationally recognized testing laboratory and the most recent adopted edition of the National Electric Code.
35. Freestanding signs greater than twenty (20) square feet in area shall be designed in accordance with the applicable design and construction requirements of the current International Building Code, as amended. The design shall be reviewed, signed and sealed by a licensed design professional registered in the Commonwealth of Pennsylvania.
36. Signage may be displayed on one (1) construction trailer, provided the construction trailer is used primarily for storage rather than for advertising; the construction trailer is situated on an active construction site; the construction trailer complies with all setback requirements of the underlying zoning district; and the construction trailer is removed once construction activity is completed or discontinued. Banners or other temporary signage displays may not be located on the construction trailer.

SECTION 27-1105. SPECIFIC REGULATIONS

Tables 1 and 2 provide regulations for specific kinds of signs in each zoning district. Note that separate regulations for planned residential developments are found in the respective section. Also note that there are also supplemental regulations in Section 1806 which should be reviewed for most kinds of signs; these are referenced in the second column of Table 1, the note at the top of Table 2, Part A, and the second column of Table 2, Part B.

1. Permitted signs and sign permit requirements. Table 1 indicates, for each zoning district, which kinds of signs are permitted, and not permitted, and which kinds of signs require permits. Part A applies to signs on residential properties; Part B applies to signs on nonresidential properties. In those parts, an "N" indicates that the sign is not permitted; a "P-Y" indicates that the sign is permitted and a permit is required; a "P-N" indicates that

the sign is permitted and a permit is not required. Part C applies to signs in rights-of-way; these are approved through special processes rather than through the regular permit procedure.

2. Permitted number, area, height, and setback for signs. Table 2 indicates, for each zoning district, information about the permitted number, maximum area, maximum height, and minimum setback for each kind of sign. Part A has standards for the following kinds of signs: business signs (except center signs), home occupation signs, and identification signs (except development signs and public use signs). Part B has standards for other kinds of signs.

SECTION 27-1106. SUPPLEMENTAL REGULATIONS

In addition to the regulations contained elsewhere in this article, the following shall apply to specific kinds of signs.

1. Billboards. May be erected in the C1 zoning district. There may be no more than one billboard per lot. The surface area of the sign shall not exceed 200 square feet. Each billboard structure must have setbacks of 30 feet from any street right-of-way and 15 feet or the minimum building setback, whichever is greater, from other property lines. Each billboard structure must be at least 750 feet from any other billboard structure, at least 300 feet from any residential zoning district or overlay district, and at least 300 feet from a residential use, house of worship, school, library, or other community facility, as measured from the property line of the parcel on which such use is located. Each billboard shall have a maximum height of 25 feet and only one advertisement shall be permitted.
2. Business signs. Business signs are regulated in accordance with Tables 1 and 2A. Business signs for individual businesses which are permitted by Table 2A must be located so that they are identified with the individual business, i.e., rather than being at the street frontage of a large center, away from the business they are advertising. One special kind of business sign is regulated in accordance with Tables 1 and 2B:
 - A. Center signs are allowed for centers such as shopping centers, office parks, and industrial parks which meet at least two of the following three minimums:
 - (1) Five units/tenants.
 - (2) Twenty thousand square feet of building footprint area; and
 - (3) Five acres of land.
3. Contractor signs.
 - A. Each contractor, designer, architect, developer or similar entity sign must be setback at least 10 feet from the right-of-way or at the building face, whichever is less, may not be in the side yard setback, and may not be illuminated. Contractor

signs shall not be placed in the clear sight triangle and shall not obstruct the vision of any motorist. Contractor signs must be removed promptly upon completion of the project; signs which are not removed promptly may be removed and impounded by the municipality, and the municipality may recover a fee equal to the cost of removal and storage. No off-premises contractor signs are permitted.

- B. If there are four or more contractor signs on a single lot, they must be combined in a single display by attaching them to a single background panel not to exceed 32 square feet in total sign area and a maximum of six square feet per individual sign. The background is not included in calculating the sign area, the height of the display may not exceed 10 feet, and the display may project a maximum of 12 inches from the wall if attached parallel to the building.

4. Electronic variable messaging signs (EVMS).

- A. Such sign shall be permitted only on a portion of an approved freestanding sign. The sign area of an EVMS sign shall be a maximum of 60% of the total area of the total freestanding sign.
- B. The display shall have a maximum luminance of 5,000 nits during daylight hours and a maximum of 125 nits for dusk through dawn.
- C. The message displayed on the sign shall be static and nonanimated and shall remain fixed for a minimum of 10 seconds.
- D. When the message is transitioned, it shall be accomplished in one second or less with all moving parts or illumination changing simultaneously and in unison.
- E. The sign shall contain a default design that will freeze the sign in one position if a malfunction occurs or, in the alternative, shut down.
- F. The sign shall not display any message that moves, appears to move, scrolls, or changes in intensity during the fixed display period.
- G. The sign shall retain a dark-colored background with light-colored graphics, letters or symbols.
- H. There shall be a maximum of one EVMS sign per property.

- 5. Garage/yard sale signs. One on-premises garage/yard sale sign with a maximum of six square feet may be placed no more than 48 hours before the sale and must be removed before the end of the day of the sale. A maximum of two off-premises signs with a maximum of four-square feet each are permitted per garage/yard sale. Such signs shall be freestanding and shall not be attached to any utility poles, signal poles, or trees and shall only be posted for the day of the sale. Signs which are not removed within the time limit may be removed and impounded by the municipality, and the municipality may recover a fee equal to the cost of removal and storage.

6. Home occupation signs. A home occupation sign may include a name, an address, an occupation or activity, and a logo or trademark. There may be no illumination, except that a sign for a medical office or emergency service may be illuminated when the business is open.
7. Identification signs. Identification signs are regulated in accordance with Tables 1 and 2A. However, two special kinds of identification signs are regulated in accordance with Tables 1 and 2B: development signs and public use signs.
 - A. Development signs are allowed for residential developments. They shall include only the name of the development and shall not include any commercial advertising.
 - B. Public use signs are permitted for nonresidential uses other than a business, office or industry and include both freestanding and building signs providing information pertaining to the use and on-premises activities.
8. Incidental signs. Incidental signs must have a setback of 10 feet from the right-of-way, unless they are 30 inches or less in height, in which case no setback is required.
9. Nonprofit organization signs. Nonprofit organization signs may be placed in street rightsof-way with the approval of the Borough Council. The governing body may require that they be placed at designated entrances to the community or on common display panels.
10. Open house signs. Open house signs must include the words "open house" and the name of the realtor. They may be displayed no more than three days in advance of the open house and must be removed within two hours of the end of the open house. The open house must be attended by the seller or his representative during the entire advertised time of the open house. Signs which are not removed within the time limits may be removed and impounded by the municipality, and the municipality may recover a fee equal to the cost of removal and storage. There may be no more than two off-premises open house signs for each open house, with not more than one sign per intersection. The placement of open house signs may not interfere with pedestrian or vehicular traffic and must comply with all applicable general regulations in Section 1804.
11. Real estate signs.
 - A. Real estate signs must be removed within five (5) days of the completion of the activity which they advertise. Signs which are not removed within the time limits may be removed and impounded by the municipality, and the municipality may recover a fee equal to the cost of removal and storage. No off-premises real estate signs are permitted.
 - B. Real estate signs including financial signs may not displayed individually but shall be combined in a single display by attaching them to a single background

panel not to exceed the maximum requirements of this article for a single real estate sign.

12. Special event signs. Special event signs may be displayed no more than twenty-one (21) days in advance of the event. All special event signs must be removed within five days (5) of the end of the event. Signs which are not removed within the time limits may be removed and impounded by the municipality, and the municipality may recover a fee equal to the cost of removal and storage. Any special event signs which do not meet the standards of this article must be approved by special action of the governing body. An on-premises auction sign advertising the auction of real estate may be displayed more than twenty-one (21) days in advance of the auction if it follows all real estate sign standards.

SECTION 27-1108. NONCONFORMING SIGNS

Any sign legally existing at the time of the passage of this ordinance that does not conform in use, location, height or size with the regulations of the zone in which such sign is located shall be considered a legal nonconforming sign and shall be permitted to continue in such status until such time as it is either abandoned or removed by its owner, subject to the following limitations:

1. Structural alterations, enlargement or re-erection are permissible only where such alteration will not increase the degree of nonconformity.
2. A legal nonconforming sign may be moved to another position on the building or lot on which it is located, provided that moving such a sign would reduce or eliminate the nonconformity. This action shall require the notification and permission of the Zoning Officer.
3. Whenever a nonconforming sign has been altered to lessen the nonconformity, such sign shall not thereafter be changed to increase the nonconformity.
4. A nonconforming sign which is damaged or destroyed may be rebuilt in the same location and form as before the damage after obtaining appropriate permits and provided that:
 - A. The damage or destruction was unintentional and not the result of neglect or abandonment.
 - B. The previous foundation is to be used for restoration.
 - C. The reconstructed sign shall not be larger than the damaged structure.
 - D. The reconstruction shall start within six months from the time of damage.
 - E. The repair of a nonconforming structure shall not cause the structure to create further expansion in a nonconforming dimension or aspect.

5. No nonconforming sign which has been dismantled or damaged by neglect or abandonment may be repaired or rebuilt, except as a conforming sign, unless specifically approved to be repaired or rebuilt as a nonconforming sign as a special exception by the Zoning Hearing Board.
6. If the use for which a nonconforming sign refers is abandoned, all signs accessory to such use shall be deemed to become unlawful and shall be removed within three calendar months from the date such use terminates.
7. Any sign which has been authenticated as historically significant and accurate for its specific location, whether original or a replica, may be granted permanent nonconforming status as a special exception by the Zoning Hearing Board.

Borough of Akron

Table 1: Permitted Signs and Sign Permit Requirements

(See Table 2 and supplemental regulation referred in second column for additional standards:
also see explanation in Section 27-1105)

Legend - Zoning Districts- The abbreviation in the column headings represent the Zoning Districts of the Borough of Akron as follows:

R-1 and R-2 Low - Medium Intensity Residential

R-3 - Medium Intensity Residential

CM-C1 - Commercial

PART A-Permanent Signs

		Zoning District		
Kind of Sign	Supplemental Regs	R-1 R-2 R-3	C-1	CM
Freestanding and Building Signs - Permanent				
Home Occupation Sign	27-1106.6	P-Y	P-Y	P-Y
Identification Sign	27-1106.7	P-Y	P-Y	P-Y
Incidental Sign	27-1106.8	P-N	P-N	P-N
Billboard	27-1106.1	N	P-Y	N
EVMS	27-1106.4	N	P-y	N
Business Sign	27-1106.2	N	P-Y	P-Y
Other		N	N	N

PART B-Temporary Signs

Kind of Sign	Supplemental Regs	Zoning District		
		R-1 R-2 R-3	C-1	CM
Garage/Yard Sale Sign	27-1106.5	P-N	P-N	P-N
Open House Sign	27-1106.10			
Real Estate Sign	27-1106.11			
Contractor Sign	27-1106.3			
Issue Sign	27-1102.			
Special Event Sign (on premises)	27-1106.12	P-N	P-N	P-N
Special Event Sign (off premises)	27-1106.12	P-N	P-N	P-N
Business Sign	27-1106.12	N	P-N	P-N
Other		N	N	N

Borough of Akron

Table 2: Permitted Number, Area, Height and Setback for Signs

LEGEND:

Zoning districts – The abbreviation in the column headings represent the zoning districts of Akron Borough as follows:

R-1 and R-2 – Low to Medium Intensity Residential

R-3 – Medium Intensity Residential

CM and C1 - Commercial

**Part A – Business Signs, Home Occupation Signs, and
Identification Signs (Except Development Signs and Public Use Signs)**

(Number permitted and maximum area refer to the combined total of all the above kinds of signs; also see supplemental regulations for additional standards: business signs (Section 1806.2.), home occupation signs (Section 27-1106.6.) and identification signs (Section 27-1107.7.))

Kind of Sign and Standards	Zoning Districts		
	R1,R2,R3	CM	C1
Freestanding Signs			
Number permitted per lot	1(d)	1	1(a)(c)
Maximum area (square feet)	2	20	100
Maximum height (feet)	6	15	15
Minimum setback from right-of-way property line (feet)	10	10	10
Building Signs (e)			
Single Occupancy Uses			
Number permit per lot (for single-occupancy uses)	1(d)	No Limit	No Limit
Maximum total area of all building signs	2	1 ½ feet per linear foot of façade to which it is attached, up to a maximum of 200 square feet of signage per tenant	

Notes:

- (a) Number permitted on each parallel street frontage for each parcel, except that, in a structure with multiple businesses, the individual businesses may not have their own freestanding signs.
- (b) The area permitted on each street frontage is 120 square feet.
- (c) An additional freestanding sign is permitted for each additional parallel street frontage, with the area to be calculated as indicated in Note (b) above, and with no freestanding sign to exceed 120 square feet.
- (d) Only one home occupation sign permitted per property. If a freestanding sign is selected, it must be located directly behind the curb on a mailbox column (if one is present). If no mailbox column is present, the sign may be attached to a single post or attached to a building. A building sign may be used in place of a freestanding sign, but not in addition to a freestanding sign. No sidewalk sign or business-related flags are permitted.
- (e) The length of the façade of a irregularly shaped building (e.g. circular building, an “S” shaped building, or a building with one or more ell on the side in question) is the straight line distance between the two ends of the building.

Part B – Other Kinds of Signs

(See supplemental regulations referenced in second column for additional standards: note that minimum setbacks apply to freestanding signs only and are to be measured from the right-of-way and/or property line.)

LEGEND:

N/A = Not applicable

Kind of Sign and Standards	Zoning District		
	R1, R2, R3	CM	C1

Billboard (Supp. Regs. 27-1106.1)

Maximum area/surface (square feet)	N/A	N/A	72
Maximum height (feet)	N/A	N/A	15
Minimum setback (feet)	N/A	N/A	*
# permitted	N/A	N/A	**

Contractor Sign (Supp. Regs. 27-1106.3)

Maximum area/surface (square feet)	6	6	6
Maximum height (feet)	6	6	6
Minimum setback (feet)	*	*	*
# permitted	1 per contractor; see section 27-1106.3 for multiple signs on the same lot		
Government Sign (Supp. Regs. None)	Placed within rights of way; generally not regulated by this article		

Incidental Sign (Supp. Regs. 27-1106.8)

Maximum area/surface (square feet)	4	4	4
Maximum height (feet)	6	6	6
Minimum setback (feet)	10	10	10
# permitted	No Limit		

Issue Sign

Maximum area/surface (square feet)	6	6	32
Maximum height (feet)	6	6	10
Minimum setback (feet)	10	10	10
# permitted	No limit for permitted time to display; 1 per street frontage, up to 2 per lot		

**Nonprofit Org. Sign
(Supp Regs. 27-1106.9)**

Maximum area/surface (square feet)	4	4	4
Maximum height (feet)	6	6	6
Minimum setback (feet)	*	*	*
# permitted	Approved by Borough Council		

Open House (Supp Regs. 27-1106.10)

Maximum area/surface (square feet)	6	6	6
Maximum height (feet)	6	6	10
Minimum setback (feet)	N/A*	N/A*	N/A*
# permitted	1 on-premises open house sign; see Section 27-1106.10 for off-premises open house sign		

**Real Estate Sign
(Supp Regs. 27-1106.11)**

Maximum area/surface (square feet)	6	6	32
Maximum height (feet)	6	6	10
Minimum setback (feet)	10	10	10
# permitted	1 per street frontage, up to a maximum of 2 per lot.		

**Special Event Sign
(Supp Regs. 27-1106.13)**

Maximum area/surface (square feet)	16	16	16
Maximum height (feet)	6	6	6
Minimum setback (feet)	10	10	10
# permitted	1 per lot per event; an on-premises auction sign advertising of real estate only may be displayed more than 21 days in advance of the auction if it follows all real estate sign standards		

Temporary Business Sign

Maximum area/surface (square feet)	N/A	16	16
Maximum height (feet)	N/A	6	6
Minimum setback (feet)	N/A	10	10
# permitted	1 per lot; 2 per shopping center		

NOTES:

- See supplemental regulaitons.

ARTICLE XII. OFF-STREET PARKING AND LOADING

SECTION 27-1201. COMPLIANCE REQUIRED

No building shall be erected, enlarged by an increase of floor area, or converted to a new use classification in any district, unless off-street parking spaces are provided as set forth in the following schedule. In addition to the number of parking spaces set forth, there shall also be provided sufficient passageways and driveways giving access to the parking spaces to allow cars to enter and leave the lot and to turn within it in a safe and orderly manner and without disrupting traffic in the public right-of-way.

SECTION 27-1202. MINIMUM OFF-STREET PARKING REQUIREMENTS

1. Dwellings:
 - A. Single-family detached, single-family semidetached and duplex: two (2) spaces for each dwelling unit.
 - B. Townhouses: One and three quarters (1.75) spaces for each dwelling unit.
 - C. Apartment dwellings: One and one-half (1.5) spaces for each dwelling unit.
2. Auditoriums (excluding schools), stadiums, theaters, and all other places of assembly providing seats for an audience, including houses of worship and funeral homes: one (1) space for each two and one-half (2.5) seats.
3. Retail sales and services: one (1) space for each two hundred (200) square feet of gross floor area. (See also Subsection 15, Shopping center.)
4. Restaurants and banquet facilities: one (1) space for each two (2) seats.
5. Hotels, full-service; hotels, limited-service; motels; boardinghouses; and bed-and-breakfast establishments: one (1) space for each guest unit and one (1) space for each employee on the largest shift.
6. Offices:
 - A. Under 49,999 square feet of gross floor area: Four and one-half (4.5) spaces per one thousand (1,000) square feet of gross floor area.
 - B. 50,000 to 99,999 square feet of gross floor area: four (4) spaces per one thousand (1,000) square feet of gross floor area.
 - C. 100,000 plus square feet of gross floor area: Three and one-half (3.5) spaces per one thousand (1,000) square feet of gross floor area.

- D. Offices, medical or dental: five (5) spaces for each one thousand (1,000) square feet of gross floor area.
- 9. Convenience store: one (1) space for each one hundred (100) square feet of gross floor area and one (1) for each employee on the largest shift.
- 10. Schools:
 - A. Elementary: two and one-half (2.5) spaces for each classroom.
 - B. Secondary: four (4) spaces for each classroom.
- 11. Warehousing: one (1) space for each five thousand (5,000) square feet of gross floor area and one (1) space for each employee on the largest shift.
- 12. Day-care centers: one (1) space for each six (6) persons cared for and one (1) space for each employee on the largest shift.
- 13. Educational institutions: one (1) space for each student and one (1) space for each five hundred (500) feet of gross floor area devoted to classroom and administrative office use.
- 14. Motor vehicle sales/service: one (1) space per employee on the largest shift, plus one (1) space per service bay.
- 15. Commercial recreation facilities: one (1) per three hundred (300) square feet of gross floor area.
- 16. Outdoor athletic fields: fifteen (15) per field, plus one (1) per four (4) permanent seats.
- 17. Community facility/community club and Country Clubs: one (1) space per three hundred (300) square feet of gross floor area.
- 18. Wholesale sales: one (1) space per one thousand (1,000) square feet of gross floor area.
- 19. Mini storage facilities. Parking requirements shall be based upon the area of office use only.
- 20. Veterinary Facility: four and one-half (4.5) spaces for each one thousand (1,000) square feet of gross floor area.
- 21. Handicapped parking space location, dimensions and number shall be regulated by the Zoning Officer.
- 22. For other uses which do not fit into one (1) of the above categories, determination of the adequate off-street parking space requirement shall be made by the Borough. It is the intent of these requirements that adequate off-street parking and loading facilities be provided for each land use.

SECTION 27-1203. PARKING SPACE COMPUTATION

When the computation to determine the number of required parking spaces results in a requirement of a fractional space, any fraction up to and including one-half (1/2) shall be disregarded, and fractions over one-half (1/2) shall equal one (1) space.

SECTION 27-1204. PARKING AREA SURFACE

Every off-street parking area and access drive thereto shall be surfaced with an all-weather durable and dustless material, such as stone, asphalt, macadam, or concrete. It shall be so graded and drained as to dispose of all surface water accumulation and shall have bumper guards where needed.

SECTION 27-1205. PARKING AREA DIMENSIONS

1. Each parking space shall be a minimum width of nine (9) feet and a minimum depth of eighteen (18) feet, except that a maximum of three (3) percent of the required spaces or five (5) spaces, whichever is less, may be designed to accommodate motorcycles. Motorcycle spaces shall be a minimum of four (4) feet in width and nine (9) feet in length.

2. Minimum dimensions for off-street parking and maneuvering space shall be as follows:

Parking Angle	Stall Width(feet)	Stall Depth(feet)	Aisle Width(feet)
90°	9	18	24
60°	9	18	20
45°	9	18	18

3. Parallel parking spaces shall measure a minimum of seven (7) feet wide by twenty-two (22) feet long and shall not be located within twenty-five (25) feet of an intersection.

4. When off-street parking facilities are located adjacent to a public alley, the width of said alley may be assumed to be a portion of the maneuvering space requirement, but not as part of the parking space minimum area.

SECTION 27-1206. PARKING AREA RESERVATION

All off-street parking areas shall be reserved for and used for motor vehicle parking only, with no sales, dead storage, repair work, dismantling, or servicing of any kind. The parking of one (1) commercial motor vehicle with a maximum payload capacity of two and one-half (2 1/2) tons is permitted on a residential dwelling lot in any zoning district if needed by the resident of the dwelling for a home occupation or for a business not conducted on the premises. A maximum of one (1) recreation vehicle is permitted to be parked overnight on a lot in any zoning district, except where expressly permitted as part of the principal use, provided it is not to be used for sleeping, recreation, or living purposes at any time while parked on the property.

SECTION 27-1207. OFF-STREET LOADING AND UNLOADING SPACE

1. Off-street loading and unloading space or spaces shall be designed with appropriate means of vehicle access to a street in a manner which will least interfere with pedestrian and vehicular traffic.
2. Loading and unloading spaces shall have paved surfaces.
3. Loading and unloading spaces shall not be located within the required front yard.
4. Required off-street parking space shall not be utilized for loading and unloading purposes.
5. Where possible, off-street loading and unloading space or spaces shall be located on the face of a building not facing any adjoining land in residential districts. If such loading and unloading spaces are located on the face of a building adjoining residentially zoned land, a continuous visual screen shall be provided along the property line.
6. No storage of any kind, nor motor vehicle repair work of any kind, except emergency work, shall be permitted within any loading or unloading space or spaces.
7. Off-street loading and unloading spaces shall be at least twelve (12) feet in width by at least fifty (50) feet in length, exclusive of aisle and maneuvering spaces, and shall have a vertical clearance of at least sixteen (16) feet.

SECTION 27-1208. HANDICAP PARKING

Handicap parking spaces shall be provided in accordance with the Americans with Disabilities Act.

SECTION 27-1209. RESIDENTIAL DRIVEWAYS

1. A driveway shall be surfaced with an all-weather, durable and dustless material. Such material shall extend the full length and width of the driveway. Any portion of a driveway constructed within the public right-of-way shall be constructed to the approved standards of the Borough or PennDOT.
2. Residential driveways shall have a minimum width of eight (8) feet.
3. Residential driveways shall be setback three (3) feet from the property line.

ARTICLE XIII. ACCESSORY USES

SECTION 27-1301. ANIMALS AND ANIMAL SHELTERS

1. In any zoning district, it is permitted to maintain as domestic animals six (6) dogs or (6) cats, or a combination thereof, not to exceed a total of six (6) domestic animals, each over six (6) months of age, provided it is on a noncommercial basis. Where a shelter and/or exercise pen is maintained, it shall be located in the rear yard at least ten (10) feet from any lot line, and no closer than fifty (50) feet to the nearest dwelling other than that of the owner.
2. In any zoning district, it is permitted as a conditional use to maintain up to a total of six (6) pigeons and fowl, provided it is in the rear yard, it is on a noncommercial basis and is strictly as an incidental use, the area in which the fowl or pigeons are kept is enclosed by a fence that will contain them, all parts of which are at least fifty (50) feet from any lot line, and is not closer than one hundred (100) feet to the nearest dwelling other than that of the owner.
3. In any zoning district, unless regulated by other provisions in this ordinance, it is permitted to maintain horses, provided one acre of pasture per horse no building, corral, or stable is less than one hundred (100) feet from any lot line and is not closer than two hundred (200) feet to the nearest existing dwelling other than that of the owner. A pasture fence shall be located at a minimum distance of ten (10) feet from the property line.
4. No manure storage facility or area shall be established closer than one hundred (100) feet to any property line.

SECTION 27-1302. DETACHED PRIVATE GARAGES

1. Maximum capacity:
 - A. For a single-family detached or semidetached dwelling unit: three (3) vehicles.
 - B. For a garage associated with a townhouse or apartment development: Garage spaces may be grouped into detached structures with a maximum of eight (8) vehicles.
2. Maximum height: Twenty (20) feet.
3. No temporary structures shall be permitted.
4. No structure shall be permitted between the required building setback line and the street line.
5. No structure shall be located within the minimum required side yard of the prevailing district.
6. No structure shall be located within ten (10) feet of the rear property line.
7. Direct driveway access is required for each space within a garage.¹

SECTION 27-1303. OTHER OUTBUILDINGS/STRUCTURES (SHEDS)

1. Maximum height: ten (10) feet.
2. No structure shall be within five (5) feet of any property line.
3. No structure shall be permitted between the required building setback line and the street line.
4. No structure shall exceed 250 square feet.
5. Maximum total combined square footage for all such structures shall not exceed 600 square feet per lot.

SECTION 27-1304. SWIMMING POOLS

1. No permanent structure shall be permitted without an operable, maintained filtering system utilizing an approved method of treated water.
2. All swimming pools which have the capability to contain more than twenty-four (24) inches of water shall be enclosed by a permanent fence which is at least four (4) feet in height. No fence will be required for aboveground permanent pools which have sides which are at least four (4) feet above grade and access to the pools can be secured, unless the Zoning Officer determines that conditions warrant greater safety measures. However, all aboveground permanent pools shall be screened by a landscape screen, which shall be composed of shrubs that have a minimum height of at least four (4) feet, measured from ground level, at the time of planting.
3. No structure shall be within ten (10) feet of any property line which shall be measured from the nearest water surface.
4. No structure shall be permitted between the building setback line and the street line.
5. An approved temporary construction fence shall be erected around the excavation site during the construction of the pool and shall remain in place until the permanent fence is erected.
6. Water shall not be placed into a swimming pool until a permanent, approved fence has been erected and a certificate of use and occupancy has been issued.

SECTION 27-1305. TENNIS COURTS

1. No facility shall be permitted unless it is protected by an open mesh permanent fence ten (10) feet in height behind each baseline extending ten (10) feet beyond the playing area in each direction.
2. No facility shall be permitted within ten (10) feet of any property line.
3. No facility shall be located between the building setback line and the street line.

4. If lighting is provided, it shall be so arranged so that there is no objectionable glare on adjoining properties.

SECTION 27-1306. PATIOS AND PAVED TERRACES

No patio, paved terrace, or deck shall be located within any required setback, or between the required building setback line and the street line or public right-of-way, except:

1. Semidetached and townhouse, dwellings shall have a three (3) foot setback along the common property line.

SECTION 27-1307. PUBLIC NUISANCES

1. No activities shall be permitted which create a public nuisance and/or interfere with the use of adjacent residential lots.
2. Nothing in this section shall limit other uses not mentioned so long as, in the opinion of the Zoning Officer, they are accessory to the residential use of the land, are temporary in nature, and do not create a threat to the public health, safety, and/or welfare of the community.

SECTION 27-1308. FENCES AND FREESTANDING WALLS

1. Upon property devoted to residential use, no fence or freestanding wall shall be erected to a height of more than forty-two (42) inches in any front yard, nor more than six (6) feet in any other yard, unless otherwise specified in this Ordinance.
2. Upon property devoted to municipal, or commercial use, no fence or freestanding wall shall be erected to a height of more than forty-two (42) inches in any front yard, nor more than eight (8) feet, including any barbed wire atop the fence or freestanding wall, in any other yard unless otherwise specified in this Ordinance. Where such municipal or commercial use abuts a residential use, such fence or freestanding wall shall not exceed six (6) feet.
3. Fence height exceptions. All portions of fencing shall be subject to the maximum fence height regulations specified in this Ordinance, except for fence posts and decorative finials on the fence post. The height of any such projection on the fence post shall not exceed the height of the fence by more than six (6) inches.
4. Fences along side or rear lot lines are not subject to yard or setback requirements. Freestanding walls shall be setback five (5) feet from side and rear lot lines. Fences or freestanding walls within the front yard shall be a minimum of two (2) feet behind the required street right-of-way line. All fences shall be located completely within lot boundaries and no fence may coincide with any lot line.
5. No solid fence or freestanding wall shall be erected within the required front yard setback.

6. No fence or freestanding wall shall be erected which blocks or limits visibility for driveways on adjacent properties.
8. No fence or freestanding wall shall be located within any clear site triangle as required by this Ordinance or the Borough Subdivision and Land Development Ordinance.
9. No fence or freestanding wall shall be erected in a public right-of-way or other rights-of-way or easements, including but not limited to public or private drainage, utility or access easements, unless otherwise require by this Ordinance, the Borough Subdivision and Land Development Ordinance or the Borough Stormwater Management Ordinance.
10. Unless required for security purposes for commercial or industrial use, no fence shall be constructed of barbed wire, razor, or other sharp components capable of causing injury, and only then if the portion of the fence containing barbed wire, razor, or other sharp components capable of causing injury is not lower than six feet above the average surrounding ground level.
11. All fences and freestanding walls shall comply with the Pennsylvania Uniform Construction Code (PA UCC) as enforced by the Borough.

SECTION 27-1309. SATELLITE ANTENNAS

1. The diameter of ground-mounted antennas shall not exceed twelve (12) feet.
2. Ground-mounted antennas, including supports, shall not exceed fifteen (15) feet in height.
3. Ground-mounted antennas shall be located in rear yards only and be located no closer than ten (10) feet to any property line.
4. Roof-mounted antennas shall not project more than five (5) feet above the roofline.

SECTION 27-1310. HOME OCCUPATIONS

1. Purpose. The purpose of this section is to allow for home occupations which are compatible with the neighborhood in which they are located. It is the intent of this section to:
 - A. Insure the compatibility of home occupations with other uses permitted in the residential districts;
 - B. Insure that permitted home occupations are incidental and secondary to the use of a dwelling as a residence;
 - C. Maintain and preserve the character of residential neighborhoods;

- D. Promote the efficient use of public services and facilities by assuring these services are provided to the residential population for which they are planned and constructed, rather than commercial uses.
- 2. Approval. Home occupations complying with the criteria established in Section 27-1310.3 shall be considered minor in character and permitted by right. Major home occupations shall commence only after the receipt of a special exception as outlined in Section 27-1605.2 of this ordinance.
- 3. Criteria: minor occupations. Uses classified as minor shall be permitted in all residential districts. The following regulations shall apply to all minor home occupations:
 - A. Such use shall be conducted entirely within a dwelling or within a detached garage located on a single-family detached or single-family semidetached residential lot and in existence on the effective date of this ordinance and operated by one or more persons, all family members, and all of whom reside within the dwelling. Persons in building trades and similar fields, using their dwelling as an office for business activity carried on off site, may have other employees, provided they are not employed on site, they do not park on or near the dwelling site, and they do not visit the dwelling during the course of business.
 - B. Such use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes, and the appearance of the structure in which the occupation is conducted shall not be altered or the occupation within the residence shall not be conducted in a manner which would cause the premises to differ from its residential character.
 - C. No more than twenty-five (25) of the gross floor area of the dwelling, including attached garage area, or four hundred (400) square feet, whichever is smaller, shall be used for the home occupation. The attached garage or detached garage area may be used for home occupation purposes, provided that such use does not cause the elimination of the required off-street parking spaces for the dwelling.
 - D. The business of selling stocks of merchandise, supplies, or products shall not be conducted on the premises, except that orders previously made by telephone, by appointment or at a sales party may be filled on the premises, e.g., direct sales of products off display shelves or racks is not allowed, but a person may pick up an order placed earlier as described above.

- E. No storage or display of goods shall be visible from outside the structure.
- F. No explosive or highly combustible material shall be used or stored on the premises. No activity shall be allowed which would interfere with radio or television transmission in the area, nor shall there be any offensive noise, vibration, smoke, dust, odors, heat, or glare noticeable at or beyond the property line.
- G. A home occupation shall not create significantly greater vehicle or pedestrian traffic than normal for the district in which it is located
- H. Parties for the purpose of selling merchandise or taking orders shall not be held more than one (1) time each month.
- I. A minor home occupation shall not create a need for off-street parking spaces in excess of those required for a dwelling in 1202.1 of this ordinance. Commercial vehicles used for a home occupation must be parked in an off-street parking space. In addition, commercial vehicles for persons in building trades or similar fields must be parked in a garage or screened from the street and adjacent residential uses.
- J. No use of material or equipment not recognized as being part of the normal practices of owning and maintaining a residence shall be allowed.
- K. Deliveries from commercial suppliers shall comply with the Pennsylvania Motor Vehicle Code and shall not restrict traffic circulation.
- L. A home occupation shall not generate waste products or materials of a quality or quantity not normally associated with a residential use.
- M. A home occupation shall not increase water or sewer use so that either is significantly more than the average for residences in the neighborhood.
- N. Passenger drop-off and pickup areas for minor family day-care centers shall be provided on site and arranged so that passengers do not have to cross traffic lanes on or adjacent to the site.
- O. Permitted minor home occupations are limited to the following:
 - (1) Artists, craftsmen and sculptors;
 - (2) Authors and composers;
 - (3) Office facilities, excluding medical offices and dental offices;
 - (4) Individual tutoring;
 - (5) Preparation of food or food products to be sold or served off site;

- (6) Individual instrument instruction, provided that no instrument may be amplified;
- (7) Telephone solicitation work;
- (8) Minor family day-care centers (only in a detached or semidetached single-family dwelling);
- (9) Dressmaking, sewing and tailoring;
- (10) Uses not listed that, in the opinion of the Zoning Officer, are considered to be of the same general character as the minor home occupations permitted.

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

- (1) All uses prohibited as major home occupations;
- (2) Hairstylists/Single chair hairstylist;
- (3) Private schools with organized classes;
- (4) Television and other electrical repairs;
- (5) Upholstering;
- (6) Other similar uses which may, in the opinion of the Zoning Officer, result in an adverse impact on a residential neighborhood.

4. Criteria: major home occupations. Uses classified as major shall be considered uses by special exception according to this ordinance. In granting any special exception, the Zoning Hearing Board may attach certain conditions to its approval which, in addition to the requirements listed within this ordinance, it feels are necessary requirements in order to preserve and protect the character of residential areas. The following regulations shall apply to all major home occupations:

A. Such use shall be conducted entirely within a single-family detached or single-family semidetached dwelling or within a detached garage located on a residential lot as a single-family detached dwelling or single-family semidetached dwelling and in existence on the effective date of this ordinance and operated by one or more persons, all family members, and all of whom reside

within the dwelling. There may be one full-time equivalent nonresident employee permitted on site. Persons in building trades and similar fields, using their dwelling as an office for business activity carried on off site, may have other employees, provided they are not employed on site, they do not park on or near the dwelling site, and they do not visit the dwelling during the course of business.

- B. Such use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes, and the appearance of the structure in which the occupation is conducted shall not be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character.
- C. No more than twenty-five (25) of the gross floor area of the dwelling, including attached garage area, or four hundred (400) square feet, whichever is smaller, shall be used for the home occupation. The attached garage or detached garage area may be used for home occupation purposes, provided that such use does not cause the elimination of the required off-street parking spaces for the dwelling.
- D. The business of selling stocks of merchandise, supplies, or products shall not be conducted on the premises, except that incidental retail sales may be made in connection with other permitted home occupations, and orders previously made by telephone, by appointment or at a sales party may be filled on the premises.
- E. There shall be no exterior storage on the premises of material used in the home occupation, nor of any explosive or highly combustible material. No activity shall be allowed which would interfere with radio or television transmission in the area, nor shall there be any offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line.
- F. Deliveries from commercial suppliers shall comply with the Pennsylvania Motor Vehicle Code and shall not restrict traffic circulation.
- G. Parties for the purpose of selling merchandise or taking orders shall not be held more often than one (1) time each month.
- H. A major home occupation that employs a nonresident of the dwelling shall provide one off-street parking space for use by the employee. Commercial vehicles used for a home occupation must be parked in an off-street parking space. In addition, commercial vehicles for persons in building trades or similar fields must be parked in a garage or screened from the street and adjacent residential uses. If the nature of the major home

occupation may result in more than one (1) customer or client to visit the premises at any one time, the Zoning Hearing Board shall specify the number of parking spaces required and the location of such spaces. Additional off-street parking area shall not be located within the required front yard setback or within three (3) feet of any side or rear property line.

- I. A home occupation shall not generate waste products or materials of a quality or quantity not normally associated with a residential use.
- J. A home occupation shall not increase water or sewer use so that either is significantly more than the average for residences in the neighborhood.
- K. All major family day-care centers shall furnish a valid certificate of compliance for the proposed facility, issued by the Pennsylvania Department of Public Welfare.
- L. Passenger drop-off and pickup areas for family day-care centers shall be provided on site and arranged so that passengers do not have to cross traffic lanes on or adjacent to the site.
- M. Permitted major home occupations are limited to the following:
 - (1) Any use permitted as a minor home occupation;
 - (2) Medical offices and dental offices;
 - (3) Single-chair hairstylists and personal care facility such as single chair nail salon;
 - (4) Organized classes with up to six (6) students at one time;
 - (5) Television and other electrical repairs, excluding major appliances such as refrigerators or stoves;
 - (6) Upholstering;
 - (7) Minor or major family day-care centers;
 - (8) Uses not listed that, in the opinion of the Zoning Officer and upon review and approval by the Zoning Hearing Board, are considered to be of the same general character as the major home occupations permitted.
- N. Prohibited major home occupations. The following uses, by the nature of the investment or operation, have a pronounced tendency once started to rapidly increase beyond the limits permitted for home occupations and thereby impair the use and values of a residentially zoned area for residence purposes and are more suited to professional or business districts. Therefore, the uses specified below and other similar uses shall not be permitted as home occupations:

- (1) Minor or major motor vehicle repair, painting of vehicles, trailers, boats;
- (2) Funeral chapel or home;
- (3) Rental businesses;
- (4) Photo studios;
- (5) Photo development;
- (6) Material fabrication shops or machine shops;
- (7) Small engine repair;
- (8) Production woodworking and cabinetmaking;
- (9) Other similar uses which may, in the opinion of the Zoning Officer, result in an adverse impact on a residential neighborhood.

5. Home occupation application requirements.

- A. The application for a minor home occupation shall be submitted in such a form as the Zoning Officer may prescribe and shall be accompanied by the required filing fee as adopted by the Board of Commissioners. The form shall include, but not be limited to, the following information:
 - (1) Name, mailing address and phone number of applicant.
 - (2) Street address of the property.
 - (3) Description of all activities involved in the business and how the business will operate.
- B. Upon receiving the application, the Zoning Officer shall examine the same within a reasonable time after filing. If the application does not conform to the provisions of all pertinent laws, the Zoning Officer shall notify the applicant in writing. Such notification shall include findings in support of the decision and the applicant's right of appeal to the Zoning Hearing Board.
- C. The application for a major home occupation shall be submitted to the Zoning Hearing Board. The Zoning Hearing Board shall conduct hearings and make decisions regarding such applications in accordance with Article XVI, Zoning Hearing Board; Administrative Proceedings, of this ordinance.

6. Home occupation permits.
 - A. In the event an application is approved, then a home occupation permit shall be issued to the applicant. Said permit shall apply only to the applicant, occupation, and premises stated in the application. The permit is nontransferable and non-assignable. Said permit shall also be deemed to be automatically revoked upon the earliest of the following: the applicant dies; the applicant moves from the premises where the permit was granted; or the applicant otherwise ceases engaging in the home occupation.
 - B. Home occupation permits shall expire December 31 of each year and, once granted, may be renewed without additional hearings, subject to the provisions of this section, by completing the renewal form prescribed by the Zoning Officer and paying the annual permit fee as adopted by the Board of Commissioners. Failure to apply for renewal and/or failure to pay for the annual permit shall be grounds for revocation of a permit.
 - C. There may be one (1) annual inspection each year by the Zoning Officer, or designee, of home occupations issued a home occupation permit. In addition, the Zoning Officer, or designee, shall have the right, at any time, upon reasonable request, to enter and inspect the premises covered by said permit for compliance purposes.
7. Existing home occupations. Any person engaged in a home occupation at the time of the passage of this ordinance shall have a period of ninety (90) days from said date to apply for a home occupation permit, subject to the following:
 - A. The applicant must provide adequate proof that he or she has been engaged in a home occupation prior to the date this ordinance was passed.
 - B. The applicant must provide adequate proof that the home occupation met the Township requirements in effect at the time the home occupation was established.

SECTION 27-1311. SOLAR ENERGY SYSTEMS See Section 27-1510.

SECTION 27-1312. GARDEN PONDS

1. Such pond shall be located a minimum of 10 feet from all property lines and shall be permitted in the required front yard.
2. Garden ponds shall require a zoning permit.
3. Garden ponds that utilize electricity for lighting, fountains, etc., shall require a building permit.

SECTION 27-1314. BEEKEEPING

1. In any zoning district, beekeeping is permitted as an accessory use, provided it is on a noncommercial basis. Hives shall be located in the rear yard at least ten (10) feet from any lot line, and no closer than fifty (50) feet to the nearest dwelling other than that of the owner.

2. Any beekeeper shall provide documentation that they are in compliance with the Pennsylvania's Bee Law, 3 Pa. C.S.A. §§ 2101-2117, which requires the owner of an apiary located in Pennsylvania to register the apiary with the Pennsylvania Department of Agriculture

ARTICLE XIV. GENERAL REGULATIONS

SECTION 27-1401. UNSAFE DWELLINGS, STRUCTURES OR LAND

1. No dwelling or structure or land shall be used or occupied if such dwelling or structure or land, as determined by Borough Council or appointed representatives, is in need of structural repairs or is unsafe or unsanitary, if the premises do not have connection with a public sewer system or alternative sanitary sewage facilities approved by the State or Local Board of Health, or if pertinent laws, ordinances, or codes of any governmental body having jurisdiction shall not have been complied with. This includes the International Building Code (IBC) and the National Electric Code, which Akron Borough has officially adopted.
2. No dwelling or structure or land shall be permitted to be left in an unsafe or unsanitary condition.

SECTION 27-1402. VISIBILITY AT STREET INTERSECTIONS

The clear sight triangle as specified in the Subdivision and Land Development Ordinance, shall be provided and maintained at all street intersections. The triangle shall be established by measuring one hundred (100) feet or seventy-five (75) feet as defined in the Subdivision and Land Development from the point of intersection of the center lines of the streets. No building, planting, fencing, or other obstruction that would obscure the vision of a motorist shall be permitted within the area.

SECTION 27-1403. REMOVAL OF NATURAL RESOURCES

Removal of surface and subsurface natural resources, except trees and other vegetative growth, shall not be permitted, except as follows:

1. As part of the construction or alteration of a building or the grading incidental to a building.
2. In connection with normal lawn preparation and maintenance.
3. In connection with the construction or alteration of a street or utility improvement.
4. In farming operations, provided sound soil conservation practices are observed.

SECTION 27-1404.. PUBLIC UTILITIES AND MUNICIPAL USES

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

2. Public Uses and Municipal Uses.

- A. Any structure or other improvement for the purpose of servicing a public utility or municipal use, except common or contract carriers, may be erected within any zoning district. If requested by the Borough, public utilities shall file a plan with the Borough, indicating the location of all proposed structures and rights-of-way within the Borough.

SECTION 27-1405. CORNER LOTS

A corner lot shall have two (2) front yards, and a front yard setback shall be required for each.

SECTION 27-1406. REQUIRED YARDS

- 1. The minimum required yard as set forth in underlying districts or overlays shall remain unoccupied and unobstructed from the ground up, except as may be specifically provided for in this ordinance.
- 2. Permitted encroachments into required yards.
 - A. Cornices, eaves, chimneys, steps, stoops, canopies, fire escapes, required basement egress structures, and similar extensions from an existing building that utilize such building for support may project up to a maximum of five (5) feet into any required yard, but in no case shall be closer than five (5) feet to any property line.
 - B. Enclosed porches, decks, and patios shall be considered part of or immediately adjacent to the principal building and shall not project into any required yards.
 - C. The following are permitted within the required setbacks: minor public utility structures, public transit shelters, fences, freestanding walls, hedges, and retaining walls.

SECTION 27-1407. LOT WIDTH, DEPTH, AND AREA EXCEPTIONS FOR LOTS OF RECORD

A conforming building may be constructed for a conforming use on any lot or parcel of land of record at the effective date of this ordinance, regardless of the area, depth, and width of such lot, provided such lot or parcel, at the time of passage of this ordinance, is shown to be a separate and distinct numbered lot of record on a previously approved plan of lots which has been recorded or which depicts streets or alleys which have been legally dedicated to public use, and provided the height limitations, maximum building footprint, and building setback regulations prescribed in this ordinance are complied with.

SECTION 27-1408. BUILDING HEIGHT EXCEPTIONS

All buildings and structures shall be subject to the maximum height regulations specified elsewhere in this ordinance, except chimneys, spires, farm buildings and farm accessory buildings, towers, elevator penthouses, cupolas, clock towers, steeples, water tanks, antennas, and flagpoles. The height of any such projection shall not exceed eighty-five (85) feet

SECTION 27-1409. FLOODPLAIN REGULATIONS

All floodplain areas shall be subject to the Floodplain Management Ordinance and the requirements of Article XVI.

SECTION 27-1410. DRIVEWAYS

1. The maximum width of a driveway shall be thirty (35) feet. This width shall be measured at the point where the driveway meets the right-of-way line of a public road.
2. No driveway shall be permitted within three (3) feet of any side or rear property line.
3. A driveway shall be surfaced with an all-weather, durable and dustless material. Such material shall extend the full width of the driveway. Any portion of a driveway constructed within the public right-of-way shall be constructed to the approved standards of the Borough or PennDOT.
4. Refer to Section 27-1409.

SECTION 27-1411. VEHICULAR ACCESS;

1. Direct vehicular access to a residential property shall be provided by means of an abutting improved public street or permanently maintained private street which is protected by a permanent easement.

SECTION 27-1412. OBSCENITY

Obscenity shall be prohibited in all zoning districts in the Borough.

ARTICLE XV. PERFORMANCE STANDARDS

SECTION 27-1501. APPLICABILITY

In addition to all other requirements of this ordinance, the following performance standards shall apply to specific uses permitted in the various zoning districts.

SECTION 27-1502. ADULT ESTABLISHMENTS

Adult establishments shall comply with all of the following requirements:

1. No building that contains any adult establishment shall contain any other kind of adult establishment.
2. No more than one adult establishment shall be permitted in anyone building.
3. No adult establishment shall be located within the following distances, measured in a straight line without regard to intervening structures, from the closest point of the building within which the adult establishment is located to the closest point of the following:
 - A. One thousand feet of any building within which is located another adult establishment.
 - B. One thousand feet of any R-1, R-2, and/or R-3 Residential District.
 - C. One thousand feet of any existing residential dwelling or residential property.
 - D. One thousand feet of the lot line of any lot upon which is located a school, houses of worship, child-care facility, commercial recreation facility, community facility, library, recreation area, recreation center, public park, or playground, whether such use is as a principal use or as an accessory use.
 - E. One thousand feet of any establishment licensed to serve and/or sell alcoholic beverages.
 - F. One thousand feet of the lot line of any lot upon which is located any medical or dental office establishment or hospital.
4. No display of merchandise outside the building shall be permitted.
5. No pornographic material displays, or words shall be placed in view of persons who are not inside of the establishment. The building will be windowless or have an opaque covering over all windows or doors of any area in which materials are displayed.
6. No adult establishment shall be used for any purpose that violates any federal, state or municipal law.
7. The adult establishment shall not include the sale or display of obscene materials, as defined by state law and as may be interpreted or construed by applicable court decisions.
8. No adult establishment shall be permitted to operate between the hours of 12:00 midnight and 7:00 a.m.
9. No adult establishment may be changed to a different adult establishment prior to obtaining a special exception for the new adult establishment.

10. All adult establishments shall comply with the requirements of Act 120 of 1996, 68 Pa.C.S.A. § 5501 et seq.
11. For public health reasons, private or semiprivate viewing booths of any kind are prohibited. This specifically includes, but is not limited to, booths for viewing adult movies or nude dancers.

SECTION 27-1503. BED-AND-BREAKFAST ESTABLISHMENTS

Within a zoning district in which a bed-and-breakfast establishment is permitted by special exception or by right, the Borough may approve such a use, subject to the following requirements:

1. The owner of a bed-and-breakfast establishment shall be the primary occupant of the establishment.
2. The operator of a bed-and-breakfast establishment may be a family member who is not the owner.
3. The owner of a bed-and-breakfast establishment shall keep a register indicating the names of all guests and the length of stay of all such guests.
4. No more than five (5) bed-and-breakfast units shall be permitted in any bed-and-breakfast establishment located in a residential district and no more than eight units in a business district.
5. The minimum lot size shall equal that for a single-family detached dwelling in the underlying district for the first three (3) guest rooms, plus one quarter (1/4) acre for each additional guest room.
6. Breakfast shall be the only meal furnished to those guests currently occupying a bed-and-breakfast unit. In no case shall food be served to persons not staying in a bed-and-breakfast unit.
7. No cooking facilities shall be permitted in any bed-and-breakfast unit.
8. Bed-and-breakfast units shall be rented on a nightly basis for periods not to exceed one (1) week.
9. There shall be no external alteration of the building except as may be necessary for reasons of safety. Fire escapes and outside stairways shall, where practicable, be located to the rear of the building.
10. One (1) sign shall be permitted within the property of a bed-and-breakfast establishment, provided said sign is in full compliance with the sign provisions contained in Article XI.
11. In addition to the parking requirements provided for in this ordinance, one (1) off-street parking space shall be provided for each bed-and-breakfast unit within a bed-and-breakfast establishment.
12. No more than two (2) nonfamily members of the owner of a bed-and-breakfast establishment shall be employed within the establishment.
13. Proper storage area for food storage and garbage disposal shall be provided within a bed and-breakfast establishment.

14. Where a bed-and-breakfast establishment has more than one (1) bed-and-breakfast unit, the bed-and-breakfast establishment shall have a minimum of two (2) bathrooms for every three (3) bed-and-breakfast units.
15. No bed-and-breakfast establishment shall be located within five hundred (500) feet of another such establishment unless separated by a public street.
16. Where a bed-and-breakfast establishment is located within a residential district, the area and bulk regulations for single-family detached dwellings shall apply. The area and bulk regulations for a bed-and-breakfast establishment in a nonresidential district shall be in accordance with the applicable zoning district.

SECTION 27-1504. BODY ART ESTABLISHMENTS

1. No such establishment shall be allowed within one thousand (1,000) feet of another such body art establishment.
2. No such establishment shall be allowed within one hundred (100) feet of a residential district.
3. No such establishment shall be allowed within one hundred (100) feet of an existing school, day care or preschool, park or playground or houses of worship.

SECTION 27-1505. DAY-CARE CENTERS, COMMERCIAL

1. Both public sewer and public water service are required.
2. Location of day-care centers.
 - A. A day-care center may be located either within an office building or within any other building permitted within each zoning district, or it may be located on a separate lot.
 - B. The day-care center shall be located in a manner that reduces or eliminates potential hazards to the children being cared for at the facility. It shall be the responsibility of the landowner to show, to the satisfaction of the Zoning Hearing Board, full compliance with this provision.
3. Buildings containing day-care centers, whether in combination with offices or on separate lots, shall comply with all minimum lot requirements for offices as delineated within the applicable zoning district.
4. Adequate parking shall be provided for both the day-care centers and all offices when located on the same lot. The circulation pattern of the parking area shall be designed to provide a safe and convenient pedestrian access from all parking spaces to the entrance of the facility, with the crossing of traffic lanes minimized to the greatest extent feasible.
5. Any outside play area associated with a day-care center shall be properly and completely fenced, in accordance with Section 27-1308 of this ordinance.

SECTION 27-1506. GROUP HOMES

1. A group home shall only be located within a single-family detached dwelling and shall comply with the area and bulk regulations for a single-family detached dwelling within the applicable zoning district.
2. The purpose of a group home shall be to provide an opportunity for disabled individuals to return to or remain in their communities in order to develop their maximum potential as citizens.
3. A group home shall comply with the Pennsylvania Department of Labor and Industry Rules and Regulations, the Pennsylvania Department of Public Welfare Rules and Regulations, and the Akron Borough Building and Fire Codes.
4. All group homes shall be licensed by either the county government or the Commonwealth of Pennsylvania and shall be in compliance with all applicable rules and regulations of those bodies.

SECTION 27-1507. SCREENING OF SPECIFIC USES

The following uses shall comply with the standards for screening as indicated:⁴

1. Community clubs. All outdoor storage and parking and/or loading areas within one hundred (100) feet of a rear or side property line shall be screened from the adjacent properties by a landscape screen comprised of plant materials, fencing or some combination thereof approved by the Borough.
2. Houses of worship. All outdoor storage and parking and/or loading areas within one hundred (100) feet of a rear or side property line shall be screened from the adjacent properties by a landscape screen comprised of plant materials, fencing or some combination thereof approved by the Borough.
3. Funeral homes. All outdoor storage and parking and/or loading areas within one hundred (100) feet of a rear or side property line shall be screened from the adjacent properties by a landscape screen comprised of plant materials, fencing or some combination thereof approved by the Borough.
4. Veterinary offices/hospitals. All outdoor storage and animal facilities and parking and/or loading areas within one hundred (100) feet of a rear or side property line shall be screened from the adjacent properties by a continuous visual buffer approved by the Borough.
5. Public utility installations. All buildings and parking and/or loading areas within one hundred (100) feet of a rear or side property line shall be screened from the adjacent properties by a continuous visual buffer approved by the Borough.

SECTION 27-1508. ACCESSORY DWELLING UNITS

1. It is the purpose of this section to provide the opportunity to encourage and to accommodate extended family living, without substantially altering existing neighborhood character.
2. Accessory dwelling units shall be permitted as a use by special exception in accordance with the general standards as set forth in Section 27-1605.2 herein and specific criteria as set forth below. Where said general standards and specific criteria overlap, the specific criteria shall supersede the general standards.
 - A. The installation of an accessory dwelling unit in new and existing single-family dwellings (hereinafter "principal dwellings") shall be subject to the following development, design and owner-occupancy standards:
 - (1) All provisions of the zoning district shall apply, except the provisions regarding the number of dwelling units permitted on a lot.
 - (2) The design and construction of an accessory dwelling unit shall conform to all applicable standards in Akron Borough's building, plumbing, electrical, fire and any other applicable codes.
 - (3) An accessory dwelling unit shall be contained in, or attached to, the principal dwelling or be located above a detached garage.
 - (4) An accessory dwelling unit may be constructed in either an existing or a new single-family dwelling.
 - (5) The addition of an accessory dwelling unit to the principal dwelling shall be designed so that the appearance of the building remains that of a single-family dwelling.
 - (6) The maximum size of an accessory dwelling unit shall not exceed forty (40) percent of the principal dwelling total floor area, nor more than one thousand (1,000) square feet, nor have more than two (2) bedrooms.
 - (7) The property owner must occupy either the principal dwelling or the accessory dwelling unit as their permanent residence.
 - (8) Occupancy of an accessory dwelling unit, or principal dwelling, shall be limited to the property owner or those related by blood or marriage or adoption to the property owner.
 - (9) Accessory dwelling units shall not be located in basements.
 - (10) Only one (1) accessory dwelling unit shall be permitted per principal dwelling.
 - (11) One (1) additional off-street parking space shall be provided for the accessory dwelling unit.

(12) The principal dwelling and accessory dwelling unit must be served by public sewer and public water service.

(13) Accessory dwelling units are permitted to be located on lots that are ninety (90) percent or more of the zoning district's required minimum lot size.

(14) Restoration plan. A plan for the removal of the accessory dwelling unit that identifies those structures, exterior and interior walls, electrical and plumbing improvements and connections to public water and sewer services to be retained and those to be removed upon termination of the accessory dwelling unit shall be submitted with the application for an accessory dwelling unit permit. In particular, it shall include a removal plan for the stove.

B. Accessory dwelling unit permits.

(1) In the event an application is approved, then an accessory dwelling unit permit shall be issued to the applicant. The accessory dwelling unit permit shall be deemed to be automatically revoked upon vacation of the accessory dwelling unit, or principal dwelling unit, by the property owner or those related by blood or marriage or adoption to the property owner.

(2) Any property owner with an existing accessory dwelling unit at the time of the passage of this ordinance shall have a period of ninety (90) days from said date to apply for an accessory dwelling unit permit, subject to the following:

[a] The applicant must provide adequate proof that he or she had an accessory dwelling unit prior to the date this ordinance was adopted; and

[b] The applicant must provide adequate proof that a certificate of use and occupancy has been issued for the area utilized as an accessory dwelling unit.

(3) An accessory dwelling unit permit shall expire December 31 of each year and, once granted, may be renewed without additional hearings, subject to the provisions of this section, by completing the renewal form prescribed by the Zoning Officer and paying the annual permit fee adopted by the Akron Borough Council. Failure to apply for renewal and/or failure to pay for the annual permit shall be grounds for revocation of a permit.⁶

(4) The Zoning Officer, or designee, shall have the right, at any time, upon reasonable request, to enter and inspect an accessory dwelling unit for which an accessory dwelling unit permit has been issued.

(5) The permit holder shall notify the Zoning Officer in writing within ninety (90) days once the accessory dwelling unit is no longer needed, the property is sold or for some other reason the applicant no longer meets the requirements for such use. Upon notification, the accessory dwelling unit permit shall be terminated. The applicant shall

then comply with the terms of the restoration plan within ninety (90) days of the date of termination.

SECTION 27-1509. TELECOMMUNICATIONS FACILITIES

1. Purpose. It is the purpose of this section to balance the interests of the residents of the Borough, telecommunications providers, and telecommunications customers in the siting of telecommunications facilities within the Borough so as to protect the health, safety and integrity of residential neighborhoods through appropriate zoning and land use controls and to provide a competitive environment for telecommunications carriers that does not unreasonably discriminate among providers of functionally equivalent personal wireless services and shall not prohibit or have the effect of prohibiting the provision of personal wireless services. To that end, this section shall:

- A. Provide for appropriate locations and development of telecommunications facilities in the Borough.
- B. Protect the Borough's developed and natural environment by promoting compatible design standards for telecommunications facilities.
- C. Minimize adverse visual impacts of telecommunications facilities through careful design, siting, landscape screening and innovative camouflaging techniques.
- D. Avoid potential damage to adjacent properties from tower or antenna failure through engineering and careful siting to telecommunications tower structures and antennas.
- E. Maximize use of any new and existing telecommunications towers so as to minimize the need to construct new towers and minimize the total number of towers throughout the Borough.
- F. Encourage and promote the location of new telecommunications facilities in areas that are not zoned for residential use.
- G. To allow for, and regulate, telecommunications facilities in accordance with the Federal Telecommunications Act of 1996.

2. Exclusions. The following shall be exempt from this ordinance:

- A. Any tower and antenna less than eighty (85) feet in total height that is owned and operated by an amateur radio operator licensed by the Federal Communications Commission.
- B. Any device designed for over-the-air reception of television broadcast signals,⁷ multichannel multipoint distribution service or direct broadcast satellite service.

- C. Any telecommunications facilities located on property owned, leased or otherwise controlled by the Borough, provided a license or lease authorizing the telecommunications facility has been approved by the Borough.

3. Preferred location sites.

- A. Co-location sites. Any existing telecommunications tower currently being used for transmitting or receiving analog, digital, microwave, cellular, telephone, personal wireless service or similar forms of electronic communication shall be a preferred location site, regardless of the underlying zoning designation of the site; provided, however, that locations which meet this criteria shall be subject to the design and siting components of this ordinance.
- B. Publicly used structures. Publicly used structures are preferred location sites throughout the Township because they appear in virtually all neighborhoods, are dispersed throughout the Borough, and, due to their institutional or infrastructure uses, are generally similar in appearance to or readily adaptable for telecommunications facilities. Therefore, telecommunications facilities should be less noticeable when placed on publicly used structures than when placed on commercial or residential structures. Publicly used structures include, but are not limited to, facilities such as police or fire stations, libraries, community centers, civic centers, courthouses, utility structures, water towers, elevated roadways, bridges, flagpoles, schools, hospitals, clock or bell towers, light poles and houses of worship.
- C. Industrial and commercial structures. Wholly industrial and commercial structures, such as warehouses, factories, retail outlets, supermarkets, banks, motor vehicle service stations, and approved accessory buildings, shall be preferred location sites, particularly where existing visual obstructions or clutter on the roof or along a roofline can and will be removed as part of the installation of the telecommunications facility.

4. General standards.

- A. Permitted telecommunications facilities.
 - (1) Telecommunications tower requirements. Table 1 indicates, for each zoning district, which type of telecommunications towers are permitted and whether the tower is a use permitted and whether the tower is a use permitted by right, special exception or condition. An "N" indicates that a telecommunications tower is not permitted in that specific zoning district.

- (2) Permitted number of carriers and height requirements. Table 2 indicates the maximum permitted height of telecommunications towers in each zoning district in relation to the number of users located on each tower.
- B. There shall be no more than two (2) towers located on any one (1) parcel of property.
- C. Radial spacing. Antenna towers eighty-five (85) feet or taller shall be located at least 2,640 feet from other antenna towers of eighty-five (85) feet or taller.
- D. Compliance with other provisions.
 - (1) All telecommunications facilities must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the state or federal government with the authority to regulate telecommunications facilities. If such standards and regulations are changed, then the owners of the telecommunications facilities governed by this ordinance shall bring such telecommunications facilities into compliance with such revised standards and regulations within the date established by the agency promulgating the standards or regulations.
 - (2) All proposed telecommunications facilities must complete the United States Department of Transportation Federal Aviation Administration Form 7460-1 (1- 93) or its equivalent. A copy of the approved application shall be submitted to the Borough as part of the required information for application for permit.
 - (3) Owners of telecommunication facilities shall provide documentation showing that each telecommunications facility is in compliance with all applicable federal and state requirements. Evidence of compliance must be submitted every 12 months.
- E. A report from a qualified engineer, licensed in the Commonwealth of Pennsylvania, shall be submitted for review in addition to all information required for a Akron Borough Zoning Hearing Board application, conditional use applications, or application for permit, documenting the following:
 - (1) Telecommunications facility height and design, including technical, engineering, economic, and other pertinent factors governing selection of the proposed design.
 - (2) Evidence of structural integrity of the tower structure.

- (3) Structural failure characteristics of the telecommunications facility and demonstration that site and setbacks are of adequate size to contain debris.
- (4) A definition of the area of service to be served by the antenna or tower and whether such antenna or tower is needed for coverage or capacity.
- (5) Information demonstrating that the proposed facility would provide the needed coverage or capacity.
- (6) Identification of the geographic service area for the subject installation, including a map showing the site and the nearest or associated telecommunications facility sites within the network; a description of the distance between the telecommunications facility sites; a description of how this service area fits into and is necessary for the service network.
- (7) The applicant shall quantify any additional tower capacity anticipated, including the approximate number and types of antennas. The applicant shall provide a drawing for each tower showing existing and proposed antenna locations. The applicant shall also describe any limitations on the ability of the tower to accommodate other users, e.g., radio frequency interference, mass height, frequency or other characteristics. The applicant shall describe the technical options available to overcome those limitations and reasons why the technical options considered were not chosen to be incorporated.

F. A statement indicating whether or not the site is a preferred location site must be submitted. If the site is not a preferred location site, the following information must be provided:

- (1) A list of publicly used buildings, co-location sites or other location sites located within the geographic service area. Provide a list (by address with lot and block number noted) and a map at 1:200 scale of all such buildings or sites within the service area.
- (2) A description of the good faith efforts and measures that were taken to secure each of these preferred location sites.
- (3) An explanation as to why each such site was not technologically, legally or economically feasible and why such efforts were unsuccessful.

- (4) An explanation of how and why the proposed site is essential to meet service demands for the geographic service area and Borough-wide network.
- G. If the proposed site is zoned R-1 Residential District, R-2 Residential District or R-3 Residential District, and there are alternative sites in the business districts of the Borough, applicants must justify why those alternate sites have not been proposed.
- H. Applicants must identify all existing towers and all towers for which there are applications currently on file with the Zoning Officer for existing and proposed telecommunications facilities. Applicants must provide evidence of the lack of space on all suitable existing towers to co-locate the proposed antenna. If co-location on any such towers would result in less visual impact than the visual impact of the proposed tower, the applicant must justify why such co-location is not being proposed.
- I. In all zoning districts, applicants must demonstrate that they cannot provide personal wireless communication service without the use of the proposed telecommunications tower.

5. Design standards.

- A. Security. All telecommunications facilities shall be equipped with an appropriate anticleimbing device or other similar protective device to prevent unauthorized access to the telecommunications facility. Telecommunication towers shall be enclosed by decay-resistant security fencing not less than six (6) feet in height and shall be equipped with an appropriate anti-climbing device or other similar protective device designed to prevent tower access.
- B. Lighting. Antenna towers shall not be artificially lighted unless required by the FAA or other state or federal agency. If the FAA requires safety lighting, the use of red beacons is preferred to flashing strobe lights. Security lighting on the site may be mounted up to twenty (20) feet high and shall be directed towards the ground to reduce light pollution, prevent off-site light spillage, and avoid illuminating the tower. When incorporated into the approved design of the facility, light fixtures used to illuminate sports fields, parking lots, or similar areas may be included in the facility.
- C. Visual impact. Telecommunications facilities shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or other applicable federal or state agency, be painted a neutral color or painted and/or textured to match the existing structure so as to reduce visual obtrusiveness.

- D. All telecommunications facilities shall provide one off-street parking space and mud free access to the site. The access drive and parking area must be covered with an all weather material such as stone, asphalt, concrete or cement.
- E. Any equipment shelter or cabinet that supports telecommunications facilities shall be screened from public view or made compatible with the architecture of the surrounding structures or placed underground so as to be visually unobtrusive. Equipment shelters or cabinets shall be screened from public view by using landscaping or shall be made of materials and painted colors consistent with the surrounding backdrop. The shelter or cabinet must be regularly maintained. The shelter or cabinet shall comply with the requirements of Article XIII, Accessory Uses.
- F. Landscaping.
 - (1) Native vegetation on the site shall be preserved to the greatest possible extent. Disturbance of the existing topography shall be minimized, unless such disturbance would result in less visual impact of the site to the surrounding area. The applicant shall provide a site plan showing existing significant vegetation to be removed, and vegetation to be replanted to replace that loss.
 - (2) Landscaping shall be used to effectively screen the view of the shelter or cabinet or other ground-level equipment from adjacent public ways, public property and residential property. The applicant shall provide a detailed site plan showing the proposed landscape screening.
- G. Minimum lot area. The lot on which the telecommunications facility is to be located on must meet all minimum lot area requirements for uses permitted by right in the underlying zoning district in which the facility is proposed.
- H. Setbacks. Telecommunications facilities shall be setback a distance equal to the height of the tower from all property lines. Towers, guy wires and accessory facilities shall meet the minimum zoning district setback requirements.
- I. No advertising is permitted on telecommunications facilities.
- J. Antennas attached to existing structures.
 - (1) For antennas attached to the roof or to a support structure on a rooftop, a 1:1 setback ratio (example: ten (10) foot-high antenna and supporting structure requires a ten (10) foot setback from edge of roof or structures)

shall be maintained, unless an alternative placement is shown to reduce visual impact.

(2) Telecommunications facilities may exceed the height limitation specified for the zoning district in which the existing structure is located; however, no antenna shall extend a distance greater than ten (10) feet above the roofline, parapet or top of the structure, whichever is of the lowest elevation.

(3) If an antenna is installed on a structure other than a tower, the antenna and associated electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

(4) Roof-mounted antennas shall be made visually unobtrusive by screening to match existing air-conditioning units, stairs, elevator towers or other background.

(5) Where feasible, telecommunications facilities should be placed directly above or incorporated with vertical design elements of a building to help in camouflaging.

6. Co-location.

A. The applicant and owner shall allow other future personal wireless service companies, including public and quasi-public agencies, using functionally equivalent personal wireless technology to co-locate antennas, equipment and facilities on a telecommunications facility, unless specific technical constraints prohibit said colocation. The applicant and other personal wireless carriers shall provide a mechanism for the construction and maintenance of shared facilities and infrastructure.

B. Competitive conflict shall not be considered an adequate reason to preclude colocation.

C. Addition of equipment for co-location of additional users on existing antenna towers and sites is not subject to the special exception or conditional use process, if the tower height remains unchanged.

7. Removal of antennas and towers.

A. All telecommunications facilities shall be maintained in compliance with Township standards contained in the applicable building and technical codes so as to ensure the structural integrity of such facilities. If, upon inspection by the Zoning Officer or any code official, any such telecommunications facility is determined not to comply with the code standards or to constitute a danger to persons or property, then notice of

such lack of compliance shall be provided to the owner of the facility and, if the owner of the property is different from the owner of the facility, to the owner of the property. Such owner shall then have thirty (30) days to bring the facility into compliance or to remove such facility.

- B. Failure to bring such telecommunications facility into compliance or to have it removed within thirty (30) days of receipt of such notice shall constitute a violation of this ordinance and of all other applicable Borough codes and regulations adopted pursuant thereto and of the Borough Code and the Pennsylvania Municipalities Planning Code.

8. Abandoned towers.

- A. The owner of a telecommunications facility and the owner of the property where the facility is located shall remove any abandoned telecommunications facility within thirty (30) days of abandonment. Any telecommunications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. If the telecommunications facility is not removed within thirty (30) days of abandonment, the Borough may notify the property owner and the owner of the telecommunications facility to remove the telecommunications facility within thirty (30) days of receipt of such notice. Failure to remove the telecommunications facility pursuant to such notice shall constitute a violation of this ordinance and all other applicable Borough ordinances and regulations issued pursuant thereto and of the Borough Code and the Pennsylvania Municipalities Planning Code.
- B. If the owner of an abandoned tower or antenna wishes to use such abandoned tower or antenna, the owner first must apply for and receive all applicable permits and meet all of the conditions of this ordinance as if such tower or antenna was a new tower or antenna.

SECTION 27-1510. SOLAR ENERGY SYSTEMS

- 1. Solar energy systems as an accessory use. It is the purpose of this section to promote the safe, effective and efficient use of solar energy systems installed to reduce the on-site consumption of utility supplied energy and/or hot water as an accessory use while protecting health, safety and welfare of adjacent and surrounding land uses through appropriate zoning and land use controls. A solar energy system shall be permitted in any zoning district as an accessory use, and specific criteria is set forth below:
 - A. A solar energy system is permitted in all zoning districts as an accessory use.

- B. A solar energy system shall provide power for the principal use and/or accessory use of the property on which the solar energy system is located and shall not be used for the generation of power for the sale of energy to other users, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time to the local utility company.
- C. A solar energy system connected to the utility grid shall provide written authorization from the local utility company acknowledging and approving such connection.
- D. To the greatest extent feasible, accessory solar energy systems shall be roof-mounted or located on an existing impervious surface. The applicant must demonstrate that roof mounting is infeasible prior to any application for a ground-mounted system.
- E. A roof-mounted system may be mounted on a principal building or accessory building. A roof-mounted system, whether mounted on the principal building or accessory building, may not exceed the maximum building height or accessory building height specified for the building type in the underlying zoning district. In no instance shall any part of the solar energy system extend beyond the edge of the roof.
- F. A roof-mounted system shall be setback from the edge of the building roof in order to establish a clear perimeter area. Access pathways shall also be provided between solar panels if applicable.
- G. A ground-mounted system shall not exceed ten (10) feet.
- H. The surface area of a ground-mounted system, regardless of the mounted angle, shall be calculated as part of the overall lot coverage. Of the allowable lot coverage, the surface area of a ground-mounted system shall not constitute more than two (2) percent of the allowable lot coverage or 360 square feet, whichever is less.
- I. A ground-mounted system or system attached to an accessory building shall not be located within the required front yard setback.
- J. The minimum solar energy system setback distance from the property lines shall be equivalent to the building setback or accessory building setback requirement of the underlying zoning district.
- K. The number of solar panels and supporting equipment shall be considered as one solar energy system.
- L. All mechanical equipment associated with and necessary for the operation of the solar energy system shall comply with the following:

- (1) Mechanical equipment shall be screened from adjacent property. The screen shall consist of shrubbery, trees, or other plant materials which provide a visual screen.
 - (2) Mechanical equipment shall not be located within the minimum front yard setback of the underlying zoning district.
 - (3) Mechanical equipment shall be set back at least ten (10) feet from the rear and side property lines.
 - M. Solar panels shall not be placed in the vicinity of the airport in a manner that would interfere with airport flight patterns. Acknowledgement from the Federal Aviation Administration may be necessary.
 - N. All power transmission lines from a ground-mounted solar energy system to any building or other structure shall be located underground.
 - O. Before any construction can commence on any solar energy system, the property owner must acknowledge that he/she is the responsible party for owning and maintaining the solar energy system. If the solar energy system is abandoned or is in a state of disrepair, it shall be the responsibility of the property owner to remove or maintain the solar energy system.
 - P. All solar energy systems shall meet the general requirements in Section 27-1510.2 below.
2. General requirements.
- A. Solar panels shall be located in a manner that will prevent glare toward adjacent properties, occupied structures, and roadways.
 - B. The design of the solar energy system shall conform to applicable industry standards. A building permit shall be obtained for a solar energy system per the Pennsylvania Uniform Construction Code (UCC). All wiring shall comply with the applicable version of the National Electric Code (NEC). As applicable, the applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories (UL), Institute of Electronics and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), ETL Testing Laboratories, Florida Solar Energy Center (FSEC), or other similar certifying organization.
 - C. Where applicable, the local utility provider (i.e. PPL) shall be contacted to determine grid interconnection and net metering policies. The applicant shall submit certificates of design compliance obtained by the equipment manufacturers from a certifying organization, and any such design shall be certified by an engineer registered in the Commonwealth of Pennsylvania.

- D. The solar energy system shall comply with all applicable Borough ordinances and codes so as to ensure the structural integrity of such solar energy system.
- E. Decommissioning of solar energy system. The applicant shall sign an agreement stating that when all reasonable uses of the panels are no longer necessary, they will be promptly removed at the applicant's expense. The agreement shall be written in language acceptable to the Borough Solicitor and shall, at the request of the Borough, include a bond for estimated expenses of removal. Decommissioning shall include removal of all systems, equipment, buildings, cabling, electrical components, foundations, and other associated facilities and equipment.
- F. A solar energy system shall not be used to display advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners or similar materials. The manufacturer's or installer's identification and any appropriate warning signs and placards may be displayed on the solar energy system, provided they comply with the prevailing sign regulations.
- G. A solar energy system shall not be constructed until a building permit has been approved and issued.
- H. No signage or advertising shall be permitted on any part of the accessory solar energy system.

SECTION 27-1511. GEOTHERMAL ENERGY SYSTEMS

Geothermal heat pumps are permitted in all zoning districts as an accessory use under the following conditions:

- 1. Open-loop systems shall not be permitted.
- 2. The design and installation of geothermal energy systems shall conform to applicable industry standards, including those of the International Ground Source Heat Pump Association (IGSHPA) standards, as amended, and found in Appendix 1 of the PA DEP Ground Source Heat Pump Manual of 2001, or the most current manual.¹⁷ 25-42
- 3. Manufacturer specifications shall be submitted as part of any building or zoning application.
- 4. All systems shall be set back a minimum of twenty-five (25) feet from any property line or right-of-way line and a minimum of one hundred (100) feet from any potable water supply wells.
- 5. Circulating fluids used in any closed-loop system shall use only nontoxic, biodegradable fluids such as food-grade propylene glycol

SECTION 1512. SHORT-TERM RENTALS.

1. The maximum length of stay per registered party shall be less than 30 consecutive days.
2. No exterior or interior sign intended to be seen by the public shall be permitted.
3. In addition of meeting the Pennsylvania Uniform Construction Codes and the International Property Maintenance Code (latest editions adopted by the Borough), the premises must meet all of the following:
 - A. Operating smoke detector in each bedroom.
 - B. Operating smoke detector outside each bedroom in the common hallway.
 - C. An additional operating smoke detector and carbon monoxide detector on each level.
 - D. GFI outlet required if outlet is located within six feet of a water source (all sinks, sump pumps, etc.).
 - E. Aluminum and metal exhaust from dryer (if dryer is provided).
 - F. Mounted and visible fire extinguisher in kitchen (2-A, 10BC fire extinguisher or better).
 - G. Stairs, including handrail (indoor and outdoor), in good condition.
 - H. Covers on all outlets.
 - I. Fully functioning bathing and toilet facilities.
 - J. Fully functioning kitchen (if one has been installed).
4. The owner of the dwelling shall reside in the Borough of Akron.
5. The applicant must meet the International Property Maintenance Code as adopted by the Borough of Akron. The property, for such purposes, shall continue to be considered as a single-family dwelling.
6. The owner shall in all respects comply with Chapter **13**, Licenses, Permits and General Business Regulations, Part **4**, Short-Term Rental Permits, of the Borough of Akron Code of Ordinances.

SECTION 27-1513. Mixed-Use

1. Purpose - It is the purpose of this section to provide for the creative redevelopment or reuse of large nonresidential buildings within the C-1 Commercial District by permitting a variety of commercial, office and residential uses by Conditional Use. Large nonresidential buildings in this district often house offices and commercial uses for the residents and the

public. This section is intended to provide economically viable uses for such existing buildings in excess of 10,000 square feet of net floor area.

2. Conversion – The conversion of a large nonresidential building to mixed use shall be permitted within the C-1 Commercial District by Conditional Use in accordance with the standards set forth below.

3. Uses Permitted:

- a. Apartments – Provided no apartments are located on the first floor.
- b. Medical and/or Dental Offices
- c. Restaurants
- d. Commercial Recreation Facilities
- e. Community Facilities
- f. Professional Offices
- g. Retail sales

4. Signs- Signs shall be governed by Article XI.

5. Access to the Site – There shall be adequate, safe access to the site for pedestrians and vehicles.

6. Off Street Parking for any uses shall be in accordance with Article XII.

7. Utilities – The site shall be served by public sewer and public water.

8. Sidewalks and Streetscapes

- A. Sidewalks shall be provided along all street frontages.
- B. Sidewalks shall be a minimum of five (5) feet in width and shall be designed and constructed in accordance with the Akron Borough Subdivision and Land Development Ordinance.
- C. Handicap ramps and crosswalks shall be provided at all street and access drive crossings.
- D. All pedestrians' amenities shall meet ADA guidelines.
- E. Streetscapes shall be provided.

ARTICLE XVI MOBILE HOME AND MOBILE HOME PARKS

SECTION 27-1601. Individual Mobile Homes

1. Individual mobile homes will be considered single-family detached dwellings, as special exceptions if they conform with all lot and yard requirements for a single-family detached dwelling and with the following additional criteria:
 - A. Foundations. All mobile homes shall be set upon and securely fastened to a permanent foundation of block or concrete with concrete footings extending at least 36 inches below finished grade that will not heave, shift, settle or move due to frost action, inadequate drainage, or other forces acting on the superstructure. In addition to the foregoing, the mobile home foundation will be provided with devices for anchoring the mobile home to the foundation to prevent overturning or uplift of the mobile home. The anchoring devices shall be in the form of anchor bolts, fastened securely to the base frame of the mobile home and anchored to the concrete footings with adequate anchor plates or hooks.
 - B. Axles. All axles, wheels and any hitch shall be removed from the mobile home and either removed from the lot or placed within a building.
 - C. Laws. The construction of all mobile homes shall conform to the requirements of the Manufactured Housing Construction and Safety Standards Authorization Act 35 P.S. § 1656.1 et seq., as amended, and any other state or federal laws and regulations including, but not limited to, the Borough's ordinances, and no mobile home shall be modified or improved without strict compliance with this Act, those ordinances and all other applicable provisions.
 - D. Enclosures. An enclosure of compatible design and materials shall be erected around the entire base of the mobile home. Such enclosure shall provide sufficient ventilation to inhibit decay and deterioration of the structure.
 - E. Water and Sewer. The mobile home shall be connected to public water and public sewer systems.

- F. Fuel Tanks. All fuel storage tanks or cylinders which are buried shall not be placed beneath the mobile home.
 - G. Grounding. All exposed noncurrent carrying metal parts of mobile homes and all other equipment shall be grounded by means of an approved grounding conductor run with branch circuit conductors or other approved method of grounded metallic wiring. The neutral conductors shall not be used as an equipment ground for mobile homes or other equipment.
 - H. Patios. Each home shall be equipped with concrete entrance pad of a size of at least six feet by 10 feet, or such other entrance facilities as the Zoning Hearing Board, at the request of the applicant, shall find provides adequate and permanent access.
- 2. No mobile home shall be used for any purpose in the Borough other than as a single-family detached dwelling.

SECTION 27-1602. Mobile Home Parks

- 1. Size. Each mobile home park shall consist of at least a minimum of 15 acres.
- 2. Space. Each mobile home space shall consist of at least 4,000 square feet.
- 3. Side Yard. Each mobile home space shall have a side yard on both sides of a minimum of 14 feet each.
- 4. Minimum Lot Width. Each mobile home space shall have a minimum lot width at the berth of 40 feet.
- 5. Rear Yard. Each mobile home space shall a rear yard of at least 15 feet.
- 6. Setbacks. Each mobile home shall have a minimum distance between the mobile home and the lot line of 50 feet.

7. Maximum Lot Coverage. Each mobile home space shall have lot coverage and paving of not more than 60%.
8. Maximum Paved Area. Each mobile home park shall have a maximum paved or covered area of not more than 30%.
9. Minimum Open Areas. Each mobile home park shall have a minimum open area for the entire mobile home park development (which can include stormwater detention areas) of no less than 60%.
10. Density. No mobile home park shall contain more than six units per acre.
11. Home Size. No mobile home shall contain less than 750 square feet of floor space.
12. Individual Mobile Homes. All provisions of § **27-1301** hereof shall be applicable to all mobile homes in mobile home parks.
13. Underground Utilities. All mobile home parks shall be equipped exclusively with underground utilities.
14. Parking Areas. Separate screened parking areas for recreational vehicles, boats, or other resident owned accessory vehicles shall be provided. They shall be paved, fenced, and equipped with lights. Only these spaces shall be used for those uses.
15. Trees. A minimum of three trees shall be placed on each mobile home space.
16. Storage Shed. The maximum size of any storage shed for a mobile home shall be 65 square feet and shall not be more than eight feet in height. No storage shed shall be within five feet of any mobile home or any yard lines.
17. Additions. No mobile home may add an addition or enclose in any way (other than a porch awning) any unenclosed space outside a mobile home.

18. Driveways. All driveways and walkways within the park shall be hard surfaced and lighted at night with electric lamps of not less than 100 watts, each spaced at intervals of not more than 100 feet.

19. Mobile Home Park Streets.

- A. Width. All mobile home park streets shall have a pavement width of 24 feet.
- B. Construction Standards. Pavement base and pavement wearing surface shall be constructed according to the specifications applicable to standard Borough streets.
- C. All park streets in a mobile home park shall be private driveways and shall be provided with adequate lighting. Each mobile home space shall abut on a park street with access to such street. Access to all mobile home spaces shall be from the park streets and not from public streets or highways. No parking shall be allowed on park streets.
- D. Grades. There shall be a minimum grade of 0.75% and a maximum grade of 10% on all mobile home park streets.

20. Off-Street Parking.

- A. Each mobile home space shall be provided with a minimum of two paved parking spaces of bituminous or concrete surface which shall be located on the mobile home space.
- B. Off street visitors parking shall be provided at the rate of one space for every five mobile homes.

ARTICLE XVII. FLOODPLAIN DISTRICTS

A. Applicability.

27-1700. Applicability.

The following regulations shall apply to all uses and structures in the Floodplain Zoning District.

B. General Provisions.

27-1701. Intent.

1. The intent of this Part is to:
 - A. Promote the general health, welfare, and safety of the community.
 - B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
 - C. Minimize danger to public health by protecting water supply and natural drainage.
 - D. Reduce financial burdens imposed on the community, its governmental units, and its residents by preventing excessive development in areas subject to flooding.
 - E. Comply with federal and state floodplain management requirements.

27-1702. Prohibited Conduct.

1. It shall be unlawful for any person to undertake, or cause to be undertaken, any construction or development anywhere within the Borough of Akron Floodplain Zoning District, unless a permit has been obtained from the Borough's Zoning Officer.
2. A permit shall not be required for minor repairs to existing buildings or structures.

27-1703. Permitted Uses, Height, Bulk, Setback and Area Regulations; Abrogation and Greater Restrictions.

1. The permitted and special execution uses permitted in the Floodplain (FP) Zoning District shall be the same as those permitted and special exception uses in the

Residential-I (R-1) Zoning District set forth in 27-602 and 27-603 of this chapter, except that schools shall not be permitted in the Floodplain (FP) Zoning District. The height, bulk, setback and area regulations of 27-604 of this chapter related to uses and structures in the Residential-I (R-1) shall also apply except, to the extent the other provisions of this Part 17 are more restrictive than the more restrictive of the provisions of this Part 17 shall apply and in all respects supersede those in the Residential-I (R-1) Zoning District.

2. This Part supersedes any other conflicting provisions which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive, including, but not limited to, Chapter 22, the Akron Borough Subdivision and Land Development Ordinance ("SALDO"), Chapter 17, the Akron Borough Stormwater Management Ordinance ("SWMO"), and the other provisions of this Part. If there is any conflict between any of the provisions of this Part with the remainder of Chapter 27, the more restrictive shall apply.

27-1704. Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this Part shall be declared invalid for any reason whatsoever, such a decision shall not affect the remaining portions of this Part, which shall remain in full force and effect, and for this purpose the provisions of this Part are hereby declared to be severable.

27-1705. Warning and Disclaimer of Liability.

1. The degree of flood protection sought by the provisions of this Part is considered reasonable for regulatory purposes and is based on accepted engineering methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Part does not imply that areas outside any identified floodplain areas, or that land uses permitted within such areas, will be free from flooding or flood damages.
2. The granting of a permit or making of any other administrative decision under this Part shall not constitute a representation, guarantee, or warranty of any kind by the Borough, or by any official, agent or employee thereof of the practicability or safety of any structure, use or other plan proposed with

respect to damage from flood or otherwise, and shall create no liability or cause of action against the Borough, its agents or employees.

C. Administration.

27-1706. Designation of Floodplain Administrator.

1. The Borough's Zoning Officer and any assistant Zoning Officer are hereby appointed to administer and enforce this Part and are referred to herein as the "Floodplain Administrator." The Floodplain Administrator may:

- A. Fulfill the duties and responsibilities set forth in these regulations;
 - B. Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees; or
 - C. Enter into a written agreement or written contract with another agency or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 CFR 59.22.
- 2. In the absence of the Zoning Officer, the duties are to be fulfilled by the Assistant Zoning Officer.
 - 3. As used hereinbefore and hereafter, anywhere the term "Floodplain Administrator" appears, it shall be considered the same as the Zoning Officer and the Assistant Zoning Officer.

27-1707. Permits Required.

A permit shall be required before any construction or development is undertaken within any area of the Borough of Akron in the Floodplain Zoning District.

27-1708. Duties and Responsibilities of Floodplain Administrator.

- 1. The Floodplain Administrator shall issue a permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this Part and all other applicable codes and ordinances.
- 2. ¹ Prior to the issuance of any permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws (and all ordinances of the Borough) have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); ¹ the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); ² the Pennsylvania Clean Streams Act (Act 1937-394, as amended); ³ and the United States Clean Water Act, Section 404, 33 U.S.C. S 1344. No permit shall be issued until this determination has been made.
- 3. During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He/she shall make as many inspections during and upon completion of the work as are necessary.

4. In the discharge of his/her duties, the Floodplain Administrator shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this Part.
5. In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the permit and report such fact to the Borough Council for whatever action it considers necessary.
6. The Floodplain Administrator shall maintain in perpetuity all records associated with the requirements of this Part, including, but not limited to, finished construction elevation data, permitting, inspection and enforcement.
7. The Floodplain Administrator is the official responsible for submitting a biennial report to FEMA concerning community participation in the National Flood Insurance Program.
8. The responsibility, authority and means to implement the commitments of the Floodplain Administrator can be delegated from the person identified. However, the ultimate responsibility lies with the person identified in the floodplain ordinance as the Floodplain Administrator/Manager.
9. The Floodplain Administrator shall consider the requirements of 34 Pa. Code and the commonwealth's adopted latest edition of the IBC and the commonwealth's adopted latest edition of the IRC.

27-1709. Application Procedures and Requirements.

1. Application for such a permit shall be made, in writing, to the Floodplain Administrator on forms supplied by the Borough of Akron. Such application shall contain the following:
 - A. Name and address of applicant.
 - B. Name and address of all owners of land on which proposed construction is to occur.
 - C. Name and address of all contractors.
 - D. Site location, including address.
 - E. Listing of other permits required.
 - F. Brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before the flood damage occurred, where appropriate.
 - G. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
2. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for permits shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:
 - A. All such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances;
 - B. All utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;
 - C. Adequate drainage is provided so as to reduce exposure to flood hazards;
 - D. Structures will be anchored to prevent flotation, collapse, or lateral movement;
 - E. Building materials are flood-resistant;
 - F. Appropriate practices that minimize flood damage have been used; and

- G. Electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.
3. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Floodplain Administrator to make the above determination:
- A. A completed permit application form.
 - B. A plan of the entire site, clearly and legibly drawn at a scale of one inch being equal to 100 feet or less, showing the following:
 - (1) North arrow, scale, and date;
 - (2) Topographic contour lines, if available;
 - (3) The location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development;
 - (4) The location of all existing streets, drives, and other accessways; and
 - (5) The location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water, including direction and velocities.
 - C. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale, showing the following:
 - (1) The proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
 - (2) The elevation of the base flood;
 - (3) Supplemental information as may be necessary under 34 Pa. Code, the commonwealth's adopted latest edition of the IBC or the commonwealth's adopted latest edition of the IRC.
 - D. The following data and documentation:
 - (1) Detailed information concerning any proposed floodproofing measures and corresponding elevations.
 - (2) If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood.
 - (3) (Reserved)
 - (4) (Reserved)

- (5) Documentation, certified by a registered professional engineer, to show that the cumulative effect of any proposed development within any identified floodplain area (see 27-1717), when combined with all other existing and anticipated development, will not cause any increase in the base flood elevation.
 - (6) A document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood. Such statement shall include a description of the type and extent of flood-proofing measures which have been incorporated into the design of the structure and/or the development.
 - (7) Detailed information needed to determine compliance with 27-1724, Subsection IF, Storage, and 27-1725, Development Which May Endanger Human Life, including:
 - (a) The amount, location and purpose of any materials or substances referred to in 27-1724, Subsection IF, and 27-1725 which are intended to be used, produced, stored or otherwise maintained on site.
 - (b) A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in 27-1725 during a base flood.
 - (8) The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."
 - (9) Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.
4. Applications for permits shall be accompanied by a fee, payable to the municipality based upon the estimated cost of the proposed construction as determined by the Floodplain Administrator and deposits as described in 27-1739 hereof.

27-1710. Review by County Conservation District.

A copy of all applications and plans for any proposed construction or development in any identified floodplain area to be considered for approval shall be submitted by the Floodplain Administrator to the County Conservation District for review and comment prior to the issuance of a permit. The recommendations of the Conservation District shall be considered by the Floodplain Administrator for possible incorporation into the proposed plan.

27-1711. Review of Application by Others.

A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Floodplain Administrator to any other appropriate agencies and/or individuals (e.g., Planning Commission, Municipal Engineer, etc.) for review and comment.

27-1712. Changes.

After the issuance of a permit by the Floodplain Administrator, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Floodplain Administrator. Requests for any such change shall be in writing and shall be submitted by the applicant to the Floodplain Administrator for consideration.

27-1713. Placards.

In addition to the permit, the Floodplain Administrator shall issue a placard, or similar document, which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the permit, the date of its issuance, and be signed by the Floodplain Administrator.

27-1714. Start of Construction.

1. Work on the proposed construction or development shall begin within 180 days after the date of issuance of the development permit. Work shall also be completed within 12 months after the date of issuance of the permit or the permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator. The issuance of development permit does not confer Zoning, SWMO, UCC or SALDO approval.
2. The "actual start of construction" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work

beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the "actual start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

3. Time extensions shall be granted only if a written request is submitted by the applicant, who sets forth sufficient and reasonable cause for the Floodplain Administrator to approve such a request and the original permit is compliant with the ordinance and FIRM/FIS in effect at the time the extension is granted.

27-1715. Enforcement.

1. Notices. Whenever the Floodplain Administrator or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Part, or of any regulations adopted pursuant thereto, the Floodplain Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall be drafted and served in conformance with the PMPC⁴ and the other provisions of this Chapter 27.
2. Penalties. Any violation of the provisions of this Part shall be a violation of Chapter 27, and the Floodplain Administrator will utilize the administration and enforcement remedies of Part 18 of Chapter 27.

27-1716. Appeals. Any person aggrieved by any action or decision of the Floodplain Administrator concerning the administration of the provisions of this Part may appeal to the Zoning Hearing Board pursuant to the PMPC and this Chapter 27.

1. Upon receipt of such appeal, the Zoning Hearing Board shall consider the appeal in accordance with the PMPC.

2. Any person aggrieved by any decision of the Zoning Hearing Board may seek relief therefrom by appeal to Court, as provided by the PMPC.
3. Granting of a municipal appeal will not relieve a landowner from the obligation to comply with the minimum requirements of the National Flood Insurance Program. Landowners that fail to meet the Program's minimum requirements, notwithstanding any appellate decision to the contrary, are in violation of the National Flood Insurance Program and remain subject to the accompanying penalties.

D. Identification of Floodplain Areas.

27-1717. Identification.

1. The identified floodplain area shall be:
 - A. Any areas of the Borough of Akron classified as special flood hazard areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated April 5, 2016, and issued by the Federal Emergency Management Agency (FEMA), or the most-recent revision thereof, including all digital data developed as part of the Flood Insurance Study; and the Akron Official Zoning Map.
2. The above-referenced FIS and FIRMs, and any subsequent revisions and amendments, are hereby adopted by the Borough of Akron and declared to be a part of this Part. To the extent that the FIS or FIRMs are inconsistent with the Akron Official Zoning Map, the FIS and FIRMs shall prevail.

27-1718. Description and Special Requirements of Identified Floodplain Areas.

1. The identified floodplain area shall consist of the following specific areas:
 - A. The Floodway Area shall be those areas identified in the FIS and the FIRM as floodway and which represent the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation. This term shall also include floodway areas which have been identified in other available studies or sources of information for those special flood hazard areas where no floodway has been identified in the FIS and FIRM.
 - (1) Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated

through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

- (2) Within any floodway area, no new construction or development shall be allowed unless the appropriate permit is obtained from the Department of Environmental Protection's regional office.
- B. The AE Area/District shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided.
 - (1) The AE Area adjacent to the floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided and a floodway has been delineated.
 - (2) The AE Area without floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided but no floodway has been determined.
 - (a) No permit shall be granted for any construction, development, use, or activity within any AE Area/District without floodway unless it is demonstrated that the cumulative effect of the proposed development would not, together with all other existing and anticipated development, increase the BFE at any point.
 - (b) No new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection's regional office.
- C. (Reserved)
- D. (Reserved)

27-1719. Changes in Identification of Area.

The identified floodplain area may be revised or modified by the Borough Council where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change to the special flood hazard area, approval must be obtained from FEMA. Additionally, as soon as

practicable, but not later than six months after the date such information becomes available, a community shall notify FEMA of the changes to the special flood hazard area by submitting technical or scientific data. See 27-1722, Subsection 2, for situations where FEMA notification is required.

27-1720. Boundary Disputes.

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Zoning Officer and any party aggrieved by this decision or determination may appeal to the Zoning Hearing Board. The burden of proof shall be on the appellant.

27-1721. Jurisdictional Boundary Changes.

Prior to development occurring in areas where annexation or other corporate boundary changes are proposed or have occurred, the community shall review flood hazard data affecting the lands subject to boundary changes. The community shall adopt and enforce floodplain regulations in areas subject to annexation or corporate boundary changes which meet or exceed those in 44 CFR 60.3.

E. Technical Provisions.

27-1722. General Requirements.

1. Alteration or Relocation of Watercourse.
 - A. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality and until all required permits or approvals have first been obtained from the Department of Environmental Protection's regional office.
 - B. No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood-carrying capacity of the watercourse in any way.
 - c. In addition, FEMA and the Pennsylvania Department of Community and Economic Development shall be notified prior to any alteration or relocation of any watercourse.
2. When the Borough of Akron proposes to permit the following encroachments: any development that causes a rise in the base flood elevations within the floodway; or any development occurring in Zones A1-30 and Zone AE without a designated floodway, which will cause any rise in the base flood elevation; or alteration or relocation of a stream (including, but

not limited to, installing culverts and bridges), the applicant shall (as per 44 CFR 65.12):

- A. Apply to FEMA for conditional approval of such action prior to permitting the encroachments to occur.
 - B. Upon receipt of the Administrator's conditional approval of map change and prior to approving the proposed encroachments, a community shall provide evidence to FEMA of the adoption of floodplain management ordinances incorporating the increased base flood elevations and/or revised floodway reflecting the post-project condition.
 - C. Upon completion of the proposed encroachments, a community shall provide as-built certifications. FEMA will initiate a final map revision upon receipt of such certifications in accordance with 44 CFR Part 67.
- 3. Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this Part and any other applicable codes, ordinances and regulations.
 - 4. No new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse.

27-1723. Elevation and Floodproofing Requirements.

- 1. Within any identified floodplain area, any new construction shall be prohibited. If a variance is obtained for new construction in the identified floodplain area in accordance with the criteria in 27-1735 and 27-1736, then the following provisions apply:
 - A. Residential Structures.
 - (1) In any identified floodplain area, any new construction shall have the lowest floor (including the basement) elevated up to, or above, the regulatory flood elevation.
 - (2) (Reserved)
 - (3) (Reserved)
 - (4) The design and construction standards and specifications contained in the commonwealth's adopted latest edition of the International Building Code (IBC) and in the commonwealth's adopted latest edition of the International Residential Code (IRC).

B. Nonresidential Structures.

In any identified floodplain area, any new construction of a nonresidential structure shall have the lowest floor (including the basement) elevated up to, or above, the regulatory flood elevation, or be designed and constructed so that the space enclosed below the regulatory flood elevation:

- (a) Is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water; and
 - (b) Has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (2) (Reserved)
- (3) (Reserved)
- (4) Any nonresidential structure, or part thereof, made watertight below the regulatory flood elevation shall be floodproofed in accordance with the WI or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations," published by the United States Army Corps of Engineers (June 1972, as amended March 1992), or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above-referenced standards.
 - (c) Is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water; and
 - (d) Has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (5) (Reserved)
- (6) (Reserved)
- (7) Any nonresidential structure, or part thereof, made watertight below the regulatory flood elevation shall be floodproofed in accordance with the WI or W2 space classification standards

contained in the publication entitled "Flood-Proofing Regulations," published by the United States Army Corps of Engineers (June 1972, as amended March 1992), or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above-referenced standards.

- (8) The design and construction standards and specifications contained in the commonwealth's adopted latest edition of the International Building Code (IBC) and in the commonwealth's adopted latest edition of the International Residential Code (IRC), and ASCE 24 and 34 Pa. Code (Chapters 401-405, as amended) shall be utilized, where they are more restrictive.

- C. Space Below the Lowest Floor.
- (1) Fully enclosed space below the lowest floor (including basements) is prohibited.
 - (2) Partially enclosed space below the lowest floor (excluding basements) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.
 - (3) Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - (a) A minimum of two openings having a net total area of not less than one square inch for every square foot of enclosed space.
 - (b) The bottom of all openings shall be no higher than one foot above grade.
 - (c) Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- D. Historic Structures. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement, as defined in this Part, must comply with all ordinance requirements that do not preclude the structure's continued designation as an historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic Places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.
- E. Accessory Structures. Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:
- (1) The structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to

the storage of tools, material, and equipment related to the principal use or activity.

- (2) Floor area shall not exceed 200 square feet.
- (3) The structure will have a low damage potential.
- (4) The structure will be located on the site so as to cause the least obstruction to the flow of floodwaters.
- (5) Power lines, wiring, and outlets will be elevated to the regulatory flood elevation.
- (6) Permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc., are prohibited.
- (7) Sanitary facilities are prohibited.
- (8) The structure shall be adequately anchored to prevent flotation, collapse, and lateral movement and shall be designed to automatically provide for the entry and exit of floodwater for

the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:

- (a) A minimum of two openings having a net total area of not less than one square inch for every square foot of enclosed space.
- (b) The bottom of all openings shall be no higher than one foot above grade.
- (c) Openings may be equipped with screens, louvers, etc., or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

27-1724. Design and Construction Standards.

1. The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:
 - A. Fill. Within any identified floodplain area, the use of fill shall be prohibited. If a variance is obtained in accordance with the criteria in 27-1835 and 27-1836, then the following provisions apply:
 - (1) If fill is used, it shall:

- (a) Extend laterally at least 15 feet beyond the building line from all points;
- (b) Consist of soil or small rock materials only; sanitary landfills shall not be permitted;
- (c) Be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
- (d) Be no steeper than one vertical to two horizontal feet unless substantiated data justifying steeper slopes are submitted to, and approved by, the Floodplain Administrator; and

Be used to the extent to which it does not adversely affect adjacent properties.

B. Drainage Facilities. Storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner. The system shall ensure proper drainage along streets and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

C. Water and Sanitary Sewer Facilities and Systems.

- (1) All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of floodwaters.
- (2) Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into floodwaters.
- (3) No part of any on-site waste disposal system shall be located within any identified floodplain area except in strict compliance with all state and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.
- (4) The design and construction provisions of the UCC and FEMA No. 348, "Protecting Building Utility Systems from Flood Damage" and the "International Private Sewage Disposal Code" shall be utilized.

- D. Other Utilities. All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.
- E. Streets. The finished elevation of all new streets shall be no more than one foot below the regulatory flood elevation.
- F. Storage. All materials that are buoyant, flammable, explosive, or, in times of flooding, could be injurious to human, animal, or plant life, and not listed in 27-1825, Development Which May Endanger Human Life, shall be stored at or above the regulatory flood elevation or floodproofed to the maximum extent possible.
- G. Placement of Buildings and Structures. All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of floodwater.
- H. Anchoring.
 - (1) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
 - (2) All air ducts, large pipes, storage tanks, and other similar objects or components located below the regulatory flood elevation shall be securely anchored or affixed to prevent flotation.
- 1. Floors, Walls, and Ceilings.
 - (1) Wood flooring used at or below the regulatory flood elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
 - (2) Plywood used at or below the regulatory flood elevation shall be of a "marine" or "water-resistant" variety.
 - (3) Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are "water-resistant" and will withstand inundation.
 - (4) Windows, doors, and other components at or below the regulatory flood elevation shall be made of metal or other "water-resistant" material.

- J. Paints and Adhesives.
- (1) Paints and other finishes used at or below the regulatory flood elevation shall be of "marine" or "water-resistant" quality.
 - (2) Adhesives used at or below the regulatory flood elevation shall be of a "marine" or "water-resistant" variety.
 - (3) All wooden components (doors, trim, cabinets, etc.) used at or below the regulatory flood elevation shall be finished with a "marine" or "water-resistant" paint or other finishing material.
- K. Electrical Components.
- (1) Electrical distribution panels shall be at least three feet above the base flood elevation.
 - (2) Separate electrical circuits shall serve lower levels and shall be dropped from above.
- L. Equipment. Water heaters, furnaces, air-conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the regulatory flood elevation.
- M. Fuel Supply Systems. All gas and oil supply systems shall be designed to prevent the infiltration of floodwaters into the system and discharges from the system into floodwaters. Additional provisions shall be made for the drainage of these systems in the event that floodwater infiltration occurs.
- N. Uniform Construction Code Coordination. The standards and specifications contained in 34 Pa. Code (Chapters 401-405), as amended and not limited to the following provisions shall apply to the above and other sections and subsections of this Part, to the extent that they are more restrictive and supplement the requirements of this Part.
- (1) International Building Code (IBC), latest edition adopted by the commonwealth: Sections 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.
 - (2) International Residential Building Code (IRC) or the latest edition thereof adopted by the commonwealth: Sections R104, R105, R109, R322, Appendix E, and Appendix J.

27-1725. Development Which May Endanger Human Life.

1. Within any identified floodplain area, any structure of the kind described in Subsection IA below, or the production or storage of materials described in Subsection IA below, shall be prohibited.

A. Any new or substantially improved structure which: will be used for the production or storage of any of the following dangerous materials or substances; or will be used for any activity requiring the maintenance of a supply of more than five gallons of any one substance (except as to petroleum products, which shall be limited to 300 gallons), or other comparable volume, of any of the following dangerous materials or substances on the premises; or will involve the production, storage, or use of any amount of radioactive substances shall be prohibited. The following list of materials and substances are considered dangerous to human life:

- (1) Acetone.
- (2) Ammonia.
- (3) Benzene.
- (4) Calcium carbide.
- (5) Carbon disulfide.
- (6) Celluloid.
- (7) Chlorine.
- (8) Hydrochloric acid

- (9) Hydrocyanic acid.
- (10) Magnesium.
- (11) Nitric acid and oxides of nitrogen.
- (12) Petroleum products (gasoline, fuel oil, etc.).
- (13) Phosphorus.
- (14) Potassium.
- (15) Sodium.
- (16) Sulphur and sulphur products.
- (17) Pesticides (including insecticides, fungicides, and rodenticides).
- (18) Radioactive substances, insofar as such substances are not otherwise regulated.

B. (Reserved)

C. Within any Floodway Area, any structure of the kind described in Subsection IA above shall be prohibited. Where permitted within any identified floodplain area, any new or substantially improved residential structure of the kind described in Subsection IA above shall be elevated to remain completely dry up to at least 1 1/2 feet above base flood elevation and built in accordance with 27-1822, 27-1823 and 27-1824.

D. Nonresidential Structures.

- (1) Where permitted within any identified floodplain area, any new or substantially improved nonresidential structure of the kind described in Subsection IA above shall be built in accordance with 27-1822, 27-1823 and 27-1824, including:
 - (a) Elevated, or designed and constructed to remain completely dry up to at least 1 1/2 feet above base flood elevation; and
 - (b) Designed to prevent pollution from the structure or activity during the course of a base flood.
- (2) Any such structure, or part thereof, that will be built below the regulatory flood elevation shall be designed and constructed in

accordance with the standards for completely dry floodproofing contained in the publication "Flood-Proofing Regulations (United States Army Corps of Engineers, June 1972, amended March 1992), or with some other equivalent watertight standard.

27-1726. Special Requirements for Subdivisions and Development.

All subdivision proposals and development proposals containing at least 50 lots or at least five acres, whichever is the lesser, in identified floodplain areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a conditional letter of map revision and letter of map revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

27-1727. Special Requirements for Manufactured Homes.

Within anywhere in the district (including, but not limited to, the floodway or floodplain), manufactured homes are prohibited.

27-1728. Special Requirements for Recreational Vehicles.

All recreational vehicles in the district may only be on site for fewer than 180 consecutive days. To qualify, the recreational vehicles must be fully licensed and ready for highway use and any such recreational vehicle that is not fully licensed and ready for highway use shall be prohibited.

F. Activities Requiring Special Permits.

27-1729. Prohibited Activities.

1. The following activities shall be prohibited within any identified floodplain area:
 - A. The commencement of any of the following activities; or the construction, enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:
 - (1) Hospitals.
 - (2) Nursing homes.

(3) Jails or prisons.

(4) Schools.

B. The commencement of, or any construction of, a new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.

G. Existing Structures in Identified Floodplain Areas.

27-1730. through 27-1732. (Reserved)

27-1733. Existing Structures.

The provisions of this Part do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of 27-1734 shall apply.

S 27-1734. Improvements.

1. The following provisions shall apply whenever any improvement is made to an existing structure located within any identified floodplain area:

- A. No expansion or enlargement of an existing structure shall be allowed within any identified floodplain area that would cause any increase in BFE.
- B. (Reserved)
- C. (Reserved)
- D. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure to an extent or amount of 50% or more of its market value shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Part.
- E. The above activity shall also address the requirements of the 34 Pa. Code, as amended, and the commonwealth's adopted latest edition of the IBC and the commonwealth's adopted latest edition of the IRC.
- F. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure to an extent or amount of less than 50% of its market value shall be elevated and/or floodproofed to the greatest extent possible.

H. Variances.

27-1735. General Provisions.

If compliance with any of the requirements of this Part would result in a hardship as described in Section 91().2 of the PMPC⁵ to a prospective builder, developer or landowner, the Zoning Hearing Board may, upon request and in conformance with Section 910.2 of the PMPC, grant relief from the strict application of the requirements.

27-1736. Variance Procedures and Conditions.

1. Requests for variances shall be considered by the Zoning Hearing Board in accordance with the procedures contained in 27-1716 and the following:
 - A. No variance shall be granted within any identified floodplain area that would cause any increase in BFE.
 - B. (Reserved)
 - C. (Reserved)
 - D. Except for a possible modification of the regulatory flood elevation requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by special permit (or prohibited activities) (27-1829) or to development which may endanger human life (27-1825).
 - E. If granted, a variance shall involve only the least modification necessary to provide relief.
 - F. In granting any variance, the Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Part.
 - G. Whenever a variance is granted, the Borough of Akron shall notify the applicant, in writing, that:
 - (1) The granting of the variance may result in increased premium rates for flood insurance.
 - (2) Such variances may increase the risks to life and property.

- H. In reviewing any request for a variance, the Zoning Hearing Board shall consider, at a minimum, the following:

- (1) That there is good and sufficient cause.
 - (2) That failure to grant the variance would result in exceptional hardship to the applicant.
 - (3) That the granting of the variance will:
 - (a) Neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense;
 - (b) Nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.
 - (4) Other requirements for variances under Section 910.2 of the PMPC.⁶
1. A complete record of all variance requests and related actions shall be maintained by the Zoning Officer. In addition, a report of all variances granted during the year shall be included in the annual report to FEMA.
 2. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-percent annual chance flood.

I. Terminology.

27-1737. Interpretation.

Unless specifically defined below, words and phrases used in this Part shall be interpreted so as to give this Part its most reasonable application.

27-1738. Specific Definitions.

The following definitions shall apply to this Part 17 of Chapter 27 only. To the extent that these definitions are inconsistent with other definitions in Chapter 27, the following definitions shall control within the Floodplain Zoning District:

ACCESSORY USE OR STRUCTURE — A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

BASE FLOOD — A flood which has a one-percent chance of being equaled or exceeded in any given year (also called the "one-hundred-year flood" or one percent annual chance flood).

BASE FLOOD DISCHARGE — The volume of water resulting from a base flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).

BASE FLOOD ELEVATION (BFE) — The elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A 1-30 that indicates the water surface elevation resulting from a flood that has a one percent or greater chance of being equaled or exceeded in any given year.

BASEMENT — Any area of the building having its floor below ground level on all sides.

BUILDING — A combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.

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

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION — The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD — A temporary inundation of normally dry land areas.

FLOOD INSURANCE RATE MAP (FIRM) — The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community. The initial

FIRM map had an effective date of 12/16/1980. The current FIRM map has an effective date of 4/5/2016.

FLOOD INSURANCE STUDY (FIS) — The official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

FLOODPLAIN ADMINISTRATOR — The Akron Borough Zoning Officer or the Assistant Zoning Officer.

FLOODPLAIN AREA — A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

FLOODPROOFING — Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURES — Any structure that is:

- A. Listed individually on the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior; or

- (2) Directly by the Secretary of the Interior in states without approved programs.

IDENTIFIED FLOODPLAIN AREA — This term is an umbrella term that includes all of the areas within which the community has selected to enforce floodplain regulations. It will always include the area identified as the special

flood hazard area on the Flood Insurance Rate Maps and Flood Insurance Study, but may include additional areas identified by the community. See 27-1717 and 27-1718 for the specifics on what areas the community has included in the identified floodplain area.

LOWEST FLOOR — The lowest floor of the lowest fully enclosed area (including the basement). An unfinished, flood-resistant, partially enclosed area used solely for parking of vehicles, building access, and incidental storage in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable non elevation design requirements of this Part.

MANUFACTURED HOME — A structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.

MANUFACTURED HOME PARK OR SUBDIVISION — A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MINOR REPAIR — The replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exit way requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent, or similar piping, electric wiring, mechanical or other work affecting public health or general safety.

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective start date of this floodplain management ordinance and includes any subsequent improvements to such structures. Any construction started after 12/16/1980 (effective date of community's first floodplain management ordinance adopted by the community) and before the effective start date of this floodplain management ordinance is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.

NEW MANUFACTURED HOME PARK OR SUBDIVISION — manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

PENNSYLVANIA MUNICIPALITIES PLANNING CODE (PMPC) — 53 P.S. S 10101 et seq.

PERSON — An individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.

POST-FIRM STRUCTURE A structure for which construction or substantial improvement occurred after December 31, 1974, or on or after the community's initial Flood Insurance Rate Map (FIRM) dated 12/16/1980, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.

PRE-FIRM STRUCTURE — A structure for which construction or substantial improvement occurred on or before December 31, 1974, or before the community's initial Flood Insurance Rate Map (FIRM) dated 12/16/1980, whichever is later, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.

RECREATIONAL VEHICLE — A vehicle which is:

- A. Built on a single chassis.
- B. Not more than 400 square feet, measured at the largest horizontal projections.
- C. Designed to be self-propelled or permanently towable by a light-duty truck.
- D. Not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOOD ELEVATION — The base flood elevation (BFE) or estimated flood height as determined using simplified methods plus a freeboard safety factor of 1 1/2 feet.

SPECIAL FLOOD HAZARD AREA (SFHA) — An area in the floodplain subject to a one percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or AH.

SPECIAL PERMIT — A special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks/subdivisions and substantial improvements to such existing parks, when such development is located in all, or a designated portion of, a floodplain.

START OF CONSTRUCTION — Includes substantial improvement and other proposed new development and means the date the permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days after the date of the permit and shall be completed within 12 months

after the date of issuance of the permit, unless a time extension is granted, in writing, by the Floodplain Administrator. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the "actual start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE — A walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

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 10 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

SUBSTANTIAL DAMAGE- Damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% or more of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT — Any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" or "repetitive loss" regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions.

UNIFORM CONSTRUCTION CODE (UCC) — The statewide building code adopted by the Pennsylvania General Assembly in 1999, applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, the Code adopted the International Residential Code (IRC) and the International Building Code (IBC), by reference, as the

construction standard applicable with the state floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.

VARIANCE — A grant of relief by a community from the terms of a floodplain management regulation administered and according to the statements of the PMPC.

VIOLATION — The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

J. Fees, Costs and Deposits.

27-1739. Fee and Escrow Deposits.

New applications for permits shall not be deemed to have been submitted until the fee and all escrow deposits have been paid, which fee and escrow schedules shall be adopted from time to time, by resolution of Borough Council.

1. The Borough Council may, by resolution from time to time, establish review, filing fees, and escrows associated with the same, consistent with law.

27-1740. Expenses Covered by Fees.]

1. The Borough Council shall be entitled to set a filing fee, from time to time, by resolution of Council, which shall cover the initial administrative costs of receiving and processing the paperwork from the applicant. No application shall be deemed complete without payment of such filing fee.
2. The Borough shall also be entitled to set review fees, from time to time, by resolution of Council. The review fee shall be established by the Borough by resolution (meeting all requirements of the PMPC and administered consistent with the PMPC) to defray review costs incurred directly or indirectly by the Borough and the Borough's agents.

3. All review and filing fees shall be paid by the applicant at the time of filing any application. No application shall be deemed complete without payment of such fees and deposits.
4. The fees required by this Part shall at a minimum cover:
 - A. The review of the plan by the Borough and its agents.
 - B. The development site inspection.
 - c. The inspection of facilities improvements during construction.
 - D. The final inspection upon completion of the facilities improvements presented in the plan, and review of the as-built plans and calculations for compliance.
 - E. Any additional work required to enforce any permit provisions regulated by this Part, correct violations, and ensure proper completion of stipulated remedial actions.
 - F. Defray administration and clerical costs.
5. Escrow Deposit.
 - A. The Borough Council may set, from time to time by resolution, an escrow deposit schedule based upon the estimated cost of fees described in Subsections 2 and 4 above. Such escrow deposit shall be deposited with the Borough at the time of any filing. No application shall be deemed complete without payment of such escrow deposit.
 - B. The Borough Zoning Officer, from time to time, may require replenishment of the escrow deposit to ensure that it is not exhausted by reasonably estimated current and future costs and fees as described herein.

ARTICLE XVIII. ADMINISTRATION AND ENFORCEMENT

SECTION 27-1801. ZONING OFFICER

The provisions of this ordinance shall be administered and enforced by a Zoning Officer and any assistants or subordinates who shall be appointed by the Borough. He/She may be provided with the assistance of such persons as the Borough may direct. The compensation shall be determined by the Borough Council upon the recommendation of the Borough Manager.

SECTION 27-1802. DUTIES AND RESPONSIBILITIES OF ZONING OFFICER

1. General. The Zoning Officer shall administer this ordinance in accordance with its legal terms and shall not have the power to permit any construction or any change of use which does not conform to this ordinance and to other applicable ordinances of the Akron Borough and to the laws of the Commonwealth of Pennsylvania.
2. Application and permits. He shall receive applications and issue permits and/or certificates of use and occupancy for the erection, construction, alteration, repair, extension, replacement, relocation, conversion and/or use and occupancy of any building, structure, sign, or land in the Borough.
3. Inspections. Before issuing any permit, the Zoning Officer may, at his discretion, examine or cause to be examined all buildings, structures, signs, or land and portions thereof for which an application has been filed for the erection, construction, alteration, repair, extension, replacement, relocation, conversion, and/or use. Thereafter, he may make such inspections during the completion of work for which a permit has been issued. Upon completion of such work and before issuing a certificate of use and occupancy, a final inspection shall be made and all violations of approved plans or permits shall be noted, and the holder of the permit shall be notified of the discrepancies.
4. Complaints regarding violations. The Zoning Officer may, and, when in receipt of a signed written complaint stating fully the cause and basis thereof, shall, investigate alleged violations of this ordinance. If a signed written complaint is received, said investigation shall be completed within thirty (30) days of said complaint. A written report of investigation of this ordinance shall be prepared and maintained on file, with copies provided to the Borough Council and the Borough Manager.
5. Official records. It shall be the duty of the Zoning Officer to maintain and be responsible for all pertinent records on zoning matters in the Borough. These records shall include, but not be limited to, all applications received, copies of all permits and certificates issued, copies of orders and findings of the Zoning Hearing Board, written complaints of alleged violations, records of all inspections made, a current copy of this ordinance and all amending ordinances, the official Zoning Map, and all other pertinent information. The records of his office shall be available for the use of the Borough government and for inspection of any interested party during normal office hours. The Zoning Officer shall at

least annually submit to the Borough Council a written statement of all permits and certificates of use and occupancy issued and violations and stop-work orders recommended or promulgated.

6. Registration of nonconforming uses. The Zoning Officer shall identify and register nonconforming uses and nonconforming structures.

SECTION 27-1803. PERMITS

1. Requirements. Until a permit has been obtained from the Zoning Officer, it shall be unlawful to excavate; store material, machinery, or equipment on a lot in connection with the erection, construction, placement, reconstruction, alteration, repair, extension, replacement, restoration, or conversion of any structure, building, or sign; or change the use, area of use, percentage of use or open area or displace the use of any land, structure, building, sign, or portion thereof in the Township.
2. Form of application. The application for a permit shall be submitted in such form as the Zoning Officer may prescribe and shall be accompanied by the required fee as prescribed. Application for a permit shall be made by a landowner or developer. The full names and addresses of the landowner or developer and of the responsible officers, if the landowner or developer is a corporate body, shall be stated in the application.
3. Description of work. The application shall contain a general description of the proposed work and/or use and occupancy of all parts of the building, structure, or sign and such additional information as may be required by the Zoning Officer. The application for the permit shall be accompanied by a site plan of the proposed building structure or sign, drawn to scale, with sufficient clarity to show the nature and character of the work to be performed, including off-street parking and loading space if required, the location of new and existing construction, and the distances of the same from the existing lot lines and street right-of-way lines.
4. Time limit for application. An application for a permit for any proposed work shall be deemed to have been abandoned six (6) months after the date of filing, unless, during that six (6) month period, a permit shall have been issued, provided that reasonable extensions of time for additional periods not exceeding ninety (90) days each may be granted at the discretion of the Zoning Officer.
5. Issuance of permit. Upon receiving the application, the Zoning Officer shall examine the same within a reasonable time after filing. If the application or plans do not conform to the provisions of all pertinent laws, he shall reject such application in writing, stating the reasons therefor. He shall inform the applicant of his right of appeal to the Zoning Hearing Board in the event such application is rejected. If satisfied that the proposed work or use conforms to the provisions of this ordinance and all other pertinent laws and ordinances, and that the certificate of use and occupancy as required herein has been properly applied for, he shall issue a permit therefor as soon as practical.

6. Suspension of permit. The permit shall expire one (1) year from the date of issuance. Any permit issued shall become invalid if the authorized work is not commenced within six (6) months after issuance of the permit or if the authorized work is suspended or abandoned for a period of six (6) months after the time of commencing the work.
7. Revocation of permit. The Zoning Officer may revoke a permit or approval issued under the provisions of this ordinance in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based, or if it is found that the work performed or the use to which the property is put is not in conformance with the application, approved plans, or provisions of all pertinent laws.
8. Posting of permit. A true copy of the permit shall be kept on the site of operations and open to inspection by the Zoning Officer during the entire time of prosecution of the work and until the completion of same as defined in the application.

SECTION 27-1804. CONDITIONS OF PERMIT

1. Payment of fees. No permit shall be issued until the fees required therefor prescribed by the Board of Commissioners pursuant to resolution shall be paid to the Borough. The payment of fees under this section shall not relieve the applicant or holder of said permit from payment of other fees that may be required by this ordinance or by any other ordinances or laws.
2. Compliance with ordinance. The permit shall be a license to proceed with the work and should not be construed as authority to violate, cancel, or set aside any of the provisions of this ordinance.
3. Compliance with permit and site plan. All work or uses shall conform to the approved application and plans for which the permit has been issued, as well as the approved site plan.

SECTION 27-1805. CERTIFICATE OF USE AND OCCUPANCY

1. When required. It shall be unlawful to use or occupy any structure, building, land, or portion thereof until a certificate of use and occupancy has been issued by the Borough. Such certificate shall not be issued unless the Borough has inspected said structure, building, or land and has determined that all provisions of this ordinance and other pertinent ordinances and laws have been satisfied. The provisions of the Stormwater Management Ordinance, shall not be considered to be satisfied unless all stormwater management facilities serving the lot have been installed, inspected, and approved by the Borough or financial security to guarantee the installation of such facilities have been posted with the Township.
2. Form of application. The application for a certificate of use and occupancy shall be in such form as the Borough may prescribe and shall be made at the same time as the application for a permit is filed with the Zoning Officer.

3. Description of use and occupancy. The application shall contain a description of the intended use and occupancy of any structure, building, sign, or land or portion thereof for which a permit is required herein.
4. Action upon application. The Zoning Officer shall inspect or cause to be inspected any structure, building, sign, and/or land within 15 days after notification that the proposed work that was listed under the permit has been completed. If he is satisfied that the work is in conformity and in compliance with the work listed in the issued permit and all other pertinent laws, he shall issue a certificate of use and occupancy for the intended use listed in the approved application. If he finds that the work has not been performed in accordance with the approved application or that the prerequisite for the issuance of the Certificate of Use and Occupancy in Section 2705.1 have not been met, the Zoning Officer shall refuse to issue the certificate of use and occupancy and shall, in writing, give the reasons therefor and inform the permit holder of his right of appeal to the Zoning Hearing Board.
5. Availability of certificate. The certificate of use and occupancy for conforming and nonconforming uses, or a true copy thereof, shall be kept available for inspection by the Zoning Officer at all times.
6. Temporary certificate of use and occupancy. Upon request of a holder of a permit, the Zoning Officer may issue a temporary certificate of use and occupancy for a structure, building, sign, or land or portion thereof before the entire work covered by the permit shall have been completed, provided that such portion or portions may be used or occupied safely prior to full completion of the work without endangering life or public welfare. The Zoning Officer may also issue a temporary certificate of use and occupancy for such temporary uses as tents, trailers, and buildings on construction sites; use of land for religious or other public or semipublic purposes; and similar temporary use or occupancy. Such temporary certificates shall be for a period of time to be determined by the Zoning Officer; however, in no case shall it be for a period exceeding six (6) months.

SECTION 27-1806. ENFORCEMENT; VIOLATIONS AND PENALTIES

1. General. It shall be the duty of the Zoning Officer to enforce this ordinance.
2. Violation. The construction, alteration, or use of any structure, building, sign, or land or the change of use, area of use, percentage of use or displacement of the use of any structure, building, sign, or land without first obtaining a permit; the use of any building, structure, sign, or land without receipt of a certificate of use and occupancy; the failure to obey and/or comply with any order, decree, or decision of either the Zoning Hearing Board, Zoning Officer, or Borough Council; or the failure to comply with any other provisions of this ordinance are hereby declared to be violations of this ordinance.
3. Enforcement notice. If it appears that a violation of this ordinance or any prior ordinance still in effect has occurred, the Zoning Officer shall send a written enforcement notice to the owner of record of the premises on which the violation has occurred, to any person

who has filed a written request to receive enforcement notices regarding those premises, and to any other person who has been requested in writing by the owner of record to receive enforcement notices. No person so served shall abandon the premises in such a condition as to create a hazard or menace to the public safety, health, morals or welfare. Such person or persons shall be jointly and severally responsible for restoring the premises to such condition as the Zoning Officer may direct to avoid or abate such a hazard or menace. The enforcement notice shall contain the following:

- A. The name of the owner of record and any other person against whom the Township intends to take action.
- B. The location of the property in violation.
- C. The specific violation or violations, with a description of the requirements which have not been met and with citations in each instance to the applicable provisions of this ordinance.
- D. The date before which steps for compliance must be commenced and the date before which such steps must be completed.
- E. Notice that the recipient has the right to appeal to the Akron Borough Zoning Hearing Board within thirty (30) days of receipt of the notice in accordance with the procedures set forth herein.
- F. That failure to comply with the enforcement notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation of this ordinance and subjects the violator to the sanctions hereinafter described.

4. Enforcement remedies.

- A. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this ordinance or any prior ordinance still in effect shall, upon being found liable therefor in a civil enforcement proceeding commenced by Akron Borough or its duly designated representatives, pay a judgment of up to five hundred (500) dollars, plus all court costs, including reasonable attorneys' fees incurred by Akron Borough, as a result of seeking such enforcement.
- B. Civil enforcement proceedings shall be commenced before any Magisterial District Judge. No judgment shall commence or be imposed, levied or be payable until the date of the determination of a violation by the Magisterial District Judge.
- C. Each day that a violation continues shall constitute a separate violation, unless the Magisterial District Judge determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating this ordinance to have believed that there was no such violation. In such event, there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation

by the Magisterial District Judge. Thereafter, each day that a violation continues shall constitute a separate violation.

- D. If the defendant neither pays nor timely appeals the judgment, Akron Borough may enforce the judgment pursuant to the applicable rules of civil procedure. All judgments, costs and reasonable attorneys' fees collected for the violation of this ordinance shall be paid over to Akron Borough
- E. Nothing contained herein shall be construed or interpreted to grant any other person or entity other than Akron Borough the right to commence any action for enforcement pursuant to this section.

5. Abatement of violation.

- A. In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this ordinance or any prior ordinance still in effect, Akron Borough or its duly approved representatives or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute in the name of Akron Borough any appropriate action or proceeding to prevent, restrain, correct, or abate such building, structure, landscaping or land or to prevent, in and about such premises, any act, conduct, business or use constituting a violation.
- B. When any such action is instituted by a landlord, landowner or tenant, notice of that action shall be served upon Akron Borough at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on Akron Borough. No such action may be maintained until such notice has been given.

ARTICLE XIV. ZONING HEARING BOARD; ADMINISTRATIVE PROCEEDINGS

SECTION 27-1901. ESTABLISHMENT OF ZONING HEARING BOARD; MEMBERSHIP; TERMS; VACANCIES

There is hereby created a Zoning Hearing Board which shall, for the purpose of this ordinance, be referred to as the "Board." The membership of the Board shall consist of three (3) residents of the Borough appointed by resolution of the Borough Council. Members of the Board shall hold no other office in the Borough. The terms of office of the Board members shall be five (3) years and shall be so fixed that the term of office of one (1) member of the Board shall expire each year. Appointments to fill vacancies shall be only for the unexpired portion of the term.

SECTION 27-1902. ORGANIZATION OF ZONING HEARING BOARD

The Board shall adopt such rules and regulations to govern its procedures as it may deem necessary. The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. Meetings of the Board shall be at the call of the Chairman and at such other times as the Board may determine. The Chairman or, in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board, but the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf, and the parties may waive further action by the Board. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact. The Board shall keep full public records of its business, which shall be the property of the Borough, and shall submit a report of its activities to the Borough Council once a year.

SECTION 27-1903. HEARINGS

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

1. Public notice shall be given and written notice shall be given to the applicant, the Zoning Officer, and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by rules of the Board. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing.
2. The hearing shall be held within sixty (60) days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time.
3. The hearings shall be conducted by the Board, or the Board may appoint any member as a hearing officer. The decision or, where no decision is called for, the findings shall be made by the Board; however, the appellant or the applicant, as the case may be, in

addition to the Borough, may, prior to the decision of the hearing, waive the decision or findings by the Board and accept the decision or findings of the hearing officer as final.

4. The parties to the hearing shall be the municipality, any person affected by the application who has made timely appearance of record before the Board, and any other person, including civic or community organizations, permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.
5. The Chairman or Acting Chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
6. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
7. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
8. The Board or hearing officer, as the case may be, shall record the proceedings stenographically; however, stenographic recording of the proceedings may be waived by written consent of all parties, in which case the proceedings shall be taken by a mechanical recording device. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer or shall be paid by the person appealing from the decision of the Board if such appeal is made, and, in either event, the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof.
9. The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their Solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings with any party or his representative unless all parties are given an opportunity to be present.
10. The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before the Board or hearing officer. Each decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefore, when required by law. Conclusions based on any provisions of law or of any ordinance, rule, or regulation shall contain a reference to the provision relied on and the

reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within forty (45) days, and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than thirty (30) days after the report of the hearing officer.

11. When the Board fails to render the decision within the period required by this section, or fails to hold the required hearing within sixty (60) days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as herein provided, the Board shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided in Section 2803.1. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.
12. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than five (5) days following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide, by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

SECTION 27-1904. JURISDICTION OF ZONING HEARING BOARD

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

1. Substantive challenges to the validity of any land use ordinance, except those brought before the Borough Council pursuant to Sections 609.1 and 916.1(a)(2) of the Pennsylvania Municipalities Planning Code (Act 247, as amended).
2. Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption, which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said ordinance.
3. Appeals from the determination of the Zoning Officer, including but not limited to the granting or denial of any permit, or failure to act on the application therefore, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure, or lot.

4. Appeals from a determination by the Borough Engineer or the Zoning Officer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance.
5. Applications for variances from the terms of this ordinance and flood hazard ordinance or such provisions within a land use ordinance.
6. Applications for special exceptions under this ordinance or floodplain or flood hazard ordinance or such provisions within a land use ordinance.
7. Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of this ordinance.
8. Appeals from the Zoning Officer's determination under Section 916.2 of Act 247, as 28-4 amended.
9. Appeals from the determination of the Zoning Officer or Borough Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development not involving applications of Articles V or VII of Act 247, as amended.
10. Nothing contained herein shall be construed to give the Zoning Hearing Board jurisdiction to hear appeals from the decisions of the Borough Council.

SECTION 27-1905. VARIANCES; SPECIAL EXCEPTIONS

1. Variances.
 - A. The Board shall hear requests for variances where it is alleged that the provisions of this ordinance inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the Zoning Officer. The Board may grant a variance, provided that all of the following findings are made where relevant in a given case:
 - (1) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this ordinance in the neighborhood or district in which the property is located.
 - (2) That, because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
 - (3) That such unnecessary hardship has not been created by the appellant.

(4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

(5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

B. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this ordinance. In rendering its decision, the Zoning Hearing Board shall consider the following.

2. Special exceptions.

A. Where the Borough Council, in this ordinance, have stated special exceptions to be granted or denied by the Zoning Hearing Board pursuant to expressed standards and criteria, the Board shall hear and decide requests for such special exceptions in accordance with such standards and criteria.

B. The applicant shall have the burden of proving compliance with the following:

(1) The suitability of the property for the use desired.

(2) That the proposed use will not have a substantial adverse effect upon congestion of streets and highways or upon traffic levels of service or any hazards arising therefrom. The Board may require the applicant to submit a traffic study prepared by a qualified traffic engineer to satisfy this requirement.

(3) That the proposed use will not have a substantial adverse effect on the availability of parking in the immediate area.

(4) That the proposed use will not have a substantial adverse effect on existing or proposed public water, public sewer, public transportation, police and fire protection, public recreation, school facilities, and other public organizations and systems.

(5) That the proposed use will not have a substantial adverse effect on the health and safety of the citizens of the Borough when such use may present a danger from fire, explosion, electrocution, pollution, asphyxiation, or other similar dangers.

(6) That the proposed use will not have a substantial adverse effect upon adjacent properties. Among any other effects on adjacent properties, proposed uses shall not injure or detract from the use or enjoyment or value of the adjacent properties.

- (7) The compatibility of the proposed use with the appearance and general character of the immediate vicinity.
 - (8) The compatibility of the proposed use with the Borough Comprehensive Plan.
 - (9) The proposed use shall be in the best interest of the Borough and for the convenience of the community and shall not adversely affect the general welfare of the community.
- C. The Board shall impose such reasonable conditions as it deems necessary to effect the intent and purpose of this ordinance and to protect the health, safety, and welfare of the citizens of the Borough, especially those citizens most directly affected by the proposed use. These conditions may include but are not limited to the following:
- (1) Any promises or representations by the applicant with respect to its use or development of the property involved.
 - (2) Hours of operation.
 - (3) Special or additional screening or buffering, including that for solid waste storage areas.
 - (4) The design and location of buildings and other structures.
 - (5) Restrictions on noise levels, lighting levels, odor, and other potentially noxious effects.
 - (6) Restrictions on the distances of the proposed use from adjacent properties and between buildings and structures.
 - (7) Restrictions on parking with respect to both number and location of vehicles or spaces.
 - (8) Public safety.
 - (9) Safeguarding of uses on adjacent properties.
 - (10) Health and sanitation.
 - (11) Hours for loading and unloading.
 - (12) Traffic, street and highway improvements and controls.

SECTION 27-1906. PARTIES APPELLANT BEFORE BOARD

1. Appeals may be filed with the Board in writing by the landowner affected, any officer or agency of the Borough, or any person aggrieved.

2. Requests for a variance and for special exception may be filed with the Board by any landowner or any tenant with the permission of such landowner.

SECTION 27-1907. TIME LIMITATIONS

1. No person shall be allowed to file any proceeding with the Board later than thirty (30) days after an application for development, preliminary or final, which is within the jurisdiction of the Board as set forth in Section 2804 hereof, has been approved by an appropriate Borough officer, agency, or body if such proceeding is designed to secure reversal or to limit the approval in any manner, unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan or from an adverse decision by the Zoning Officer on a challenge to the validity of this ordinance or the map shall preclude an appeal from a final approval, except in the case where the final submission substantially deviates from the approved tentative approval.
2. All appeals from determinations adverse to the landowners shall be filed by the landowner within thirty (30) days after notice of the determination is issued.

SECTION 27-1608. EFFECT OF BOARD'S DECISION

1. If the variance or special exception is granted or the issuance of a permit is finally approved, or other action by the appellant is authorized, the necessary permit shall be secured and the authorized action begun within one (1) year after the date when the variance or special exception is finally approved or the other action by the appellant is authorized, and the building or alteration, as the case may be, shall be completed within two (2) years of said date. For good cause, the Board may, upon application in writing stating the reasons therefore, extend either the one (1) year or two (2) year period.
2. Should the appellant or applicant fail to obtain the necessary permits within said one (1) year period or, having obtained the permit, should he fail to commence work thereunder within such one (1) year period, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn, or abandoned his appeal or his application, and all provisions, variances, and permits granted to him shall be deemed automatically rescinded by the Board.
3. Should the appellant or applicant commence construction or alteration within said one (1) year period but fail to complete such construction or alteration within said two (2) year period, the Board may, upon ten (10) days' notice in writing, rescind or revoke the granted variance or the issuance of the permit or permits or any other action authorized to the appellant or applicant, if the Board finds that no good cause appears for the failure to complete such construction or alteration within said two (2) year period and if the Board further finds that conditions have so altered or changed in the interval since the granting of the variance, permit, or action that revocation or recession of the action is justified.

SECTION 27-1909. STAY OF PROCEEDINGS

1. Upon filing of any proceeding and during its pendency before the Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder, shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals, on petition, after notice to the Zoning Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Board.
2. After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court.
3. The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the responding party to post a bond shall be interlocutory.
4. If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond and the appellate court sustains the order of the court below to post a bond, the respondent to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals, shall be liable for all reasonable costs, expenses, and attorney fees incurred by the petitioner.

SECTION 27-1910. JURISDICTION OF BOROUGH COUNCIL

The Borough Council shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

1. All applications for approvals of planned residential developments.
2. All applications for approval of subdivisions or land developments. Any provision in a subdivision and land development ordinance requiring that final action concerning subdivision and land development applications be taken by a planning agency rather than

the Borough Council shall vest exclusive jurisdiction in the planning agency in lieu of the Borough Council for purposes of the provisions of this subsection.

3. Applications for conditional uses.

A. Where the Borough Council has stated conditional uses to be granted or denied pursuant to expressed standards and criteria, the Board shall hold hearings on and decide requests for such conditional uses in accordance with such standards and criteria.

B. The applicant shall have the burden of proving compliance with the following:

- (1) The suitability of the property for the use desired.
- (2) That the proposed use will not have a substantial adverse effect upon congestion of streets and highways or upon traffic levels of service or any hazards arising therefrom. The Board may require the applicant to submit a traffic study prepared by a qualified traffic engineer to satisfy this requirement.
- (3) That the proposed use will not have a substantial adverse effect on the availability of parking in the immediate area.
- (4) That the proposed use will not have a substantial adverse effect on existing or proposed public water, public sewer, public transportation, police and fire protection, public recreation, school facilities, and other public organizations and systems.
- (5) That the proposed use will not have a substantial adverse effect on the health and safety of the citizens of the Borough when such use may present a danger from fire, explosion, electrocution, pollution, asphyxiation, or other similar dangers.
- (6) That the proposed use will not have a substantial adverse effect upon adjacent properties. Among any other effects on adjacent properties, proposed uses shall not injure or detract from the use or enjoyment or value of the adjacent properties.
- (7) The compatibility of the proposed use with the appearance and general character of the immediate vicinity.
- (8) The compatibility of the proposed use with the Borough Comprehensive Plan.
- (9) The proposed use shall be in the best interest of the Borough and for the convenience of the community and shall not adversely affect the general welfare of the community.

- C. The Board shall impose such reasonable conditions as it deems necessary to effect the intent and purpose of this ordinance and to protect the health, safety and welfare of the citizens of the Borough, especially those citizens most directly affected by the proposed use. These conditions may include but are not limited to the following:
- (1) Any promise or representations by the applicant with respect to its use or development of the property involved.
 - (2) Hours of operation.
 - (3) Special or additional screening or buffering, including solid waste storage areas.
 - (4) The design and location of buildings and other structures.
 - (5) Restrictions on noise levels, lighting levels, odor, and other potentially noxious effects.
 - (6) Restrictions on distances of the proposed use from adjacent properties and between buildings and other structures.
 - (7) Restrictions on parking with respect to both number and location of vehicles or spaces.
 - (8) Public safety.
 - (9) Safeguarding of uses on adjacent properties.
 - (10) Health and sanitation.
 - (11) Hours for loading and unloading.
 - (12) Traffic, street, and highway improvements and controls.
4. Applications for curative amendments to this ordinance.
5. All petitions for amendments to land use ordinances. Any action on such petitions shall be deemed legislative acts, provided that nothing contained in this subsection shall be deemed to enlarge or diminish existing law with reference to appeals to court.
6. Appeals from the determination of the Zoning Officer or the Borough Engineer in the administration of any land use ordinance or provisions thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to application for land development. Where the applicable land use ordinance vests jurisdiction for final administration of subdivision and land development applications in the planning agency, all appeals from determinations under this subsection shall be to the planning agency and all appeals from the decision of the planning agency shall be to court.

SECTION 27-1911. CHALLENGES TO VALIDITY OF ORDINANCE

1. A landowner who, on substantive grounds, desires to challenge the validity of this ordinance or the map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest shall submit the challenge either to the Zoning Hearing Board or to the Borough Council, together with a request for a curative amendment.
2. Persons aggrieved by a use or development permitted on the land of another by this ordinance or the map, or any provision thereof, who desire to challenge its validity on substantive grounds shall first submit their challenge to the Zoning Hearing Board for a decision thereon.
3. The submissions referred to in Section 2811.1 and Section 2811.2 shall be governed by the following:
 - A. In challenges before the Zoning Hearing Board, the challenging party shall make a written request to the Board that it hold a hearing on its challenge. The request shall contain the reasons for the challenge. Where the landowner desires to challenge the validity of such ordinance and elects to proceed by curative amendment, his application to the Borough Council shall contain, in addition to the requirements of the written request hereof, the plans and explanatory materials describing the use or development proposed by the landowner in lieu of the use or development permitted by the challenged ordinance or map. Such plans or other materials shall not be required to meet the standards prescribed for preliminary, tentative, or final approval or for the issuance of a permit, so long as they provide reasonable notice of the proposed use or development and a sufficient basis for evaluating the challenged ordinance or map in light thereof. Nothing herein contained shall preclude the landowner from first seeking a final approval before submitting his challenge.
 - B. If the submission is made by the landowner to the Borough Council, the request also shall be accompanied by an amendment or amendments to this ordinance proposed by the landowner to cure the alleged defects therein.
 - C. If the submission is made to the Borough Council, the Township Solicitor shall represent and advise it at the hearing or hearings.
 - D. The Borough Council may retain an independent attorney to present the defense of the challenged ordinance or map on its behalf and to present witnesses on its behalf.
 - E. Based upon the testimony presented at the hearing or hearings, the Borough Council or the Zoning Board, as the case may be, shall determine whether the challenged ordinance or map is defective, as alleged by the landowner. If a challenge heard by the Borough Council is found to have merit, Borough Council shall proceed. If a challenge heard by a Zoning Hearing Board is found to have

merit, the decision of the Zoning Hearing Board shall include recommended amendments to the challenged ordinance which will cure the defects found. In reaching its decision, the Zoning Hearing Board shall consider the amendments, plans, and explanatory material submitted by the landowner and shall also consider the following:

- (1) The impact of the proposal upon roads, sewer facilities, water supplies, schools, and other public service facilities.
 - (2) If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of this ordinance or map.
 - (3) The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources and other natural features.
 - (4) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources, and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development, and any adverse environmental impacts.
 - (5) The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.
- F. The Borough Council or the Zoning Hearing Board, as the case may be, shall render its decision within 45 days after the conclusion of the last hearing.
- G. If the Borough Council or the Zoning Board, as the case may be, fails to act on the landowner's request within the time limits, a denial of the request is deemed to have occurred on the 46th day after the close of the last hearing.
4. The Zoning Hearing Board or Borough Council, as the case may be, shall commence its hearings within sixty (60) days after the request is filed, unless the landowner requests or consents to an extension of time.
 5. Public notice of the hearing shall include notice that the validity of this ordinance or map is in question and shall give the place where and the times when a copy of the request, including any plans, explanatory material, or proposed amendments, may be examined by the public.
 6. The challenge shall be deemed denied when one of the following occurs:
 - A. The Zoning Hearing Board or Borough Council, as the case may be, fails to commence the hearing within the time limits set forth.

- B. The Borough Council notifies the landowner that it will not adopt the curative amendment.
 - C. The Borough Council adopts another curative amendment which is unacceptable to the landowner.
 - D. The Zoning Hearing Board or Borough Council, as the case may be, fails to act on the request forty (45) days after the close of the last hearing on the request, unless the time is extended by mutual consent by the landowner and municipality.
7. Where a curative amendment proposal is approved by the grant of a curative amendment application by the Borough Council or a validity challenge is sustained by the Zoning Hearing Board or the court acts finally on appeal from denial of a curative amendment proposal or a validity challenge, and the proposal or challenge so approved requires a further application for subdivision or land development, the developer shall have two years from the date of such approval to file an application for preliminary or tentative approval. Within the two (2) year period, no subsequent change or amendment in the zoning, subdivision, or other governing ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge. Where the proposal appended to the curative amendment application or the validity challenge is approved but does not require further application under any subdivision or land development ordinance, the developer shall have one (1) year within which to file for a building permit. Within the one (1) year period, no subsequent change or amendment in the zoning, subdivision, or other governing ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge. During these protected periods, the court shall retain or assume jurisdiction for the purpose of awarding such supplemental relief as may be necessary

SECTION 27-1912. PROCEDURE TO OBTAIN PRELIMINARY OPINION

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

- 1. The landowner may submit plans and other materials describing his proposed use or development to the Zoning Officer for a preliminary opinion as to their compliance with the applicable ordinances and maps. Such plans and other materials shall not be required to meet the standards prescribed for preliminary, tentative, or final approval or for the issuance of a building permit so long as they provide reasonable notice of the proposed use or development and a sufficient basis for a preliminary opinion as to its compliance.
- 2. If the Zoning Officer's preliminary opinion is that the use or development complies with this ordinance or map, notice thereof shall be published once each week for two (2)

successive weeks in a newspaper of general circulation. Such notice shall include a general description of the proposed use or development and its location, by some readily identifiable directive, and the place and times where the plans and other materials may be examined by the public. The favorable preliminary approval and the time therein specified for commencing a proceeding with the Board shall run from the time when the second notice thereof has been published.

SECTION 27-1913. APPEALS TO COURT

All appeals from all land use decisions rendered pursuant to any proceeding under this ordinance shall be taken to the Court of Common Pleas of Lancaster County and shall be filed within thirty (30) days after entry of the decision or, in the case of a deemed decision, within thirty (30) days after the date upon which notice of said deemed decision is given.

SECTION 27-1914. AMENDMENTS

The Borough Council may from time to time, after public notice and hearing as hereinafter prescribed, amend, supplement, change, or repeal this ordinance, including the Zoning Map. Any amendment, supplement, change, or repeal may be initiated by the Borough Planning Commission, the Borough Council, or by a petition to the Borough Council. Such amendment, supplement, change, or repeal shall be submitted to the Borough Planning Commission for its recommendations and shall be specifically found by the Borough Council to be in accordance with the spirit and intent of the formally adopted portions of the Comprehensive Plan before final action shall be taken by the Borough Council.

1. Amendments initiated by the Borough Planning Commission. When an amendment, supplement, change, or repeal is initiated by the Borough Planning Commission, the proposal shall be presented to the Borough Council, who shall then proceed in the same manner as with a petition to the Borough Council, which has already been reviewed by the Borough Planning Commission.

2. Amendment initiated by the Borough Council. When an amendment, supplement, change, or repeal is initiated by the Borough Council, it shall submit the proposal to the Borough Planning Commission for review and recommendations.

3. Procedure for petition. The petition for amendment, supplement, change, or repeal shall contain as fully as possible all the information requested by the Zoning Officer and shall be signed by at least one record owner of the property in question, whose signature shall be notarized, attesting to the truth and correctness of all the facts and information presented in the petition. A fee to be established by the Borough Council shall be paid upon the filing of such petition for change and for the purpose of defraying the costs of the proceedings prescribed herein.

4. Referral to Township and Lancaster County Planning Commissions.

A. After receipt of the petition by the Borough Council; said petition shall be presented to the Borough Planning Commission for review and recommendations at least thirty (30) days prior to

the public hearing. A report of said review, together with any recommendations, shall be given to the Borough Council in writing within thirty (30) days from the date of said referral. If the Borough Planning Commission shall fail to file such a report within the time and manner specified, it shall be conclusively presumed that the Borough Planning Commission has approved the proposed amendment, supplement, change, or repeal.

B. The proposed ordinance shall also be referred to the Lancaster County Planning Commission for recommendations in accordance with Section 609 of the Pennsylvania Municipalities Planning Code, Act 247, as amended.

5. Public hearing.

A. The Borough Council shall fix a time and place for a public hearing at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in one newspaper of general circulation in the Borough once each week for two (2) successive weeks, not more than sixty (60) days and not less than seven (7) days prior to the date of said hearings.

B. In addition, if the proposed amendment involves a Zoning Map change, notice of said public hearing shall be conspicuously posted by the Borough at points deemed sufficient by the Borough along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one (1) week prior to the date of the hearing.

6. Action by the Borough Council.

A. If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, the governing body shall hold another public hearing, pursuant to public notice. Notice of the proposed amendment must also be published at least ten (10) days prior to enactment.

B. Within thirty (30) days of enactment, a copy of the amendment shall be forwarded to the Lancaster County Planning Commission.

7. Authentication of Official Zoning Map. Whenever there has been a change in the boundary of a zoning district or a reclassification of the zoning district adopted in accordance with the above, the change on the Official Map shall be made and shall be duly certified by the Borough Manager and shall thereafter be refiled as part of the permanent records of the Borough.

ARTICLE XX. VALIDITY AND SEVERANCE

If any article, section, sub-section, provision, regulation, limitation, restriction, sentence, clause, phrase, or word in the Zoning Ordinance is declared for any reason 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 other article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, work, or remaining portion of the Zoning Ordinance. Borough Council hereby declares that it would have adopted the Zoning Ordinance and each article, section, sub-section, provision, regulations, limitation, restriction, sentence, clause, phrase, and worked thereof, irrespective of the fact that any one or more of the articles, sections, sub-sections, provisions, regulations, limitations, restrictions, sentences, clauses, phrases, or words may be declared illegal, unconstitutional, or invalid.

ARTICLE XXI. REPEALER

Any Resolution, Ordinance or part of any Resolution or Ordinance inconsistent herewith and any amendments thereof, are hereby expressly repealed.

ARTICLE XXIII. EFFECTIVE DATE

This Zoning Ordinance shall take effect and be in force immediately upon adoption by the Borough Council of the Borough of Akron.

Duly Ordained this _____ day of _____, _____

ATTEST:

Borough Council

Borough of Akron

By

Susan Davidson, Secretary

(Vice) President, Borough Council

Mayor