

CHAPTER XXVIII

ZONING

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Part 1

General Provisions

Section 1. Title.¹ The official title of this ordinance² is "New Bethlehem Borough Zoning Ordinance."³ (Ordinance 688, December 14, 1970, Article I, Section 101)

Section 2. Definitions. Certain words or terms that appear in this ordinance⁴ are defined in Article VIII.⁵ (Ordinance 688, December 14, 1970, Article I, Section 103).

Section 3. Compliance. No structure shall be located, erected, constructed, reconstructed, moved, altered, converted, or enlarged, nor shall any structure or land be used or designed to be used except in full compliance with all of the provisions of this ordinance⁶ and after the lawful issuance of all permits and certificates required by this ordinance. (Ordinance 688, December 14, 1970, Article I, Section 104)

Section 4. Severability. If any provision of this ordinance⁷ or the application of any provision to particular circumstances is held invalid, the remainder of the ordinance or the application of such provision to other circumstances shall not be affected. (Ordinance 688, December 14, 1970, Article I, Section 105)

¹ This heading and the headings of Sections 2 to 23, and 42 to 114 of this chapter, are part of this ordinance as enacted.

² Sections 1 to 121 of this chapter.

³ Section 102 of this ordinance stated that the ordinance was to take effect December 14, 1970.

⁴ Sections 1 to 121 of this chapter.

⁵ Section 121 of this chapter.

⁶ Sections 1 to 121 of this chapter.

⁷ Sections 1 to 121 of this chapter.

Section 5. Conflict. Whenever there is a difference between minimum standards or dimensions or provisions specified herein⁸ and those contained in other regulations, resolutions or ordinances of the Borough, the highest standards shall govern. (Ordinance 688, December 14, 1970, Article I, Section 106)

(Chapter XXVIII, Sec. 6)

Section 6. Community Development Objectives. This Ordinance⁹ and Zoning Map are intended to promote, protect and facilitate the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, the provision of adequate light and air, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, public grounds and other public requirements as well as preventing the overcrowding of land, light, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers. More specifically these broad purposes are designed to clearly achieve the objectives of the New Bethlehem Comprehensive Plan. The specific objective upon which the Comprehensive Plan and this ordinance have been based include the following:

1. To support and encourage order and development of New Bethlehem's environment for the convenience and pleasure of present citizens and future residents through sound land development practices.
2. To encourage future land development to complement a harmonious and efficient pattern of future Borough growth.
3. To encourage future residential use to occur within compact neighborhood units.
4. To guide commercial development in such a way as to minimize adverse influences on adjacent streets and highways and to maintain and protect existing commercial uses.
5. To protect property values to insure suitable, attractive and efficient community environment.
6. To encourage developers to incorporate adequate public facilities and open spaces in neighborhood design.

(Ordinance 688, December 14, 1970, Article I, Section 107)

⁸ In this ordinance, Sections 1 to 121 of this chapter.

⁹ Sections 1 to 121 of this chapter.

Section 7. Effect of Annexations. In the event that an area is annexed to the Borough of New Bethlehem, the most restrictive classification (R-1 Residential) shall be applied to such area until such time as the Borough Planning Commission has made a study of the annexed land and reported its recommendations to Borough Council. The Planning Commission shall submit such recommendations to Council within 90 days after final action of annexation. (Ordinance 688, December 14, 1970, Article I, Section 108)

(Chapter XXVIII, Sec. 21)

See Map.

Part 2

Zoning Map, Districts and Boundaries

Section 21. Zoning Map. A map entitled "New Bethlehem Borough Zoning Map" is hereby adopted as part of this ordinance.¹¹⁰ The official Zoning Map shall be kept on file available for examination at the Borough Building. (Ordinance 688, December 14, 1970, Article II, Section 201)

Section 22. Zoning District. The Borough is divided into the following districts as shown by the district boundaries on the Zoning Map:

- R-1 Residential
- R-2 Residential
- B Commercial
- IN Industrial
- C Conservation

(Ordinance 688, December 14, 1970, Article II, Section 202)

Section 23. District Boundaries. The boundaries between districts are centerlines of streets, alleys, railroad rights-of-way, streams, or such lines extended, or lines parallel thereto or concentric therewith, or property lines when proximate thereto, or may be lines otherwise indicated on the Zoning Map. When the Zoning Administration Officer cannot definitely determine the location of a district boundary, he shall deny the application and the Zoning Hearing Board, upon appeal, shall interpret the location of the district boundary. (Ordinance 688, December 14, 1970, Article II, Section 203)

Section 24. Territory Added to R-1 Residential District. (This section is reserved to accommodate future ordinances.)

¹⁰ Sections 1 to 121 of this chapter.

Section 25. Territory Added to R-2 Residential District.

1. The zoning district of a tract of land hereinafter described is changed from (B) Commercial to (R-2) Residential and the Borough Zoning Map is ordered changed accordingly to permit the construction of a high-rise apartment structure for the elderly under a federal housing program. The tract is bounded and described as follows:

On the north by Broad Street;

On the east by the McEwen Building;

On the south by Water Street; and

On the west by Wood Street.

Frontage on Broad Street is 120 feet.^{10.1} (Ordinance 716, April 14, 1975, Section 1)

2. The zoning district of a tract of land hereinafter described is changed from (B) Commercial to (R-2) Residential for the construction of a low income housing project by the Housing Authority of the County of Clarion. The tract is bounded and described as follows:

On the north by the north line of Willow Street a/k/a Broad Alley;

On the east by lands of Redbank Valley School Building Authority;

On the south by Redbank Creek; and

^{10.1} Section 2 of this Ordinance stated that it was enacted after proper hearing procedure.

On the west by Walnut Street.

Frontage on Broad Alley is approximately 850 feet.

(Ordinance 756; January 14, 1980, Section 1)

(Chapter XXVIII, Sec. 26)

Section 26. Territory Added to B Commercial District.

1. The zoning district of the tract of land hereinafter described is changed from R-2 Residential to B Commercial and the Borough Zoning Map is ordered changed accordingly. The tract is bounded and described as follows:

On the north by Jockey Alley;

On the east by Wood Street;

On the south by Water Street; and

On the west by Liberty Street.¹¹²

(Ordinance 696, December 13, 1971, Section 1)

2. The zoning district of a tract of land hereinafter described is changed from (R-2) Residential to (B) Commercial, since the low income housing project planned by the Housing Authority of the County of Clarion will not be built on this tract. The tract is bounded and described as follows:

On the north by the north line of Willow Street a/k/a Broad Alley;

On the east by lands of Redbank Valley School Building Authority;

On the south by Redbank Creek;

¹¹ Section 2 of Ordinance 696 provided that that ordinance would be enacted after notice of a public hearing on the amendment; a public hearing was held by council on December 13, 1971.

On the west by Walnut Street.

Frontage on Broad Alley is approximately 850 feet.

(Ordinance 759, July 14, 1980, Section 1)

(Chapter XXVIII, Sec. 27)

Section 27. Territory Added to IN Industrial District.
(This section is reserved to accommodate future ordinances.)

(Chapter XXVIII, Sec. 28)

Section 28. Territory Added to C Conservation District.
(This section is reserved to accommodate future ordinances.)

Part 3

District Regulations

Section 41. Scope and Application. Lot and yard dimensions, permitted uses, conditional uses and maximum height of structures are specified for each district. Any use not expressly listed for a district is prohibited in that district. Conditional uses (special exceptions) require approval of the Zoning Hearing Board, whereas permitted uses require only normal application procedures. Uses which are normally accessory to the declared permitted uses are also permitted. (Ordinance 688, December 14, 1970, Article III, Introductory Section)

Section 42. R-1 Residential District. The purpose of this district is to promote and encourage the development of single-family detached dwellings in an amenable and aesthetically pleasing manner. Accordingly and in consideration of safety, health and environmental effects only single-family detached dwellings and those uses most closely related to this type of development are to be permitted within this district.

Permitted Uses

1. Single-family detached dwellings
2. Public and parochial schools
3. Churches
4. Public parks and playgrounds
5. Essential services
6. Home occupation (specifically enumerated in Part 4, Section 72)

Conditional Uses

1. Planned Unit Development
2. Fire stations
3. Mobile homes
4. Home occupation (specifically enumerated in Part 4, Section 72)
5. Bed and Breakfast

(Ordinance 688, December 14, 1970, Article III, Section 301; as amended by Ordinance 784, January 9, 1984, Sections 1 and 2; as amended by Ordinance 819, April 11, 1995, Section 1.)

Section 43. R-2 Residential District. The purpose of this district is to provide adequate space for the development of multi-family dwellings and single-family detached dwellings in a more compact pattern in keeping with the requirements and needs for more dense development, particularly in close proximity to the urban core. This district also acts as a transitional zone between the commercial and industrial areas and the single-family residential district.

Permitted Uses

Conditional Uses

1. Single-family detached dwellings
2. Multiple-family dwellings
3. Churches

1. Tourist homes (rooming and boarding houses)
2. Nursing and convalescent homes

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(Chapter XXVIII, Sec. 43, cont'd)

Permitted Uses

4. Public parks and playgrounds
5. Municipal buildings
6. Home occupations (specifically enumerated in Part 4, Section 72)
7. Essential services

Conditional Uses

3. Funeral homes
4. Fire stations
5. Public utility buildings
6. Planned unit development
7. Home occupation (specifically enumerated in Part 4, Section 72)

(Ordinance 688, December 14, 1970, Article III, Section 302; as amended by Ordinance 784, January 9, 1984, Sections 3 and 4)

Section 44. B Commercial District. The purpose of this district is to provide a compact core within the Borough center for the adequate provision of commercial establishments. The permitted uses and control established within this district will maintain the basic character of the area while permitting those uses normally associated with the downtown commercial district and prohibiting those uses which either aesthetically or economically are not fully compatible with the commercial district.

Permitted Uses

1. Retail business
2. Eating and drinking establishments
3. Food stores
4. Offices
5. Personal, professional and business services
6. Commercial schools
7. Indoor commercial amusement
8. Clubs
9. Funeral homes, mortuaries
10. Hotels and motels
11. Churches
12. Parks and playgrounds
13. Auto sales, service and repair
14. Essential services

Conditional Uses

1. Municipal buildings
2. Public utility buildings
3. Animal clinics
4. Hospitals and clinics for humans
5. Fire stations
6. Wholesale business
7. Printing, lithographing and publishing plants
8. Auto laundries
9. Auto parking lots and parking garages
10. Residences above first floor
11. Planned unit development

(Ordinance 688, December 14, 1970, Article III, Section 303)

Section 45. IN Industrial District. The purpose of this district is to provide for industrial development in those areas presently being utilized for industrial purposes within the Borough, and to contain these uses within those areas most suitable for industrial development. Because of

the limited amount of land available in the Borough and the extent to which development has already taken place, industrial use is permitted only in those areas presently served by railroad facilities, and therefore, considered amenable to industrial development.

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(Chapter XXVIII, Sec. 45, cont'd)

Permitted Uses

1. Research and testing laboratories
2. Office buildings

Light manufacturing (as defined by Article VIII)¹¹³ including production of the following goods: home appliances; electrical instruments; office machines; precision instruments; electronic devices; timepieces; jewelry; optical goods; musical instruments; novelties; wood products; printed material; lithographic plates; type composition; machine tools; dies and gauges; ceramics; apparel; light-weight non-ferrous metal castings; film processing; light sheet metal products; plastic goods, pharmaceutical goods and food products, but not including animal slaughtering, curing and rendering of fats.

3. Railroad freight facilities
4. Auto sales, service and repair
5. Wholesale and warehouse establishments
6. Laundry and dry cleaning plants
7. Auto parking lots and parking garages
8. Essential services

Conditional Uses

1. Water storage
2. Truck terminals
3. Bulk fuel storage
4. Public utility buildings
5. Fire stations

(Ordinance 688, December 14, 1970, Article III, Section 304).

Section 46. C Conservation District. This district is to conserve or retain land which because of its location, features or present use is peculiarly suited to conservation as open space or recreational area.

¹² Section 121.29 of this chapter.

Permitted Uses

1. Public parks, playgrounds, preserves, or similar open recreation use of a non-profit nature
 2. Public and parochial schools
 3. Cemeteries
 4. Water storage
 5. Essential services
- (Ordinance 688, December 14, 1970, Article III, Section 305)

Section 47. Lot Requirements.

Zoning District	Minimum Area (square feet) ¹	Minimum Lot Width (feet) ²	Minimum Front Yard (feet) ³	Minimum Side		Minimum Rear Yard (feet)	Maximum Building Height (feet)	Maximum Lot Coverage (%)
				Yards (feet) One	Total Both Sides			
R-1 Residential	10,200	65	35	4	12	40	35	25
R-2 Residential	5,000+ ⁵ 1,000/family	65	20	4	12	40	60	40
B Commercial	---	---	---	-- ⁽⁴⁾	--	15	60	50
IN Industrial	6,500	65	25	10 ⁴	20	--	40	50
C Conservation	---	---	35	10	20	--	35	25

¹ When computing lot areas for compliance with minimum lot area requirements, only that area having a slope of less than 20 percent shall be considered at full value. Any area having a slope greater than 20 percent shall be credited at one-tenth of the total surface area in the computation of minimum lot area.

² Lot width measured at building line; may never be less than 25 feet at front property line.

³ In existing built-up areas, front yard may be equal to average setback established by existing buildings within 150 feet of proposed building.

⁴ For nonresidential uses abutting a residential district, see Section 403.4. ¹³

⁵ High-rise structures for the elderly constructed under a federal program will be permitted to meet the area requirements of federal regulations. The minimum square feet per unit shall be 500. (Ordinance 688, December 14, 1970, Article III, Section 306)

¹³ Section 63.4 of this chapter.

Part 4

Supplementary Regulations

Section 61. Non-conforming Uses. The following provisions shall apply to all non-conforming uses and structures:

1. Any non-conforming use may be continued but may not be extended or expanded or changed unless to a conforming use, except as permitted by the Zoning Hearing Board in accordance with the provisions of this ordinance.¹⁴

2. Any non-conforming structure damaged by fire, flood, explosion or other casualty may be reconstructed and used as before if such reconstruction is performed within twelve (12) months of such casualty, and if the restored structure covers no greater area and contains no greater cubic content than before such casualty.

3. The non-conforming use of a building may be extended throughout those parts hereof which were manifestly arranged or designed for such use at the time of adoption of this ordinance. A non-conforming building or structure may, with the approval of the Zoning Hearing Board, be extended or enlarged but must meet minimum yard requirements of the district in which the structure is located and must meet the off-street parking and loading requirements of this ordinance.

4. If no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or more restricted classification.

5. A structure that has been razed shall not be reconstructed for a use that does not conform with the provisions of this ordinance.

6. Any structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition.

7. Once changed to a conforming use, no structure or land shall be permitted to revert to a non-conforming use.

8. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, this article¹⁵ shall also apply to any uses which thereby become non-conforming.

(Ordinance 688, December 14, 1970, Article IV, Section 401)

14. Sections 1 to 121 of this chapter.

15. This section.

Section 62. Existing Lots of Record. Any lot of record existing at the effective date of this ordinance¹⁶ and held in separate ownership different from the ownership of adjoining lots may be used for the erection of a structure conforming to the use regulations of the district in which it is located, even though its dimensions are less than the minimum requirements of this ordinance,¹⁷ except as set forth hereinafter. Where two or more adjacent lots of record with less than the required area and width are held by one owner on or before the date of enactment of this ordinance, the request for a permit shall be referred to the Zoning Hearing Board which may require replatting to fewer lots which would comply with the minimum requirements of this ordinance. (Ordinance 688, December 14, 1970, Article IV, Section 402)

Section 63. Application for Yard Regulations.

1. Lots which abut on more than one street shall provide the required front yards along every street.
2. All structures, whether attached to the principal structure or not, and whether open or enclosed, including porches, carports, balconies or platforms above normal grade level, shall not project into any minimum front, side or rear yard.
3. Except as hereinafter required, a wall or fence under six feet in height, or higher if a retaining wall, and paved terraces without walls, roofs or other enclosures, may be erected within the limits of any yard.
4. Nonresidential buildings hereafter constructed or uses hereafter established shall not be located or conducted closer to any lot line in any of the residential districts than the distance specified in the following schedule:

<u>Use</u>	<u>Rear Yard</u>
Off-street parking spaces and access drives for nonresidential uses	20 Feet
All other nonresidential uses or structures	40 feet

(Ordinance 688, December 14, 1970, Article IV, Section 403 of this chapter)

16. See Note 3 of this chapter.
17. Sections 1 to 121 of this chapter.

Minimu

(Chapter XXVIII, Sec. 64)

Section 64. Temporary Structures. Temporary structures used in conjunction with construction work shall be permitted only during the period that the construction work is in progress. Permits for temporary structures shall be issued for a six-month period. Residing in basement or foundation structures before completion of the total structure shall not be permitted. (Ordinance 688, December 14, 1970, Article IV, Section 404)

Section 65. Height Limitation. The following structures are exempt from height regulations: television and radio towers, church spires, belfries, cooling stacks, conveyors and flagpoles. (Ordinance 688, December 14, 1970, Article IV, Section 405)

Section 66. Off-Street Loading and Parking. Off-street loading and parking spaces shall be provided in accordance with the specifications in this section in all districts whenever any new use is established or an existing use is enlarged.

1. Off-Street Loading: Every building which requires the receipt or distribution by vehicles of material or merchandise shall provide off-street loading berths in accordance with the table below:

OFF-STREET LOADING SPACE REQUIREMENTS

<u>Uses</u>	<u>Square Feet of Floor Area</u>	<u>Required Off-Street Loading Berths</u>
1. Schools	15,000 or more	1
2. Undertakers and funeral parlors	5,000	1
	For each additional 5,000 or major fraction thereof	1 additional
3. Hotels and offices	10,000 or more	1
4. Commercial, wholesale, manufacturing and storage	10,000 - 25,000	1
	25,000 - 40,000	2
	40,000 - 60,000	3
	60,000 - 100,000	4
	For each additional 50,000 or major fraction thereof	1 additional

Each loading space shall not be less than twelve (12) feet in width, fifty-five (55) feet in length, and fourteen (14) feet in height.

2. Off-Street Parking:

(a) Size and Access: Each off-street parking space shall have an area of not less than 180 square feet (nine (9) feet in width and twenty (20) feet in length) exclusive of access drives or aisles, and be in usable shape and condition. Except in the case of dwellings, no parking area shall contain less than three spaces. There shall be adequate ingress and egress to all parking spaces. Where a lot does not abut on a public or private alley or easement of access, there shall be provided an access drive leading to the parking or storage areas or loading spaces. Such access drive shall not be less than ten (10) feet wide. Access to off-street parking areas shall be limited to several well-defined locations, and in no case shall there be unrestricted access along the length of a street or alley. The parking area and access drives shall be improved by all-weather surfacing.

(b) Number of Parking Spaces Required: The number of off-street parking spaces required is set forth below. Where the use of the premises is not specifically mentioned, requirements for similar uses shall apply.

OFF-STREET PARKING SPACE REQUIREMENTS

<u>Uses</u>	<u>Required Parking Space</u>
1. Automobile laundry	5 for each wash lane
2. Automobile sales and service garages	1 for each 400 sq. of floor area
3. Banks or professional offices	1 for each 200 sq. ft. of floor area
4. Churches and schools	1 for each 3.5 seats in an auditorium or 1 for each 17 classroom seats, whichever is greater
5. Bowling alleys	7.5 for each alley
6. Community buildings and social halls area	1 for each 100 sq. ft. of floor area
7. Beauty parlors and barber shops	1.5 for each chair

(Chapter XXVIII, Sec. 66(2)b, cont'd)

<u>Uses</u>	<u>Required Parking Space</u>
8. Dwellings*	1 for each family or dwelling unit, except as noted
9. Food supermarkets	1 for each 100 sq. ft. of floor area
10. Funeral homes, mortuaries	5 for each parlor
11. Furniture or appliance stores	1 for each 200 square feet of floor area
12. Hospitals, nursing or convalescing homes	1 for each 2 beds
13. Hotels and motels	1 for each living or sleeping unit
14. Manufacturing plants, research or testing laboratories, bottling plants	1 for each 500 sq. ft. of floor area
15. Medical or dental offices	5 for each doctor or dentist
16. Restaurants, taverns and night clubs	1 for each 2.5 seats
17. Retail stores and shops	1 for each 200 sq. ft. of floor area
18. Rooming houses and dormitories	1 for each 2 bedrooms
19. Service stations	3 for each service bay
20. Sports arenas, auditoriums, theaters, assembly halls	1 for each 3.5 seats
21. Trailer or monument sales	1 for each 2,500 sq. ft. of lot area
22. Wholesale establishments or warehouses	1 for each 2 employees on maximum shift. The total parking area shall not be less than 25 percent of the building floor area.

* For apartment structures for the elderly, constructed under federal programs, parking requirements shall be those as imposed by federal regulations, but in no event will be less than 1 space for each 5 dwelling units.

3. Location of Parking Areas: Required parking spaces shall be located on the same lot with the principal use. The Zoning Hearing Board may permit parking spaces to be located not more than 400 feet distant from the lot of the principal use if located in the same zoning district as the principal use, and the Board finds that it is impractical to provide parking on the same lot with the principal use.

4. Screening and Landscaping: Off-street parking areas for more than five vehicles, and off-street loading areas, shall be effectively screened on each side which adjoins or faces any residential district.

5. Minimum Distances and Setbacks: No off-street loading or parking area for more than five vehicles shall be closer than twenty feet to any adjoining property containing a dwelling, school, hospital, or similar institution and in accordance with Article 403.4 of this ordinance.¹¹⁴

6. Surfacing: All parking and loading areas and access drives shall have a paved surface, graded and drained to dispose of all surface water, and designed to provide for orderly and safe loading and parking.

7. Lighting: Any lighting used to illuminate off-street parking or loading areas shall be arranged so as to reflect the light away from adjoining premises of any residential district.

(Ordinance 688, December 14, 1970, Article IV, Section 406)

Section 67. Mobile Homes. Individual mobile homes, house trailers, modular homes, or similar factory-assembled dwellings are permitted in the residential district if they comply to all requirements of the district, including being located on their own individual lot. For purposes of this section, such a dwelling unit must consist of at least 480 square feet of living area. (Ordinance 688, December 14, 1970, Article IV, Section 407)

Section 68. Planned Unit Development. The Zoning Hearing Board may permit departures from the zoning regulations for any planned unit development in the manner herein provided for conditional uses,¹¹⁵ if the planned project meets the following requirements:

1. The area of land to be developed is not less than two (2) acres.
2. Adjacent properties will not be adversely affected.

¹⁸ Section 63.4 of this chapter.

¹⁹ See Section 94 of this chapter.

3. The plan shall be consistent with the intent and purpose of this ordinance.²¹⁶

4. A complete plan for the area is submitted for review and approval by the Borough Planning Commission and Borough Council to determine if the proposed project is consistent with the Comprehensive Plan.

5. A minimum of one (1) acre per one hundred (100) dwelling units shall be reserved for recreational use, with no such recreation area to be less than one (1) acre.

6. For purposes of this section any urban renewal plan approved by the Planning Commission and adopted by the Borough shall be considered a planned unit development. (Ordinance 688, December 14, 1970, Article IV, Section 408)

Section 69. Signs. No sign shall be permitted except as herein provided:

1. In any district all signs except those maintained pursuant to and in the discharge of any law, ordinance, governmental regulation or function shall comply with the follow general requirements:

(a) They shall not be illuminated in any manner which will cause undue distraction, confusion or hazard to vehicular traffic.

(b) No blinking or flashing signs of any type are permitted.

(c) Unless attached to the principal building, they must be located at least ten (10) feet back from all property lines except in the B Commercial District where they project not more than five (5) feet over a public right of way.

(d) They shall not extend above the roof line.

2. No sign shall be permitted in residential districts except as herein provided:

(a) One sign not exceeding two (2) square feet will be permitted which announces the name and professional activity of the occupant of the premises on which said sign is located.

(b) One bulletin board not exceeding twenty-five (25) square feet in area will be permitted in connection with any church, school or similar public structure.

²⁰ Sections 1 to 121 of this chapter.

(Chapter XXVIII, Sec. 69(2) cont'd)

(c) One temporary real estate or political sign not exceeding six (6) square feet in area will be permitted on the property. Such sign shall be removed promptly when it has fulfilled its function.

(d) One development sign not exceeding thirty (30) square feet and advertising a building or improvement or future use of a building being constructed or altered upon the premises may be erected thirty (30) days prior to the start of construction, during active construction and for not more than thirty (30) days after completion.

3. In business and industrial districts, no sign shall be permitted except as herein provided:

(a) Signs in connection with any legal commercial or industrial use or structure will be permitted on the premises of the business, provided, that said signs will not be limited in number if erected so that they do not project over a public right-of-way or sidewalk. One sign only will be permitted when it projects over the public right-of-way or sidewalk.

(b) They shall contain no information or advertising for any product or service not sold or processed on the premises.

(c) They shall have an aggregate area not greater than one and one-half square feet for each foot of width of the principal building on the premises.

(Ordinance 688, December 14, 1970, Article IV, Section 409; as amended by Ordinance 774, April 12, 1982, Section 1)

Section 70. Mineral Excavations. Excavation of sand, gravel, coal, oil, gas or other material from the ground shall not be permitted in the Borough. Drilling for natural gas shall be permitted upon application for a permit, approval by the Borough Building Permit Officer and compliance with the New Bethlehem Borough Gas Well Drilling Ordinance. (Ordinance 688, December 14, 1970, Art. IV, Section 410; as amended by Ordinance 771, April 12, 1982, Section 1)

Section 71. Junk Yards and Similar Storage Areas (Including Automobile Wrecking)

1. All junk yards shall be completely screened from roads or developed areas with a solid fence or wall 6' or more in height, maintained in good condition, and painted (except for masonry construction), or with suitable plantings. All existing junk yards shall comply with this provision of the ordinance within one year from the date of this amendment or shall terminate their operation.

2. No junk yards established after the effective date of this ordinance ²¹⁷ shall be located closer than 1,000' to existing State and Federal roads, nor closer than 100' to a Borough street.
(Chapter XXVIII, Sec. 71, cont'd)

3. Access to and egress from junk yards established after the effective date of this ordinance ²¹⁸ shall not be from State and Federal roads.

(Ordinance 688, December 14, 1970, Article IV, Section 411)

Section 72. Home Occupations. A home occupation shall be clearly incidental and secondary to the use of the dwelling unit for residential purposes. The following additional conditions shall be observed:

1. The occupation is customarily carried on in a dwelling unit or in a structure or building accessory to a dwelling unit; and

2. The occupation is carried on by a member of the family residing in the dwelling unit, with not more than one employee outside the family; and

3. The occupation is carried on wholly within the principal structure or accessory structure; and

²¹⁹ 4. There shall be no exterior display, exterior sign other than permitted by Section 409, no exterior storage of materials, and no exterior indication of the home occupation or variation from the residential character of the principal structure; and

5. No offensive odor, vibration, smoke, dust, heat or glare shall be produced; and

6. The occupation shall occupy no more than 30 percent of the principal structure.

Home occupations must be similar in nature to art studios; dressmaking; professional offices of physicians, dentists, lawyers, engineers, architects or accountants; real estate offices; insurance offices; barber shops and beauty parlors; or teaching.

(Ordinance 688, December 14, 1970, Article IV, Section 412)

²¹ See Note 3 of this chapter.

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²² See Note 3 of this chapter.

²³ Section 69 of this chapter.

Part 5

Administration, Enforcement and Violations

Section 81. Zoning Administration Officer. Borough Council shall appoint the Zoning Administration Officer who shall administer and enforce the provisions of this ordinance.²²⁰ (Ordinance 688, December 14, 1970, Article V, Section 501)

Section 82. Duties of the Zoning Administration Officer. The Zoning Administration Officer shall enforce all the provisions of the Zoning Ordinance²²¹ and shall have such duties and powers as are conferred on him by the Zoning Ordinance and are reasonably implied for that purpose.

1. Applications, Zoning Certificates, Building Permits and Inspection: He shall receive applications for zoning certificates, building permits and occupancy permits and make all inspection in accordance with the provisions of the Zoning Ordinance.

2. Inspection: The Zoning Administration Officer may examine or cause to be examined all structures and/or land for which an application has been filed for zoning certificate, and he may conduct such inspections from time to time during and at completion of the work for which a zoning certificate has been issued.

3. Non-conforming Uses: The Zoning Administration Officer shall maintain an up-to-date list of all non-conforming uses.

(Ordinance 688, December 14, 1970, Article V, Section 502)

Section 83. Zoning Certificates.

1. Requirements: Until the Zoning Administration Officer has issued a zoning certificate applicable thereto, no person shall:

- (a) Occupy or use any vacant land; or
- (b) Construct, reconstruct, move, alter or enlarge any structure; or
- (c) Change the use of a structure or land to a different use; or
- (d) Change a non-conforming use.

²⁴ Sections 1 to 121 of this chapter.

²⁵ This ordinance, Sections 1 to 121 of this chapter.

2. Expiration of Zoning Certificate: The zoning certificate shall expire six months from the date of its issuance.

3. Application and Fees: Each applicant for a zoning certificate shall present, with the application, a plot plan showing clearly and completely the location, dimensions and nature of any structures involved and such other information as the Zoning Administration Officer may require as to compliance with the ordinance,²²² together with a filing fee in accordance with a schedule fixed by resolution of Borough Council.

(a) Fees for zoning certificate shall be as established by the Zoning Officer and the Borough.

(Ordinance 688, December 14, 1970, Article V, Section 503)

Section 84. Occupancy Permit. After the purposes of a zoning certificate have been completed by an applicant, the Zoning Officer shall be notified and inspect the work to verify that it has been carried out in accordance with the zoning certificate.

No building hereafter constructed, erected or altered shall be occupied or used in whole or in part for any use whatsoever, and no change of use of any building or part thereof shall hereafter be made, until an occupancy permit has been issued by the Zoning Officer, certifying that the building use complies with the provisions of this ordinance.²²³

(Ordinance 688, December 14, 1970, Article V, Section 504)

Section 85. Violations. Any person who violates the provisions of this ordinance²²⁴ shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not more than five hundred dollars (\$500). In default of payment of the fine, such person shall be liable to imprisonment for not more than (60) days in accordance with Section 617 of the Pennsylvania Planning Code. Any person who continues any such violation beyond one (1) calendar day shall be deemed to have committed a separate offense for each calendar day such violation continues. (Ordinance 688, December 14, 1970, Article V, Section 505)

²⁶ This ordinance, Sections 1 to 121 of this chapter.

²⁷ Sections 1 to 121 of this chapter.

²⁸ Sections 1 to 121 of this chapter.

Part 6

ZONING HEARING BOARD

Section 91. General. In accordance with Article IX of the Pennsylvania Planning Code, a Zoning Hearing Board shall be appointed and organized, which Board shall adopt rules to govern its procedure. The Board shall hold meetings, keep minutes, and, pursuant to notice, conduct hearings, compel the attendance of witnesses, take testimony under oath, and render decisions in writing within forty-five (45) days after hearing or continued hearing, all as required by law. For the filing of an appeal or proceeding with the Board, a fee shall be charged in accordance with a schedule fixed by the Borough Council.

Except as provided in Section 912 of the Pennsylvania Plan Code, the Board shall have no power to pass upon the validity of any provision of an ordinance or map adopted by the Borough.

(Ordinance 688, December 14, 1970, Article VI, Section 601)

Section 92. Appeals. Any person or Borough official aggrieved or affected by any provision of this ordinance²²⁵ or by any decision of the Zoning Administration Officer may appeal to the Zoning Hearing Board within a reasonable time, as provided by rules of the Board, by filing a notice of appeal specifying the grounds thereof. The Board shall have the power to hear and decide appeals from any order, requirement, decision, grant or refusal made by the Administration Officer in the administration of this ordinance. All appeals and applications made to the Board shall be in writing on forms prescribed by the Board.

Every appeal or application shall refer to the specific provision of the ordinance involved, and shall set forth exactly the interpretation that is claimed, the use for which the special permit is sought, or the details of the variance that is applied for and the grounds on which it is claimed that variance should be granted, as the case may be. At least ten days before the date of the hearing on an application or appeal, the Board shall transmit to the Borough Planning Commission a copy of said application or appeal in order that the Planning Commission may have an opportunity of submitting a report or opinion to the Board.

²⁹ Sections 1 to 121 of this chapter.

The hearing shall be conducted in accordance with Section 908 of the Pennsylvania Planning Code. The Zoning Hearing 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, but the parties may waive decision or findings by the Zoning Hearing Board and accept the decision of the Hearing Officer as final.

(Ordinance 688, December 14, 1970, Article VI, Section 602)

Section 93. Variances. The Zoning Hearing Board, upon appeal, shall have the power to authorize variances from the provisions of this ordinance³²⁶ provided 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 the Zoning Ordinance in the neighborhood or district in which the property 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 the Zoning 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 minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

(Ordinance 688, December 14, 1970, Article VI, Section 603)

³⁰ Sections 1 to 121 of this chapter.

(Chapter XXVIII, Sec. 94)

Section 94. Conditional Uses (Special Exceptions). The Zoning Hearing Board shall have the power to decide applications for conditional uses as specified in this ordinance,³²⁷ in harmony with its general purpose and intent and in accordance with the standards set forth. The Board shall approve a conditional use only if it meets the following standards and criteria:

1. The use is compatible with adjacent uses and structures.
2. The use [is] suited to the topography and other characteristics of the site.
3. The use complies with all off-street parking and other provisions of this ordinance.

In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the health, safety and general welfare of the Borough.

(Ordinance 688, December 14, 1970, Article VI, Section 604)

Section 95. Non-conforming Uses. The Zoning Hearing Board shall have the power to authorize changes of lawful non-conforming uses as follows:

1. A non-conforming use which occupies a portion of a structure or premises may be extended within such structure or premises as they existed when the prohibitory provision took effect, but not in violation of the area and yard requirements of the districts in which such structure or premises are located.
2. The Board may impose such conditions as it deems necessary for the protection of adjacent property and the public interest.

(Ordinance 688, December 14, 1970, Article VI, Section 605)

Section 96. Appeal from Zoning Hearing Board's Decision. Any person aggrieved by any decision of the Zoning Hearing Board or any taxpayer or any officer of the Borough may within thirty (30) days after a decision is rendered by the Board, appeal to the Court of Common Pleas of Clarion County, Pennsylvania, in accordance with Article X of the Pennsylvania Planning Code. (Ordinance 688, December 14, 1970, Article VI, Section 606)

³¹ Sections 1 to 121 of this chapter.

(Chapter XXVIII, Sec. 111)

Part 7

Amendments

Section 111. General. Borough Council may introduce and consider amendments to this ordinance³²⁸ and to the Zoning Map, as proposed by a member of Borough Council, by the Zoning Commission, or by a petition of a person residing or owning property within the Borough. (Ordinance 688, December 14, 1970, Article VII, Section 701)

Section 112. Petitions. Petitions for amendment shall be filed with the Planning Commission, and the petitioner, upon such filing, shall pay an advertising deposit and a filing fee, payable to the Borough in accordance with a schedule fixed by the Borough Council. The Planning Commission shall review the proposed amendment and report its findings and recommendations in writing to Borough Council. (Ordinance 688, December 14, 1970, Article VII, Section 702)

Section 113. Referral. Any proposed amendment presented to Borough Council without written findings and recommendations from the Borough Planning Commission shall be referred to the Borough Planning Commission and the Clarion County Planning Commission for review prior to public hearing by the Borough Council. The Borough Planning Commission and the County Planning Commission shall report their findings and recommendations in writing to Borough Council within thirty (30) days of the referring action. (Ordinance 688, December 14, 1970, Article VII, Section 703)

Section 114. Action. Before acting upon a proposed amendment, Borough Council shall hold a public hearing thereon. Notice of such public hearing, containing a brief summary of the proposed amendment and a reference to the place where copies of the same may be examined, shall be published in a newspaper of general circulation in the Borough at least fourteen (14) days but not more than thirty (30) days prior to the date of the hearing. (Ordinance 688, December 14, 1970, Article VII, Section 704)

³² Sections 1 to 121 of this chapter.

Part 8

Definitions

Section 121. Definitions. Except where specifically defined herein, all words used in this ordinance³²⁹ shall carry their customary meanings. Words used in the present tense shall include the future. The singular number shall include the plural, and the plural the singular. The word "shall" is always mandatory and not permissive. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."

1. Accessory Use: a use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.
2. Alley: a narrow service way providing a secondary public means of access to abutting properties.
3. Area: Area of a lot or site shall be calculated from dimensions derived by horizontal projections of the site.
4. Basement: a story having more than 50 percent of its clear height below the average level of the surrounding ground. A basement shall be counted as a story for the purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five feet or if used for dwelling purposes.
5. Board (Zoning Hearing Board): The Zoning Hearing Board of the Borough of New Bethlehem, Clarion County, Pennsylvania.
6. Boarding, rooming, tourist or lodging house: a building where lodging is provided, for compensation, for five or more persons.
7. Building: a roofed structure enclosed by walls for the shelter, housing or enclosure of persons, goods or animals.
8. Building, Accessory: a building housing a use customarily incidental to a permitted principal use and located on the same lot with a permitted principal building.
9. Building, Principal: the building or portion thereof housing the main or primary use of the land. In any district, only one principal building may be placed on a lot.

³³ Sections 1 to 121 of this chapter.

(Chapter XXVIII, Sec. 121, cont'd)

10. Building Height: the vertical distance from the average elevation at grade level to the highest point of the deck of a flat roof or a mansard roof, or to the mean height between the eaves and the ridge for gable, hip and gambrel roofs.

11. Building or Setback Line: imaginary line parallel to or concentric with the nearest road right-of-way line. No portion of a building foundation or wall may extend nearer the lot line than the required front yard depth.

12. Business Service: any business activity which renders service to other commercial or industrial enterprises.

13. Cartway: that portion of a right of way which is paved, graded or improved for travel by vehicles.

14. Clinic: any establishment where human patients are examined and treated by doctors or dentists but not hospitalized overnight.

15. Club: an establishment operated by an organization for social, recreational, educational and fraternal purposes, but open only to members and their guests and not the general public.

16. Commission (or Planning Commission): The Planning Commission of the Borough of New Bethlehem, Clarion County, Pennsylvania.

17. Conditional Use: The term "conditional use" shall mean a "special exception." (See definition of "Special Exception.")³³⁰

18. Coverage: that percentage of the lot area covered by principal and accessory use structures.

19. Density: the area of a lot or group of lots computed exclusive of any portion of the right of way of any road divided by the number of families housed on the lot or group of lots.

20. Dwelling, Single Family: a detached building arranged or used for occupancy by one family having a habitable floor area of at least 800 square feet.

³⁴ In subsection 44 of this section.

21. Dwelling, Multiple: a building arranged or used as a residence for two or more families living independently of each other and doing their own cooking therein, including apartment houses, flats and group houses.

22. Dwelling Unit: one or more rooms for living purposes, together with separate cooking and sanitary facilities, used or intended to be used by one or more persons living together and maintaining a common household, and accessible from the outdoors either directly or through an entrance hall shared with other dwelling units.

(Chapter XXVIII, Sec. 121, cont'd)

23. Essential Services: the erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems including poles, wires, mains, drains, sewers, pipes, conduit cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith; reasonably necessary for the furnishing of adequate services by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including structures.

24. Family:

(1) One or more persons related by blood, marriage or adoption plus domestic servants, occupying a dwelling unit, including not more than four boarders, roomers or lodgers.

(2) Less than six unrelated persons occupying a dwelling unit, living together and maintaining a common household.

25. Floor Area (Habitable): the enclosed area of a building designed and intended for all-season use of human inhabitants.

26. Garage, Repair (see also "Service Station"):³³¹ premises where motor vehicles are serviced and repaired, including engine overhaul and body work.

27. Home occupation: any use customarily carried on entirely within a dwelling by occupants thereof, which use is clearly incidental and subordinate to the use of the dwelling for dwelling purposes and which does not change the residential character thereof.

28. Junk Yard: land or structure used for the collecting, storage, processing and sale of scrap metal, scrapped, abandoned or junked motor vehicles, machinery, equipment, waste paper, glass, rags, containers and other discarded materials. It shall not include, however, refuse or garbage kept in a proper container for the purpose of prompt disposal.

³⁵ In subsection 45 of this section.

29. Light Manufacturing: the processing or fabrication of certain materials and products which does not produce noise, vibration, air pollution, fire hazard or other disturbance or danger to neighboring properties.

(Chapter XXVIII, Sec. 121, cont'd)

30. Loading Space: a portion of a lot usable for the standing, loading or unloading of motor vehicles, and having a minimum dimension of twelve (12) feet by fifty-five (55) feet with a vertical clearance of fourteen (14) feet.

31. Lot: a parcel of land occupied or capable of being occupied by one or more buildings devoted to a common interest or use, and including accessory uses and open yard space.

32. Lot, Corner: a lot at the junction of and fronting on two or more intersecting street rights of way.

33. Lot, Depth of: a mean horizontal distance between the front and rear lot lines.

34. Lot of Record: any lot which individually or as a part of a subdivision has been recorded in the office of the Recorder of Deeds of Clarion County.

35. Lot, Minimum Area of: the area of a lot computed exclusive of any portion of the right of way of any public thoroughfare.

36. Lot, Width of: the mean width measured at right angles to its depth.

37. Mobile Homes: any mobile vehicle used or designed to be used for dwelling purposes, whether the wheels be attached or not. This definition also encompasses any factory-assembled mobile or modular dwelling units. In order to be considered a dwelling unit, the home must contain 480 square feet.

38. Non-conforming Use: the legal use of land or a structure which does not conform to the applicable use regulations of the district in which it is located, either on the effective date of

this ordinance,³³² or as a result of subsequent amendments thereto.

39. Pennsylvania Planning Code: Pennsylvania Municipalities Planning Code (Act 247 of July 31, 1968) and amendments as same may be adopted from time to time.

40. Personal Services: any enterprise conducted for man which primarily offers services to the general public, such as: shoe repair, valet service, watch repairing, barber shops, beauty parlors, and related activities.

41. Professional Offices: the use of offices and related spaces for such professional services as are provided by doctors, dentists, lawyers, architects and engineers.

42. Road: the entire right of way of a public or private street or highway.

(Chapter XXVIII, Sec. 121, cont'd)

43. Sign: any structure or device to attract attention by words or graphic display. The term "sign" shall not apply to a religious symbol, bearing no lettering, when applied to a place of worship.

44. Special Exception (Conditional Use): a modification of the regulations of the Zoning Ordinance which the Zoning Hearing Board is permitted to authorize in specific instances listed in this ordinance, under the terms, procedures and conditions prescribed herein.

45. Station, Service (see also "Garage, Repair")³³³ a retail place of business engaged primarily in the sale of motor fuels, but also in supplying goods and services generally required in the operation and maintenance of automotive vehicles and the fulfilling of motorist needs. These may include sale of petroleum products; sale and servicing of tires, batteries, automotive accessories and replacement items, washing and lubrication services; the performance of minor automotive maintenance and repair; and the supplying of other incidental customer services and products.

³⁶ See Note 3 of this chapter.

³⁷ Subsection 26 of this section.

46. Story: the portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, the space between such floor and the ceiling above it. A basement shall be considered as a story if more than 50 percent of its clear height is above finished grade, or if it is used for business or dwelling purposes.

47. Structure: any thing constructed or erected, the use of which requires a fixed location on the ground or an attachment to something having a fixed location to the ground, including in addition to buildings, billboards, carports, porches and other building features, but not including sidewalks, drives and patios.

48. Tourist Home: a rooming house primarily for transient guests.

49. Travel Trailer: a mobile vehicle, with wheels, designed for overnight occupancy or camping purposes, capable of being towed by a passenger automobile and having an overall length less than twenty-five (25) feet and an overall width of less than eight (8) feet.

50. Truck Terminal: a facility designed to accommodate the service, repair and storage of trucks and other motorized equipment, and which may incidentally provide warehousing activities.

(Chapter XXVIII, Sec. 121, cont'd)

51. Variance: a departure from the strict letter of the ordinance as it applies to specific properties as authorized by the Zoning Hearing Board.

52. Yard: any open space located on the same lot with a building, unoccupied and unobstructed from the ground up, except for accessory buildings, or such projections as are expressly permitted by this ordinance. The minimum depth or width of a yard shall consist of the horizontal distance between the lot line or road right-of-way line and the nearest point of the foundation wall of the main building.

53. Yard, Front: an open space extending the full width of the lot between the building and the road right-of-way line.

54. Yard, Rear: an open space extending the full width of the lot between the building

and the rear lot line.

55. Yard, Side: an open space extending from the front yard to the rear yard between the building and the nearest side lot line.

56. Zoning Certificate: the written authorization issued by the Zoning Administration Officer, for the use of land or structures.

57. Zoning Map: the map containing the zoning districts of the Borough of New Bethlehem, Clarion County, Pennsylvania, together with all amendments subsequently adopted.

58. Zoning Officer (or Zoning Administration Officer): The Zoning Administration Officer or his authorized representative, appointed by Borough Council of New Bethlehem, Clarion County, Pennsylvania.

(Ordinance 688, December 14, 1970, Article VIII)