

Chapter 93
ZONING

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[HISTORY: Adopted by the Borough Council of the Borough of Callery 6-4-1992 by Ord. No. 87. Amendments noted where applicable.]

*Article X
Floodplain Management
see ordinance Number
2018-16*

GENERAL REFERENCES

- Adult uses — See Ch. 18.
- Building construction — See Ch. 31.
- Driveways — See Ch. 38.
- Floodplain management — See Ch. 49.

- Junkyards — See Ch. 53.
- Property maintenance — See Ch. 61.
- Storage of junked vehicles — See Ch. 83.

ARTICLE I
General Provisions

§ 93-1. Title.

This chapter shall be known and may be cited as the "Callery Borough Zoning Ordinance of 1992."

§ 93-2. Purpose.

This chapter is deemed necessary by Borough Council to promote the public health, safety and general welfare, to conserve and stabilize property values, and to facilitate economic provision of streets, utilities and other public services.

§ 93-3. Community development objectives.

- A. Callery is a small, older community bisected by a main line railroad. A quarter of the Borough's 330 acres are susceptible to flooding. The old village center occupies a strip

1,400 feet long next to the railroad but only 4% of the Borough's area. There is no business center. The Borough's population has remained virtually unchanged at slightly over 400 the past 40 years. Several industries in Callery provide more jobs than there are employed residents of the Borough. There is a sewage collection system serving most properties draining to the Evans City treatment plant, but no public water. High ground to the west of the village center offers a site for future housing development.

- B. The Borough's community development objectives are:
- (1) To promote orderly, efficient growth in a pattern that will make a logical extension of public sewers possible and eventually a public water supply system;
 - (2) To protect the areas within the one-hundred-year floodplain from development that could be damaged by high water or would raise flood levels;
 - (3) To maintain the small town atmosphere of the village center which gives the Borough its character and identity and encourage ongoing property maintenance; and
 - (4) To broaden the Borough's tax base by encouraging appropriate industrial and business expansion, and new jobs, with sufficient safeguards to protect adjacent and nearby housing.

§ 93-4. Interpretation.

The regulations contained in this chapter shall be held to be the minimum regulations required to uphold the public health, safety, morals and general welfare.

§ 93-5. Conflict with other provisions; severability.

- A. Conflict. Where conflicts exist between this chapter and other regulations of the Borough or of a higher level of government, or with legal restrictive covenants applied by landowners to the development of their property, the ordinance, regulation, or covenant establishing the higher standard shall prevail. All ordinances or parts thereof in conflict with this Zoning Chapter, inconsistent with its provisions, or less restrictive are hereby repealed to the extent necessary to give this chapter full force and effect.
- B. Severability. If any section, paragraph, sentence, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional by a court of law, such decision shall not affect the validity and constitutionality of the remainder of this chapter, which shall remain in full force and effect, and thus the various provisions of this chapter are hereby declared to be severable.

§ 93-6. Municipal liability.

The grant of a building permit in any zone district shall not constitute a representation, guarantee or warranty of any kind by the Borough or by any official or employee of the practicality or safety of the use, building or structure covered by the permit, and shall create no liability upon the Borough, its officials or employees.

§ 93-7. Duties of public officials.**A. Borough Council shall be responsible for:**

- (1) Holding public hearings preceding, and taking action to adopt the original ordinance and any amendments thereto.
- (2) Appointing the members of the Planning Committee and Zoning Hearing Board and the Zoning Officer; making appointments to fill unexpired terms and to replace or reappoint members at the end of expired terms, or to remove members after investigation and positive findings of malfeasance, misfeasance or nonfeasance by a member.¹
- (3) Holding public hearings and making a decision on each proposed conditional use after allowing the Planning Committee not less than 30 days to provide recommendations.²
- (4) Referring amendment requests for review and comment to the Planning Committee and the Butler County Planning Commission not less than 30 days before public hearing and subsequent decision.³

B. The Zoning Officer shall be responsible for:

- (1) Administering this chapter in accordance with its literal terms.
- (2) Issuing building and occupancy permits after assuring himself the permitted development is fully in accordance with the requirements of this chapter, and then following up to assure construction and use of building and land concurs with the permit.
- (3) Defending his actions, if challenged, before the Zoning Hearing Board.
- (4) Providing public information on this chapter, keeping records of his action and providing periodic reports to Borough Council.

C. The Zoning Hearing Board shall be responsible for:

- (1) Calling and holding public hearings to take testimony on all matters brought before it, and arranging for preparation of a stenographic record of the hearing.
- (2) Evaluating testimony and making a decision on each contested issue, commencing and concluding each matter within the mandated time constraints.
- (3) Hearing appeals from decisions of the Zoning Officer.
- (4) Hearing challenges to the validity of this chapter.
- (5) Hearing requests for variances from strict application of the terms of this chapter because an alleged hardship exists.

¹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

² Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

³ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (6) Hearing applications to change one nonconforming use to another.
 - (7) Hearing requests for modifications of the Borough flood hazard area regulations as they affect specific properties.
- D. ⁴The Planning Committee shall be responsible for:
- (1) Reviewing proposed conditional use applications and providing recommendations on each one to Borough Council.
 - (2) Reviewing proposed amendments to this chapter made by Council or by citizen petition and providing recommendations on each such amendment proposal to Borough Council.
 - (3) Providing, at the discretion of Council, recommendations to Council on site plan applications.

ARTICLE II Terminology

§ 93-8. Word usage.

Words used in the present tense include the future tense; the particular controls the general; the singular includes the plural and the plural the singular; the words "person" and "developer" include a firm, association, partnership, trust, company, or corporation as well as an individual; the masculine includes the feminine; the word "shall" is mandatory and the word "may" permissive; the words "used" or "occupied" include the words "intended, arranged, maintained or designed to be used or occupied;" and words used in this chapter and not otherwise defined in this article shall have the same meaning as in a standard dictionary.

§ 93-9. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY USE — An activity or use that is incidental to, and generally found in connection with the principal use on the lot (see § 93-21).

AMENDMENT — Any addition, deletion or revision of the ordinance text or map officially adopted by the Borough Council after public hearings (see § 93-50).

APARTMENT — A suite of rooms in a building containing at least one other such dwelling, each intended to be used as an independent housekeeping unit for one family, with separate cooking, food storage, bathing and toilet facilities and with access directly or by a common hallway and/or stairs to the outside.

APARTMENT BUILDING — A building not more than three stories high containing at least three dwelling units, each unit having access to the outside via common interior halls and stairways, or by individual entrances and stairs.

⁴ Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

ATTACHED DWELLING — A dwelling, attached by common wall or walls to one or more other similar dwellings, each independent of the others and each with direct access from at least two entrances to the outside. Common walls shall extend from the ground level to the roof without openings. There shall not be more than eight dwellings in any group of attached dwellings. Attached dwellings shall mean the same as "townhouse."

AUTOMOBILE SERVICE STATION — A facility for the dispensing of gasoline and diesel fuel, and for any or all of the following: automobile inspection, sale of lubricants, sale of minor auto supplies and travelers' incidental needs, auto washing, and minor repairs.

BALCONY — A platform projecting from a building and attached only to the building.

BAY WINDOW — A projection from the wall of a building enclosing part of the area of an interior room, and covering not more than 10% of the wall surface (see § 93-19D).

BEDROOM — Any room containing at least 60 square feet of floor area and an operable window, used permanently or occasionally for sleeping purposes.

BOARDINGHOUSE — A dwelling occupied by a family which provides room and/or board for compensation to not more than two individual persons within the dwelling.

BOROUGH COUNCIL — The duly elected governing body of Callery Borough with final approval powers relative to this chapter.

BUILDING — A man-made structure attached to or into the ground enclosing or covering a volume of space, and intended to shelter or contain people, animals businesses and activities associated with any of them.

BUILDING LOT — A contiguous area of land in one ownership upon which a building or structure may be erected in accordance with the requirements of this chapter.

BUILDING OR SETBACK LINE — A line that closes on itself surrounding the area in a building lot within which a building or structure can occur. Certain building projections and uses of the lot may extend over the line (see § 93-19D).

BUILDING, PERMANENT — A building supported on and tied to a foundation extending at least three feet into the ground and describing in plan the exterior walls of the building.

BUILDING PERMIT — A document attesting that a proposal for development has been reviewed and approved in accordance with the requirements of this chapter and allowing the construction to commence (see § 93-47).

COMMUNITY DEVELOPMENT OBJECTIVES — A statement attaching the Zoning Ordinance to the municipal Comprehensive Plan with reference to land use, density of population, and location and function of streets, utilities, and community facilities.

COMPREHENSIVE PLAN — A document based on an analysis of past trends and current conditions in a municipality, projecting growth and change in population, economic conditions and land use, and recommending measures to improve streets, utilities and community facilities, and allocate land to cope with such growth and change.

CONDITIONAL USE — The use of a property that may be permitted by Borough Council after study of the proposed use and the property indicates that such use will not downgrade the neighborhood where it is proposed, or be hazardous to the public. Such uses are specified for each zone district by this chapter. Council after public hearing may attach conditions to approval of a conditional use.

CONVALESCENT HOME — A facility for the temporary care of persons recovering from serious illness who require skilled supervision prior to returning home.

CONVERSION APARTMENT — An apartment created from part of an existing dwelling, with each dwelling unit entirely independent of the other.

COVERAGE — The percentage of the area of a lot that may be covered by the principal building or buildings within the total lot area.

CROSS SECTION — A graphic representation cut through at right angles to the length of a street or pipeline showing dimensions and materials.

CURATIVE AMENDMENT — An amendment proposed by a property owner challenging the validity of zoning regulations as they apply to property in which he has an interest and requiring municipal action on his petition or a municipal curative amendment, in which the Borough Council declares a moratorium on specific parts of the Zoning Ordinance in order to cure alleged defects (see § 93-50I).

CUT — Earth materials that are excavated from previously undisturbed land surfaces.

DAY-CARE CENTER — A facility for the care of dependent persons operated by a qualified individual or staff while parents or guardians are at work (see § 93-27F).

DENSITY — The measure of the maximum number of dwelling units per acre of land area, or the minimum number of square feet of lot area for each dwelling unit for multifamily dwellings.

DETACHED DWELLING — A single-family dwelling unit surrounded by open space on its lot, sharing the lot with no other dwellings and designed to be occupied by one family only.

DEVELOPER — An individual landowner, agent of such landowner, or tenant with the landowner's permission, who or which causes development to occur upon a lot and who is responsible for compliance of such development with the terms of this chapter and other municipal regulations.

DEVELOPMENT — The erection, expansion or alteration of a building or structure; the altering of the land surface to receive construction; the subdividing of land in anticipation of its receiving construction or the offering of land for such purpose; or any man-made change to improved or unimproved property within a flood hazard area, including but not limited to paving, placing of utilities, filling, grading, excavating, dredging or drilling.

DOMESTIC PET — Dogs, cats, hamsters, tropical fish and birds capable of being kept within a dwelling or controlled within a residential yard area, but not including animals or fowl raised for profit or food.

DWELLING — A group of connected rooms in a building for the exclusive residential use of one family, containing its own private cooking, food storage, bathing and toilet facilities, and connected either directly or by a common hall and/or stairs to the outside.

DWELLING UNIT — One of a group of similar dwellings in a building or group of buildings.

EARTH MOVEMENT — The rearrangement of the earth's surface to accommodate a development project.

EASEMENT — A passage across or intrusion upon private property granted and guaranteed by the property owner for utilities, storm drainage or other purpose, allowing the grantee access for maintenance but not permitting access by the general public, and curtailing the owner's opportunity to develop within the granted area.

EFFICIENCY APARTMENT — A dwelling unit containing at least one room plus separate bathroom and food preparation and storage equipment, but intended for occupancy by a single individual.

EROSION — The movement by water or wind of earth particles from land surfaces laid bare by earth movement.

FAMILY — An individual or two or more persons related by blood, marriage, adoption, or foster placement, or not more than two unrelated persons occupying an efficiency or one-bedroom apartment or not more than four unrelated persons occupying any other dwelling.

FILL — Earth materials excavated elsewhere and placed in compacted layers upon previously undisturbed land surfaces.

FINDINGS — Determinations made by the Zoning Hearing Board after assessing all the evidence provided for and against a contested issue, when considered in relation to the Zoning and State Planning Code regulations.⁵

FINISHED GRADE — The final surface of land including topsoil upon the completion of earth movement.

FOSTER CARE HOME — A dwelling occupied by a family who accepts into its care minor children assigned by the courts or by a public or nonprofit social service agency.

FRONTAGE OF A LOT — The distance across the front of a lot between side lot lines where they intersect the street to which the lot has its principal access, and running along the street right-of-way line.

FRONT BUILDING LINE — A line extending across a lot between side lot lines, and set back from the front lot line the minimum distance required for the front yard depth in the zone district containing the lot.

FRONT LOT LINE — The line describing the edge of the lot abutting the street to which the lot has access and is oriented for purposes of development, except that where a property extends to the center of a street, the front lot line shall be considered as being a minimum of 20 feet inside the property and parallel to the street.

⁵ Editor's Note: See 53 P.S. § 10101 et seq.

FRONT YARD — The area of a lot between the front lot line and the front building line and extending to the side lot lines.

GARAGE, RESIDENTIAL — An accessory building on a residential lot attached to or detached from the dwelling, or a room within the dwelling, intended for the storage and maintenance of vehicles and equipment owned and operated by the residents of the dwelling and for no other purpose.

GROUP HOME — A dwelling for persons who are ambulatory but require limited supervision with everyday living skills and share in food preparation and property maintenance, provided the operation of such a dwelling is the responsibility of a public or nonprofit social service agency.

HEALTH CLINIC — A facility with at least one state licensed practitioner present at all times when the facility is open, dispensing medical, chiropractic or dental services on an outpatient basis.

HEARING OFFICER — An individual member of the Zoning Hearing Board who is assigned by the Board as a whole to hear a case by himself because the other Board members are unavailable or have conflicts of interest with the matter being heard.

HOME OCCUPATION — A service-type small business conducted within a single-family detached dwelling by the residents, involving no exterior manifestation of the business or expansion of the dwelling to accommodate it, and not creating nuisance or congestion conditions in the neighborhood where it is located (see § 93-25).

LAND DISTURBANCE PLAN — A plan depicting how a development plan proposes to reshape the land surface, and control drainage patterns, stormwater collection and release and erosion.

LAND USE — The activity or activities for which a lot or property and the buildings or structures on it are devoted.

LOT — An area of contiguous land surface which abuts a street, when the area's ownership and legal description are of record in the office of the County Recorder of Deeds, and is intended to contain one principal use. A lot implies one of a number of similarly sized properties in a plan, but may include any property, tract or parcel of land regardless of size or configuration for the purposes of this chapter.

LOT COVERAGE — See "coverage."

LOT LINE — Any of the lines describing the perimeter of a lot.

LOT OF RECORD — A lot or property duly recorded in the office of the Butler County Recorder of Deeds.

LOT SIZE OR AREA — The area of the total surface of a lot expressed in acres or square feet, based on deed description or registered surveyor's survey. One acre equals 43,560 square feet.

LOT WIDTH — The distance across a lot measured along the front building line between the side lot lines.

MIXED-USE BUILDING — A building containing at least one dwelling unit as well as retail and/or service business uses.

MOBILE HOME — A transportable, structurally integral single-family dwelling intended for permanent occupancy which arrives on its site or lot ready for use, except for the joining of the two halves, if a double-wide home, and other minor assembly and utility connections, and which is capable of later being lifted from its foundation and towed to a second site or lot.

MOBILE HOME PARK — A property or group of contiguous properties under one ownership which has been developed for at least two mobile home sites or lots, each with its own utility connections and off-street parking space, and each intended for lease and the placement of one mobile home for nontransient use thereon.

MULTIFAMILY HOUSING — Three or more dwelling units in one building including apartments or attached dwellings.

MUNICIPALLY OWNED AND OPERATED FACILITY — Premises, or premises and buildings, owned and operated by the Borough or a municipal authority created by the Borough for the public benefit.

NONPROFIT COMMUNITY CLUB — A civic, social, recreational, educational or cultural organization operated by and for the membership but not as a commercial venture, and affiliated with a statewide or national body.

NURSING HOME — A facility for the long term care of persons who require continuous skilled nursing supervision, such facility licensed and monitored by the appropriate state agencies.

OCCUPANCY PERMIT — A certificate issued by the Zoning Officer attesting to the fact that the proposed use or reuse of premises is in accordance with the requirements of this chapter or with a previously issued building permit and may be legally occupied (see § 93-48).

OFF-STREET PARKING SPACE — An area to accommodate one vehicle within a parking lot abutting an access lane.

OUTBUILDING — A building or structure containing or supporting an accessory use.

PATIO — A surfaced outdoor area level with the surrounding land surface or no more than three feet above or below the surface at any point, and without a permanent covering.

PENNSYLVANIA MUNICIPALITIES PLANNING CODE — Legislation adopted by the state in 1968 and amended on several occasions since, most recently by Act 170 of 1988, which provides a uniform procedure enabling municipalities to implement regulations, such as this chapter, to control the development and use of land.⁶

PERMITTED USE, PRINCIPAL — A use allowed by right under the terms of this chapter to occur on a lot because of the lot's location in a particular zoning district. Principal permitted uses are listed for each zone district and imply that all other activity on the lot is,

⁶ Editor's Note: See 53 P.S. § 10101 et seq.

or will be secondary to the principal use. Such uses may be approved directly by the Zoning Officer without reference to other review bodies.

PERSONAL CARE HOME — A dwelling for persons who are ambulatory but lack family support and require limited assistance with everyday living skills, provided such facility is licensed and monitored by the appropriate state agencies.

PERSONAL SERVICE USE — A business that provides retail services to individuals on a one-on-one basis but not including any services that are illegal or otherwise controlled by statute.

PORCH — An attachment to a building covered by a permanent roof but without side walls floor to ceiling, and considered part of the building for purposes of setback from lot lines.

POSTING — The placement of a notice upon a signboard located in a yard abutting a street or upon a building or structure on a property calling public attention to proposed changes in the zoning status of the property, or to a request for a variance or conditional use approval, and indicating the date, time and place of the hearing and the matter that will be heard.

PRINCIPAL BUILDING — The building or structure containing the principal permitted use on the lot, such use possibly occurring in more than one building or structure.

PROPERTY — See "lot."

PROPERTY LINE — See "lot line."

PUBLIC HEARING — An official meeting, properly advertised in advance, called by the Borough Council or Zoning Hearing Board, for the purpose of taking testimony from interested citizens and organizations on the matter being heard, as a basis for the calling body to make a later recommendation or decision.

PUBLIC NOTICE — An announcement published in the legal section of the principal newspaper serving Callery Borough, such announcement appearing once each week for two consecutive weeks the first time not more than 30 days and the second time not less than seven days before the hearing, stating the date, time, and place of the hearing and a description of the matter to be heard; also the posting of a notice upon an affected property with the same information.

PUBLIC SEWER AND/OR WATER SERVICE — A sanitary sewage collection system and wastewater treatment facility, or a potable water distribution system, operated by a municipal authority or by a corporation regulated by the State Public Utility Commission.

PUBLIC UTILITY — A system providing distribution of water, gas, electric, telephone, or cable TV services, or the collection and disposal of waste water, such system operating as a municipal authority or under the rules and regulations of the State Public Utility Commission.

REAR YARD — The area of a lot between the rear lot line and rear building line and extending to the side lot lines. The rear yard line is the lot line connecting the ends of the two side lot lines.

RECREATION FACILITIES, PRIVATE — Children's play equipment, picnic facilities, swimming pool and/or paved court areas on a lot for the use of the residents of the lot or the members of the organization owning the lot, but not available to the public.

RESTRICTIVE COVENANT — An agreement between a developer and purchasers of lots or units in a plan restricting the use of the lots or units, applying uniformly to all lots, recorded with the plan, effective for a specified time period, capable of being modified only upon approval of the agreement signers, and not enforceable by the Borough.

RETAIL USE — A business that sells products acquired wholesale to the public at a marked up price, but not including products that are illegal or otherwise controlled by statute.

RETIREMENT HOME — A dwelling building providing housing for persons aged 62 or over who do not require supervision, including common dining and/or social rooms.

RIGHT-OF-WAY — A strip of land dedicated to and/or improved for vehicular and/or pedestrian travel by the public.

SCHEDULE OF FEES — The list of charges adopted by resolution of Borough Council, and not a part of this chapter, to cover the costs of administering the review, decision and/or appeal processes required for a development proposal, such costs to be borne by the developer, paid in advance, and subject to periodic revision by the Board.

SCREEN — A planted or built buffer intended to protect residential properties from abutting commercial or other activity that might deteriorate the enjoyment or value of the residential property.

SERVICE USE — A business that provides personal, household or business services, including repair services except automotive services or those associated with industrial operations.

SETBACK — The minimum distance a building or structure must be removed from an adjacent lot line, as required by this chapter in the various zone districts. Distance between lot line and building shall be measured along a line at right angles to the lot line.

SETBACK LINE — See "building line."

SIDE YARD — The area of a lot between the side lot line and side building line, extending from the front yard to the rear yard, and comprising two such areas on a lot except in the case of attached dwellings. The side lot lines on each side of a lot connect the front and rear lot lines.

SIGN, FREESTANDING — A sign (see § 93-29A) that is supported on its own structure and not attached to a building.

SIGN, PROJECTING — A sign (see § 93-29A) that is attached to and supported by a building, and extends at an angle from the building wall.

SINGLE-FAMILY DWELLING — See "detached dwelling."

SITE DEVELOPMENT — The improvement of a lot in accordance with an approved site plan, including construction of buildings, structures, paved surfaces and landscaping and the rearrangement of the land surface.

SITE PLAN — The proposed layout of a lot showing all elements of the site development as well as utility and drainage lines and existing buildings and structures to remain.

SPECIAL EXCEPTION USE — The use of a property that may be permitted by the Zoning Hearing Board after study of the proposed use and the property indicates that such use will not downgrade the neighborhood where it is proposed or be hazardous to the public. Such uses are specified for each zone district by this chapter. The Board, after public hearing, may attach conditions to approval.

STENOGRAPHIC RECORD — A transcription of testimony taken at a public hearing by a professional stenographer.

STORMWATER MANAGEMENT PLAN — A plan to govern the collection, retention and release of stormwater in a manner to minimize damage of downstream property.

STORY — The area in a building between a floor and the floor next above or below, or if no floor is above, the ceiling above.

STREET — An improved vehicular passage within a right-of-way which affords the primary means of access to abutting lots.

STREET LINE — The edge of a street right-of-way where it abuts private property.

STRUCTURAL ALTERATIONS — Revisions to a building or structure that change the dimensions of the exterior envelope or that change the interior components that support the building or structure.

STRUCTURE — Any man-made construction in, on, or over the ground and attached thereto. The term "structure" includes buildings.

SUBSTANTIVE APPEAL — A challenge to the content of any phrase, clause, section, article or map representation in the Zoning Ordinance as it applies to the property of the person or corporation who brings the appeal.

TOWNHOUSE — See "attached dwelling."

TRANSITIONAL HOME — A dwelling to house persons temporarily who are in transition from an institutional setting to independent living, provided the operators of such a dwelling are a public or nonprofit agency and residents are referred by the courts or a responsible public agency.

TRASH COLLECTION BUILDING — An outbuilding for the accessory use of temporary storage of discarded materials accumulating in the principal use of the property, such storage to be secured, and removed on a regular basis by a refuse hauler.

TWO-FAMILY DWELLING — A building containing two dwelling units either side by side or one above the other but each independent of the other in all respects.

USE ALLOWED BY RIGHT — A use listed as a principal permitted use and which requires only review and approval by the Zoning Officer prior to the issuance of a building or occupancy permit. See also "permitted use, principal."

VARIANCE — A grant by the Zoning Hearing Board permitting an owner to use a lot not wholly in accordance with the provisions of this chapter because the Board finds that strict

conformance would be an unusual hardship not created by the owner, but depriving him of reasonable use of the lot. Such a grant specifies a minimum deviation or deviations from the regulations intended to cure the hardship but not create detrimental conditions affecting abutting property owners or the public at large.

YARD — The front, side, or rear area of a lot between the lot line and the setback line, the depth of which is specified for each type of yard within each zoning district by this chapter. Development within yard areas is restricted.

YARD DEPTH — The distance between the lot line and the adjacent parallel setback line on a lot, such distance varying for front, side, and rear yards and from one zoning district to another.

ZONING CLASSIFICATION — The controls imposed by this chapter that define the uses of land and buildings and the intensity of such uses that may occur within a zoning district, such controls to be applied uniformly throughout the district.

ZONING DISTRICT — A contiguous area of land on all parts of which the same uniform opportunities for development apply.

ZONING DISTRICT BOUNDARY — The perimeter line completely enclosing a zoning district.

ZONING HEARING BOARD — A body appointed by Borough Council to examine and decide appeals for variances or from decisions of the Zoning Officer, and to hear testimony regarding the validity of municipal regulations upon development.

ZONING MAP, OFFICIAL — The official plan of zoning districts in Callery Borough, a part of this chapter, showing precisely the boundaries and title of each district (see § 93-10).

ZONING OFFICER — A person retained by and responsible to Borough Council to enforce the regulations of this chapter, with power to issue building and occupancy permits, to halt illegal construction, and to interpret literally the meaning of the various sections of this chapter, subject to appeal before the Zoning Hearing Board.

ZONING ORDINANCE — A body of legislation adopted by a municipality establishing districts throughout the municipality within each of which uniform land use regulations apply.

ARTICLE III Zoning District Regulations

§ 93-10. Official Zoning Map.

A copy of the zoning map is bound into the rear of this chapter and is an integral part of this chapter. The Official Map shall be located in the office of the Borough Secretary, and shall be kept current as zone district boundaries are amended. No changes of any kind shall be made to the map except after amendments adopted by Council. The Zoning Officer shall be the authority as to the location of district boundaries that are contested. Appeal from his decision shall be to the Zoning Hearing Board.

*see ordinance 2013-06 - Zoning Map Amendment
Foley Industrial Park*

§ 93-11. Application of district regulations.

The regulations within each zone district shall apply uniformly to every proposed development therein. No building, structure or land area shall, after adoption of this chapter, be erected, used or altered unless to conform with the regulations in the zone district containing the property to be developed, or unless a variance has been granted by the Zoning Hearing Board allowing specific modification of the regulations. No yard or lot area or off-street parking space required by one building, structure or land use shall be credited to another building, structure or use. No yard or lot or off-street parking area shall be reduced in size or number so as to be less than the minimums prescribed for the zone district. Land henceforth annexed by the Borough shall be placed in the Residential Zone District until Council amends this chapter to place the annexed area in the most appropriate district.

§ 93-12. Establishment of zoning districts.

The Borough is hereby divided into four zoning classifications as shown on the zoning map. The regulations that apply in each classification are contained in Article IV. The four classifications are Residential, Village Center, Commercial, and Light Industrial.

ARTICLE IV
Specific District Regulations

§ 93-13. Provisions applicable in each zone district.⁷

Within each zoning district lands, buildings and structures shall be used, and buildings and structures shall be erected, altered or enlarged only for any of the uses permitted by right in the zone district, or for a conditional use or special exception use in accordance with the requirements of this chapter. The principal permitted uses (allowed by right), accessory uses, conditional uses and special exception uses for each zone district are listed below. Accessory uses may only be constructed concurrent with or later than the principal use they serve.

§ 93-14. Residential Zone District.

- A. Purpose of the district. To provide protected sites on flood-free ground for new housing development with access to public sewer lines.
- B. Principal permitted uses:
 - (1) Single-family detached dwelling.
 - (2) Two-family dwelling.
 - (3) Conversion of a single-family dwelling to two apartments.
 - (4) Borough or municipal authority or public utility facilities and services required to serve the residential neighborhood.

⁷ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (5) Church, church social and educational hall, and residence of pastor, priest or rabbi.
- (6) Agricultural field and pasturing operations.

C. Accessory uses:

- (1) Residential garage and/or parking area.
- (2) Housing for domestic pets.
- (3) Recreation facilities for the use of residents of the lot and their guests.
- (4) Garden equipment shed.
- (5) Signs (see § 93-29).
- (6) Farm buildings for storage of equipment, feeds and animals.

D. ⁸Conditional uses:

- (1) Nursing and retirement homes.
- (2) Day-care center.
- (3) Transitional living.

E. ⁹Special exception uses:

- (1) Home occupations.
- (2) Personal care homes.
- (3) Group homes.

F. Dimensional standards:

- (1) Minimum lot area:
 - (a) Lot connected to public sewers: 20,000 square feet.
 - (b) Lot not connected to public sewers: one acre.
- (2) Minimum lot area per dwelling unit:
 - (a) Two-family dwelling: 10,000 square feet.
 - (b) Townhouse group: 5,000 square feet.
 - (c) Apartment building: 3,500 square feet.
- (3) Minimum lot width:
 - (a) Lot connected to public sewers: 80 feet.
 - (b) Lot not connected to public sewers: 160 feet.

⁸ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

⁹ Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

- (c) Individual townhouse lots: 20 feet.
- (4) Minimum building setback:
 - (a) From street abutting lot: 40 feet.
 - (b) From side lot line: 10 feet.
 - (c) From rear lot line: 40 feet.
 - (d) Accessory building:
 - [1] From street abutting lot: 40 feet.
 - [2] From side or rear lot line: 10 feet.
- (5) Maximum building height:
 - (a) Principal building: 35 feet (three stories).
 - (b) Accessory building: 15 feet (one story).
- (6) Maximum lot coverage:
 - (a) Building coverage as a percent of the total lot area: 25%.

§ 93-15. Village Center Zone District.

- A. Purpose of the district. To protect and stabilize the original village of older homes on small lots and community facilities, while allowing limited retail and service shops attracting Borough residents and conversion of larger dwellings to several apartments.
- B. Principal permitted uses:
 - (1) Single-family detached dwelling.
 - (2) Two-family dwelling.
 - (3) Conversion of a single-family dwelling to two or more apartments.
 - (4) Apartments in a mixed-use building.
 - (5) Borough or municipal authority or public utility facilities and services required to serve the Borough and immediately surrounding area.
 - (6) Church, church social and educational hall, and residence of pastor, priest or rabbi.
 - (7) Health, clinic or office of doctor, dentist or chiropractor.
 - (8) Day-care center.
 - (9) Personal care home.
 - (10) Barber- or beauty shop.
- C. Accessory uses:
 - (1) Residential garage and/or parking area.

- (2) Housing for domestic pets.
- (3) Recreation facilities for the use of residents of the lot and their guests.
- (4) Garden equipment shed.
- (5) Signs (see § 93-29).

D. ¹⁰Conditional uses:

- (1) Townhouses and groups.
- (2) Apartment buildings.
- (3) Nursing and retirement homes.
- (4) Convalescent homes.
- (5) Transitional living.
- (6) Nonprofit community clubs or fraternal lodges.
- (7) Funeral home.
- (8) Parking lot.

E. ¹¹Special exception uses:

- (1) Home occupation.
- (2) Group home.
- (3) Bank or savings and loan office.
- (4) Drugstore or pharmacy.
- (5) Food sales, market or delicatessen.
- (6) Laundry, self-serve.
- (7) Dry-cleaning pickup and delivery.
- (8) Offices for business or professional services.
- (9) Repair services of household items.
- (10) Gifts, cards and book or magazine sales.
- (11) Restaurant, not including drive-through service.
- (12) Retail or service use compatible with those uses listed above.

F. Dimensional standards:

- (1) Minimum lot area:

¹⁰ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

¹¹ Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (a) All lots must be connected to public sewers: 5,000 square feet.
- (2) Minimum lot area per dwelling unit:
 - (a) Two-family dwelling: 3,000 square feet.
 - (b) Townhouse group: 2,000 square feet.
 - (c) Apartment building: 1,500 square feet.
- (3) Minimum lot width:
 - (a) All lots connected to public sewers: 50 feet.
 - (b) Individual townhouse lots: 18 feet.
- (4) Minimum building setback:
 - (a) From front street abutting lot: 25 feet.
 - (b) From side street abutting lot: 10 feet.
 - (c) From side lot line: five feet.
 - (d) From rear lot line: 20 feet.
 - (e) Accessory building:
 - [1] From front street abutting lot: 25 feet.
 - [2] From side street abutting lot: 10 feet.
 - [3] From side or rear lot line: five feet.
- (5) Maximum building height:
 - (a) Principal building: 35 feet (three stories).
 - (b) Accessory building: 15 feet (one story).
- (6) Maximum lot coverage:
 - (a) Building coverage as a percent of the total lot area: 40%.

§ 93-16. Commercial Zone District.

- A. Purpose of the district. To establish an area with good highway access for retail and service businesses and supporting activities drawing on a market greater than the Borough.
- B. Principal permitted uses:
 - (1) Apartments in mixed-use buildings.
 - (2) Borough or municipal authority or public utility facilities and services.
 - (3) Community club or lodge.
 - (4) Health clinic or office of doctor, dentist or chiropractor.

- (5) Funeral home.
 - (6) Auto service station.
 - (7) Bank or savings and loan office, including banking machine.
 - (8) Barber- or beauty shop.
 - (9) Drugstore or pharmacy.
 - (10) Food sales, market or delicatessen.
 - (11) Laundry, self-serve.
 - (12) Dry-cleaning pickup and delivery.
 - (13) Offices for business or professional services.
 - (14) Repair services of household items.
 - (15) Repair services: automotive, or electrical or mechanical equipment.
 - (16) Retail sales conducted entirely indoors.
 - (17) Restaurant, including drive-through.
 - (18) Beverage distributorship.
 - (19) Parking lot.
- C. Accessory uses:
- (1) Automobile parking lot.
 - (2) Business servicing area for truck loading and unloading.
 - (3) Trash collection building or dumpster.
 - (4) Signs (see § 93-29).
 - (5) Banking machine, used clothing bin, etc.
- D. Conditional uses: None.¹²
- E. ¹³Special exception uses:
- (1) Retail or service use similar to and compatible with those uses listed in § 93-16B.
- F. Dimensional standards:
- (1) Minimum lot area:
 - (a) Lot connected to public sewers: 10,000 square feet.
 - (b) Lot not connected to public sewers: one acre.

¹² Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

¹³ Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

- (2) Minimum lot area per dwelling unit:
 - (a) Apartment in mixed-use building: 2,000 square feet.
- (3) Minimum lot width:
 - (a) Lot connected to public sewers: 75 feet.
 - (b) Lot not connected to public sewers: 160 feet.
- (4) Minimum building setback (principal and accessory):
 - (a) From street abutting lot: 40 feet.
 - (b) From side or rear lot line: 10 feet.
 - (c) From side or rear lot line abutting the residential zone district or a residentially occupied lot in the village center zone district: 20 feet.
- (5) Maximum building height:
 - (a) Principal building: 35 feet (three stories).
 - (b) Accessory building: 15 feet (one story).
- (6) Maximum lot coverage:
 - (a) Building coverage as a percent of the total lot area: 35%.

§ 93-17. Light Industrial Zone District.

- A. Purpose of the district. To recognize and protect the existing industrial development in the Borough, and to allow for future manufacturing growth and new jobs within limits imposed by the floodplain.
- B. Principal permitted uses:
 - (1) Borough or municipal authority or public utility facilities and services.
 - (2) Repair services:
 - (a) Automotive or electrical, mechanical or industrial equipment.
 - (b) Beverage distributorship.
 - (c) Cold storage, warehouse or self-serve storage.
 - (d) Contractor's office and storage yard.
 - (e) Dry-cleaning or commercial laundry.
 - (f) Fabrication or assembly of finished products from components produced elsewhere.
 - (g) Industrial services.
 - (h) Manufacture of tools, dies, patterns, scientific or safety equipment, metal products, electrical or electronic components, furniture or hardware.

- (i) Lumberyard and/or building industry supplies.
- (j) Research and development laboratory.
- (k) Packaging, canning and distributing foodstuffs.
- (l) Truck terminal and associated facilities.
- (m) Truck, farm equipment and industrial equipment sales and service.
- (n) Agricultural field and pasturing operations.
- (o) Farm supplies and service industry.
- (p) Garden supplies, greenhouses and growing of nursery stock.
- (q) Recreation areas, public and private.

C. Accessory uses:

- (1) Automobile parking lot.
- (2) Servicing area for truck loading and unloading.
- (3) Railroad siding.
- (4) Offices serving the principal use on the lot.
- (5) Dwelling of business owner, manager or watchman.
- (6) Trash collection building or dumpster.
- (7) Signs (see § 93-29).

D. Conditional uses:

- (1) Industrial, manufacturing or service use similar to and compatible with those uses listed in § 93-17B.

E. Special exception uses: None.¹⁴

F. Dimensional standards:

- (1) Minimum lot area:
 - (a) Lot connected to public sewers: 20,000 square feet.
 - (b) Lot not connected to public sewers: one acre.
- (2) Minimum lot width:
 - (a) Lot connected to public sewers: 100 feet.
 - (b) Lot not connected to public sewers: 160 feet.
- (3) Minimum building setback.
 - (a) From street abutting lot: 40 feet.

¹⁴ Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

- (b) From side or rear lot line: 10 feet.
- (c) From side or rear yard line abutting the residential zone district or a residentially occupied lot in the village center zone district: 40 feet.
- (4) Maximum building height:
 - (a) Principal building: 40 feet (two stories).
 - (b) Accessory building: 20 feet.
- (5) Maximum lot coverage:
 - (a) Building coverage as a percent of the total lot area: 40%.

Article IV-A: Airport Overlay District - See Ordinance No. 2012-04

ARTICLE V
Supplementary Regulations

§ 93-18. Lot area and width exceptions.

- A. Lots of record with inadequate area or street frontage. Lots recorded prior to adoption of this chapter shall be considered nonconforming lots if their areas and/or width at the front building line is less than required for the zone district in which the lot or lots are located. Such lots shall be subject to the regulations contained in § 93-35 of this chapter.
- B. Lot area measurement. For purposes of measuring compliance with minimum lot area requirements, no area of any property within the right-of-way of a public street abutting or passing through the property shall be included regardless of the deed description of the property. The area of any easement across or within a lot for utility use shall be included in the lot area.
- C. Lot width measurement. Lot width shall be measured along a line parallel with the right-of-way of the street upon which the lot fronts and set back from the right-of-way the required minimum depth of the front yard. Width shall be measured between side lot lines. On pie-shaped lots, the front yard depth may be extended to provide adequate minimum width.
- D. Number of principal permitted uses on a lot. Only one principal permitted use shall be allowed on an undivided property, and only one dwelling building shall be permitted on a lot except in the case of an apartment or townhouse development or a second dwelling on a lot situated so that if the property is later subdivided both dwellings will occupy lots meeting all area, yard setback and frontage requirements that apply in the zone district.

§ 93-19. Building setback exceptions; encroachment into setback areas.

- A. Building next to developed lot. Where a vacant lot exists between two developed lots and the principal building on one or both of these lots is located closer to the abutting street than the required setback distance, a building proposed on the vacant lot may be set back the average of the two existing buildings either side, or the average of one of the existing buildings and the minimum required setback distance, whichever is less.

- B. Building not parallel to lot line. Where a building is to be constructed on a lot so that one or more of its walls is not parallel to the nearest lot line, the wall shall be set back so that the distance between the lot line and the nearest corner of the building, and between the lot line and furthest corner on the same wall divided by two is not less than the minimum required setback, provided no part of the wall is less than $\frac{1}{2}$ the required setback distance from the adjacent property line.
- C. Uses permitted in required yard areas. Paved patios, walkways, and off-street parking areas may occupy required yard or setback areas on a lot that are not less than three feet from a lot line. On a commercial or industrial lot abutting a residentially zoned or used lot no paved surfaces shall occur within 10 feet of the mutual lot line. By mutual written agreement, adjacent property owners may share a common driveway straddling their common lot line.
- D. Permitted projections into yards. Roof overhangs, chimneys, open balconies, bay windows, fire escapes, raised decks, accessways to basements, and covered porches may extend up to five feet into a required front, side or rear yard, but not closer than three feet to a property line.

§ 93-20. Building height determination; exceptions.

- A. Measurement of height. Height shall be measured as the vertical distance between ground level and the top of the wall or the top of the roof, using the wall with the lowest ground level. On a sloped-roof building the top of the wall shall be considered as halfway between the roof's eave line and ridge line.
- B. Exceptions. Chimneys, church steeples, flagpoles, water tanks, silos and other farm buildings, mechanical equipment mounted on a roof and communications equipment shall be exempt from the maximum height regulations.

§ 93-21. Accessory buildings and uses.

- A. An accessory building shall be located only in a rear or side yard of a lot and not forward of the front wall of the principal use building, except that buildings for agricultural purposes on a farm may occupy any area of a property within the front, side, and rear setback lines.
- B. No dwelling unit shall be located in any accessory building.
- C. No accessory building, or group of accessory buildings on the same lot, shall occupy more than 600 square feet if in the Village Center Zone District, or more than 1,000 square feet in any other zone district, provided not more than 10% of the lot area is occupied by accessory buildings.¹⁵

¹⁵ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 93-22. Fences, walls and screen landscaping.

- A. Fence, wall or hedge along property lines. A fence or wall may be built, or a hedgerow planted, along a property line provided that any fence, wall, or hedge is not constructed or maintained at a height exceeding four feet along the front lot line or along the side lot line between the front lot line (right-of-way line) and the front setback line, or at a height not exceeding six feet along all other lot lines. By mutual written agreement, adjacent property owners may agree to a higher fence, wall or hedgerow of a specific height along a common lot line.
- B. Chain link industrial fence. An open-mesh metal fence not exceeding 12 feet in height may be constructed along the lot lines of any commercial or industrial property where it abuts a public street or another commercial or industrial lot.
- C. Required screening. When commercial or industrial development or expansion occurs on property abutting residentially zoned land, such development shall be screened in any of the following ways:
 - (1) A permanent, continuous fence of wood or metal displaying no advertising and maintained in good condition, no less than six nor more than eight feet in height, at least 50% of the vertical surface of which shall be opaque; or
 - (2) A dense evergreen shrub or hedge planting to be installed at a height of not less than four feet and maintained thereafter at a height of not less than six nor more than eight feet in height.
- D. Retaining walls. Any wall at least four feet high above grade on its exposed side, and intended to hold an earth embankment from slipping, shall be considered a retaining wall. Such walls shall be designed by a registered engineer and shall be capable of withstanding soil pressures from behind as well as having foundations adequate to avoid overturning, a drainage system to remove water collecting behind the wall, and a barrier along the top of the wall to prevent accidental falls. A retaining wall shall require a building permit and shall not be closer than five feet to any property line.

§ 93-23. Individual mobile homes.

- A. An individual mobile home shall be considered a transportable single-family dwelling on its own chassis intended for permanent occupancy in one unit or two matched units which is towed to its site complete and ready for occupancy except for incidental assembly and attachment operations.
 - (1) An individual mobile home implies that it is not in a mobile home park, but is on its own lot as the sole principal permitted use.
- B. Individual mobile homes shall be permitted wherever single-family detached dwellings are allowed.
- C. Within the zone districts where they are permitted, individual mobile homes shall meet all requirements of this chapter for single-family dwellings as to minimum lot size, setbacks, lot width and off-street parking.

- D. Mobile homes shall be set securely on at least two masonry foundation piers built on concrete footers the bottom of which shall be at least three feet below finished grade. Alternatively such homes may be set upon a continuous masonry foundation wall carried at least three feet below finished grade around the periphery of the mobile home.
- E. Mobile homes shall be securely tied to their foundations by over-the-top or built-in steel straps at each corner and at one intermediate point each side. The space between the floor of the mobile home and the ground below shall be enclosed by concrete block or brick walls or vinyl skirting to match the mobile home's siding. The enclosed space shall have openings for ventilation.¹⁶
- F. Mobile homes shall be placed on their required foundations and shall be ready for occupancy within 30 days after arrival on their lots. Towing bars and wheels shall be removed prior to occupancy.
- G. No mobile home shall be occupied until it has received an occupancy permit from the Zoning Officer after installation of sewage disposal and water supply systems in working order.
- H. Before a mobile home can be removed from the Borough, the owner shall present to the Zoning Officer certification that all Borough, county, and school district taxes, past and current, have been paid in full.
- I. Any mobile home brought into the Borough on or after the effective date of this chapter shall display a placard indicating that it complies with the National Manufactured Housing Construction and Safety Standards Act, and as amended.
- J. After removal of a mobile home from its lot the foundation shall be removed and the site backfilled to original grade within 60 days by the lot owner, or a second mobile home shall be placed on the vacated foundation within 60 days of the removal.

§ 93-24. Conversion apartments.

- A. In the Residential Zone District an existing single-family detached building may be converted to two dwelling units, either internally or by an addition, provided that:
 - (1) Each dwelling unit contains at least 400 square feet of floor area, such area to include only the living room, dining room, kitchen, and one bedroom, or 200 square feet for the same use areas if one or both units are to be occupied exclusively by one person;
 - (2) Each dwelling unit contains its own complete bathroom, kitchen sink, refrigerator, and stove or cooktop, and two means of egress directly or by a stairway or fire escape to the outside at grade, exclusive of the other unit; and
 - (3) Utility systems serving each dwelling unit are independent of the other units, and the proposed sewage disposal system is found to be acceptable by the Borough Sewage Enforcement Officer.

¹⁶ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- B. In the Village Center Zone District an existing single-family detached dwelling may be converted to two or more dwelling units, either internally or by an addition to the original dwelling, provided the stipulations of § 93-24A(1), (2) and (3) can be met.

§ 93-25. Home occupations.

- A. They may occur within any single-family dwelling in the Residential or Village Center Zone Districts provided no additions are erected or changes in the appearance of the dwelling are made to accommodate the home occupation. The home occupation shall be operated by the residents of the dwelling. One off-street parking space for each 300 square feet of floor area devoted to the occupation shall be provided on the property. No more than one person not residing in the dwelling shall be employed and no more than 600 square feet of floor area shall be devoted to the home occupation.
- B. Personal services shall be provided on an appointment basis. Items to be repaired by the home occupation shall be limited to items that can be carried by one person.
- C. A home occupation may occur in a garage on the same lot containing the single-family dwelling in which resides the owner-operator of the home occupation, provided all activity generated by the home occupation occurs within the garage or dwelling except that customer vehicles may park on the premises for a period not to exceed 24 hours. A garage used in connection with a home occupation shall contain not more than 300 square feet of floor area.

§ 93-26. Multifamily housing.

- A. This section covers construction of new apartment or townhouse buildings, including apartments in mixed-use buildings, and the conversion of nonresidential buildings, or space within them to apartments.
- B. New apartment or townhouse buildings shall be set back from property lines as required by §§ 93-14F and 93-15F, except that in the Village Center Zone District no apartment or townhouse building shall be closer than 10 feet from any side property line.
- C. Where several apartment or townhouse buildings occupy the same property or adjacent properties in the same ownership, the buildings shall be separated by not less than the following dimensions:
- (1) Buildings face each other end to end: 15 feet.
 - (2) One building's end wall faces second building's front or rear wall: 25 feet.
 - (3) Building's front or rear walls face each other: 40 feet.
- D. Each apartment and townhouse shall contain its own toilet and washing facilities in a separate room as well as a stove or cooktop, refrigerator and food preparation area, and an off-street parking space on the same lot as the building. Each apartment or townhouse shall be connected to the public sewer system.

- E. Each apartment or townhouse shall contain at least the following enclosed floor area, not including common areas shared by several units, such as halls and stairways:
- (1) Efficiency apartment intended for single occupancy: 200 square feet.
 - (2) One-bedroom apartment: 320 square feet.
 - (3) Two-bedroom apartment: 450 square feet.
 - (4) Townhouse dwelling: 600 square feet.

§ 93-27. Special housing and day-care centers.

- A. Special housing includes personal care homes, group homes, transitional dwellings, retirement or convalescent homes, boardinghouses and foster care homes.
- B. Personal care homes, group homes, transitional dwellings and day-care centers shall have been awarded state certification before opening or have a conditional certificate.
- C. A plan for supervision of the facility including the names and phone number of responsible persons and/or agencies shall be provided to the Borough as a condition of approval.
- D. Not more than four client residents shall be permitted in any special housing use, plus supervisory family or staff.
- E. No two special housing dwellings shall be closer than 500 feet to one another, in a direct line.
- F. A day-care center to accommodate not more than four persons not resident in the dwelling may be operated as a home occupation. A day-care center for a larger number may be located in a building converted to, or designed for day-care use, if it meets state requirements and is so certified. No overnight accommodations shall be provided.
- G. A boardinghouse in which not more than two boarders live in addition to the resident family may be operated as a home occupation in a single-family dwelling provided the owner of the dwelling is a resident of the building and an off-street parking space is provided for each boarder on the lot.
- H. A foster care facility in which not more than four persons placed by court order or by a state agency are resident, and supervised by a full-time staff person or persons, under license of the state, may occupy a single-family dwelling.

§ 93-28. Off-street parking.

- A. The developer of any business building or multifamily apartment building constructed or expanded after adoption of this chapter shall provide on the same property as the business or apartment building off-street parking spaces in accordance with the following schedule:
 - (1) Retail sales and service businesses: one space for each 300 square feet of floor area occupied by the business or expansion.

- (2) Manufacturing or other business not selling directly to the public: one space for each employee on the largest shift, such number to be adjusted upwards if necessary when the employment increases, or business changes hands.
 - (3) Apartments: one space for each apartment. If apartments share a property with business uses, such apartment parking shall be in addition to that provided for the business.
- B. Parking areas shall be covered with an all-weather dust- and mud-free surface but not necessarily paved.
 - C. Each parking space shall be at least 9½ feet wide by 18 feet deep. Maneuvering to enter or leave a parking space shall not occur on a public street pavement, except an alley with a right-of-way width of 20 feet or less may be used.

§ 93-29. Signs.

- A. The term "sign" shall mean any panel or any construction of interrelated parts projecting a message by words, symbols and/or pictures designed to be viewed by the public, but not including the support of the sign. The sign's "area" shall be the length times width of the panel or all the area enclosed by connecting the outer extremities of the sign's interrelated parts, except the members supporting the sign.
- B. No signs illuminated by a flashing, pulsating or intermittent source, no strings of bare bulbs and no signs lighted in such a manner as to create glare conditions on adjacent streets or properties shall be permitted. No sign shall extend to more than 35 feet above ground level. Nor shall any sign be placed upon the roof of a building or extend above the top of a wall of a flat-roofed building. No sign shall obstruct sight distances or create confusion for motorists.
- C. Signs that are freestanding shall be placed only in yards abutting a street and not closer to an adjacent property than the width of the side yard in the zone district where the property is located. No sign shall extend into or over a street right-of-way.
- D. A permit issued by the Zoning Officer shall be required for any permanent sign exceeding eight square feet in area. The permit application shall indicate the property owner's name, address and phone number and the location, height and elevation view of the proposed sign. Permit fees shall be established by resolution of Council.
- E. The following types of signs shall be exempt from permits but still subject to control of this section: real estate sales signs, signs advertising a public, charitable or religious institution or event, signs erected by an agency of any level of government, safety zone or no hunting signs, and temporary signs to be in place for 30 days or less.
- F. The Zoning Officer may order a sign or its structure repaired, or removed if it is unsafe or dilapidated or if the business or activity it advertises has been terminated at least 60 days. Sign owners that do not comply with the Zoning Officer's written request within 30 days shall be subject to penalties under § 93-49.
- G. In the Residential Zone District signs may be freestanding, attached to a lamppost or fence or attached flat to a building wall. The following types of signs are permitted: property

identification signs showing the name of a farm and/or residents of a property; farm produce sales sign; real estate sales signs; signs identifying a home occupation, or contractors while at work on a construction project, or a public or semipublic institution or the entrance to a residential plan; temporary signs advertising affairs of a cultural, religious, political or educational nature; and signs erected by a government body. Signs shall not exceed 16 square feet in area except that property identification signs and home occupation signs shall not exceed eight square feet in area.

- H. In the Village Center Zone District business signs may be freestanding, attached to a lamppost or fence, applied flat to a wall surface or hung from a wall if the sign does not project more than four feet from the wall surface and the bottom is at least seven feet from the ground. The following types of signs are permitted: All those allowed in the Residential Zone District and signs identifying a business on the same property as the sign. In the Village Center Zone, signs on residential properties shall adhere to sign requirements that apply in the Residential Zone District. Projecting signs shall not exceed eight square feet in area each face. Freestanding signs shall not exceed 32 square feet in area each face. Wall signs shall not exceed 10% of the area of the wall to which they are attached including windows and doors. Signs may be illuminated from within or by a hidden indirect source only.
- I. In the Commercial and Light Manufacturing Zone Districts all kinds and types of signs allowed in the Village Center Zone District are permitted. Projecting signs shall not exceed 16 square feet in area each face and freestanding signs not more than 80 square feet each face. Wall signs shall not cover more than 10% of the wall surface to which attached. Signs may be illuminated from within or by an indirect source only.

§ 93-30. Site grading and drainage.

- A. Any earth movement within the Borough after adoption of this chapter shall be part of an approved development project.
- B. If earth is to be removed from or deposited on a site when no further development is contemplated at the time, no such activity shall commence until Council has approved a land disturbance plan for the site, showing specifically the location of the cut or fill on the property, the existing and proposed grades on the site, methods to control erosion and to replant the surface of the disturbed area, and the length of time required to complete the project.
- C. Earth movement shall result in finished grades that do not exceed two horizontal to one vertical unless a report prepared by a professional engineer verifies that specific steeper slopes in a particular location will not compromise the stability of the completed slope or areas above or below it or threaten adjacent streets or property. Topsoil shall be removed and stockpiled before the start of grading. Graded slopes shall be planted with a fastcatching grass cover as soon as finished grading is completed.
- D. Where fill is used it shall be placed in layers not exceeding eight inches in depth, thoroughly compacted, and keyed in to undisturbed earth at the edges of the fill.

- E. Accompanying the application to Borough Council for any residential multifamily or commercial or light manufacturing development where site grading is proposed, there shall be submitted a cross section drawing through the property to illustrate the proposed grading, indicating the steepness of proposed slopes, or a contour map showing existing and proposed grades with contours not more than five feet apart.
- F. This section shall not apply to development of single- or two-family dwellings or to agricultural operations.
- G. Stormwater shall not be permitted, as a result of development undertaken after adoption of this chapter, to collect upon any property; or to pass from one property onto another in a concentrated flow without benefit of a legal easement; or to cross a public street on the surface. In any residential multifamily, commercial or light manufacturing development, the application to Borough Council shall be accompanied by a plan to indicate how stormwater will be collected and removed from the property.
- H. ¹⁷Whenever the area to be covered by buildings plus paved parking lots and driveways on a lot will exceed 3,500 square feet, the developer shall have designed and installed at his/her expense a stormwater management system meeting the following criteria:
- (1) The maximum water release rate after development shall be the predevelopment two-year twenty-four-hour peak discharge.
 - (2) The minimum storage capacity to accommodate postdevelopment lot coverage shall be the volume required to contain the ten-year twenty-four-hour frequency storm for release at a rate not to exceed the predevelopment two-year twenty-four-hour peak discharge.
 - (3) The maximum runoff velocity downstream of the storage basin shall not exceed the permissible velocity contained in The "Erosion and Sedimentation Control Handbook for Butler County."
 - (4) All system designs shall use the "soil cover complex" method for computing runoff contained in the Soil Conservation Service Technical Release No. 55, "Urban Hydrology for Small Watersheds."
 - (5) Developers are urged to consult the Soil Conservation Service, United States Department of Agriculture, or to retain a professional engineer with hydrological experience to design the system.

§ 93-31. Site plan review.

- A. Any landowner proposing to develop property for multifamily commercial or light manufacturing use, or to expand such construction on property already partly developed, shall present a plan of his proposal to Borough Council.
- B. Council may not deny a landowner a use which is permitted by this chapter in the zone district where the property is located. However Council may attach conditions to approval when Council determines that the public health and safety is in jeopardy if the plan as

¹⁷ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

proposed is implemented. If the proposed use is a conditional use, Council may act on the conditional use application concurrently with the site plan. If there is doubt about the proposed use as permitted or conditional, Council may ask the Zoning Hearing Board for a decision.

- C. The plan of the proposal shall clearly show the location and height of all buildings existing and proposed on the property as well as property lines, adjacent streets, and access to them from the property, proposed parking layout, proposed site grading, methods to control and dispose of stormwater, and sewer line to serve the property.
- D. Council shall review the plan at its next meeting after receipt. It may ask the landowner to attend and may ask the County Conservation District or other agencies for advice before making a decision to approve the plan as submitted, approve it with modifications, or reject it. Council shall make its decision not later than the third regular meeting after it first reviewed the plan and shall inform the landowner in writing of the decision. If not approved as presented, Council shall state reasons why the plan was rejected, or what conditions are attached to approval. If the plan is approved as submitted, or if the landowner accepts the conditions, Council shall authorize issuance of a building permit. Otherwise the plan shall be considered as rejected. If the developer withdraws his plan and resubmits it, the revised plan shall be considered and reviewed as a new plan. The developer may negotiate with Council regarding conditions Council may wish to attach to approval.

ARTICLE VI

Conditional and Special Exception Uses [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 93-32. Submission requirements.

- A. Conditional uses and special exception uses are listed for each zone district in Article IV of this chapter. Applications for conditional uses shall be submitted to Borough Council, and for special exception uses to the Zoning Hearing Board, which shall process them in accordance with § 93-40E of this chapter. The requirements for submission and the criteria for review of conditional uses and special exception uses are the same.
- B. A request for approval of a conditional use shall be accompanied by a statement demonstrating that the proposal falls within one of the listed conditional uses in the zone district where development is proposed; that the proposal will not endanger the public health, safety or welfare at the selected location; that it will not deteriorate the environment or create nuisance conditions, such as traffic congestion or excessive noise, glare, smoke, dust or vibration; and that the proposal meets all other requirements in the zoning district and this chapter.
- C. The developer shall submit, in addition to the statement, a scaled site plan of the proposal showing buildings on the lot with the use and height of each noted; distances between buildings and lot and street lines; driveway entrances, internal drives and parking areas with the number of spaces shown; and topographical features, including proposed grading, if any.

§ 93-33. Review of conditional use application and decision.

- A. Within 60 days after the applicant proposing a conditional use has requested a public hearing, Council shall call and hold the hearing. Upon scheduling the hearing, Council shall refer the submission to the Planning Committee for review and recommendation to Council. The Committee shall determine the completeness of the statement and site plan and advise Council on conformance of the proposal to the requirements of this chapter, adherence to the applicable criteria of § 93-34, and the potential impact of the proposal upon the neighborhood, including traffic, stormwater control and public utility considerations.
- B. The hearing shall be advertised (see definition of "public notice") and the affected property posted (see definition of "posting") at least seven days before the hearing.
- C. Council shall render a written decision within 45 days after the conclusion of the hearing. A copy of the final decision shall be mailed to the applicant not later than the day after the decision. When the application is contested by others or denied, the decision shall be backed by facts, upon which the decision was based, together with reasons for the decision. Conclusions based on any part of this chapter or other regulation shall refer to the provision relied on, and the reason why the conclusion is appropriate.
- D. In approving a conditional use application, Council may attach such reasonable conditions and safeguards, in addition to those expressed in this chapter, as it may deem necessary to protect the public health, safety and welfare.
- E. If Council fails to render its decision within 45 days after the hearing, or fails to hold the hearing within 60 days of the applicant's request, 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.

§ 93-34. General criteria.

The following are general guidelines to be considered in evaluating a conditional use.

- A. Property access: entrances should be located as remote as possible from street intersections and to give motorists entering or leaving the property the greatest view of conflicting traffic.
- B. Parking areas: should be screened from adjacent residential buildings by shrubbery, low fence, or natural change of grade.
- C. Landscaping: areas not paved or occupied by buildings should be landscaped and maintained or left in their natural state prior to development.
- D. Permanent building: businesses in which most of the products are stored outside should be operated from a permanent building on the property.
- E. Residential use on non-residentially-used property: only the residence of a caretaker or the owner should be permitted on such a property.
- F. Enclosed structure: businesses and industrial processes should be conducted from within an enclosed building.

- G. Utilities: utility lines should be sited to create least environmental damage and minimum clearance of vegetation should be permitted within right-of-way.
- H. Animals: uses involving the overnight holding of animals should have indoor pens.
- I. Hours of operation: Council may control hours of operation if late night activity might cause hardship to nearby residents.
- J. Multifamily residential uses: see § 93-26.
- K. Home occupations: see § 93-25.
- L. Nursing, retirement or convalescent home, day-care center, or personal care, transitional or group home: see § 93-27.

ARTICLE VII Nonconforming Uses

§ 93-35. Applicability.

- A. A nonconforming use is an activity which was present on a property before this chapter was adopted but is not among the list of permitted, conditional or special exception uses for the zone district in which the property is located. A nonconformity may later be created by an amendment to the zoning text or map, but in no other manner.
- B. A nonconforming structure is one that was built on its property before adoption of this chapter so that its setback from one or more property lines is less and/or height is greater than the standards established for the zone district containing the property.
- C. Nonconforming lots, as described in § 93-18A of this chapter, may be developed provided no variances, or only minor variances from the building setback requirements are necessary to accommodate the proposed development. If two or more recorded nonconforming vacant lots abut one another along a common side lot line and both lots are in the same ownership, they shall be considered as one lot and resubdivided to create new lots each of which meet or exceed the minimum lot area and frontage requirements for the zone district containing the lots before development of any of the lots can be approved.

§ 93-36. Nonconforming uses.

- A. A nonconforming use may be expanded by 50% beyond the area on the ground it occupied when this chapter was adopted. A nonconforming structure containing a nonconforming use may be expanded by 50% in volume over the volume of the structure when this chapter was adopted. In neither case shall such expansion occur outside the setback lines within the property. No additional property shall be acquired after the date of adoption of this chapter for the purpose of expansion of a nonconforming use. A nonconforming use may be expanded to occupy all of a structure it occupied partly when this chapter was adopted but then may not be further expanded.
- B. If a nonconforming use is discontinued for a period of at least one year, any use of the property thereafter shall be in conformance with the development regulations for the zone

district containing the property. If the owner of a nonconforming use claims the one year period is too short because of financial, health, or other hardship, he or she may appeal to Borough Council for a reasonable extension not to exceed two additional years. Discontinuance of a nonconforming use shall be indicated by the removal of stock-in-trade and/or permanent equipment needed to operate the use.¹⁸

- C. A nonconforming use may be changed to a second nonconforming use provided that an application for the second use is filed with the Zoning Hearing Board and the Board finds that the proposed use is more compatible with the uses permitted in the zone district than the original nonconforming use.
- D. If the building or structure containing or used in a nonconforming use is destroyed by fire or by natural forces, such building or structure may be rebuilt on its foundation to the same dimensions as before or expanded as allowed by § 93-36A above, within the time limitations imposed by § 93-36B.¹⁹
- E. A nonconforming use may pass from one owner to the next but each succeeding owner of a nonconforming commercial or light manufacturing use shall receive approval of the Zoning Officer before commencing operation to assure that the use will be operated in essentially the same manner as formerly.
- F. Once a nonconforming use is changed to a conforming use it may not thereafter revert to nonconforming status. If a nonconforming use occupies a building and is discontinued, any exterior use of the property for the same nonconforming use shall also cease.

§ 93-37. Nonconforming structures.

- A. No structure shall be enlarged or altered to create a nonconformity or increase an existing nonconformity except in compliance with § 93-36A above.
- B. Replacement of a nonconforming building or structure shall respect the setback and height requirements for the zone district containing the property. If the building or structure owner alleges such a replacement is impractical, he may petition Borough Council to allow a location no more nonconforming than the foundation of the former building or structure.²⁰

§ 93-38. Record of nonconforming uses.

- A. Council may direct the Zoning Officer to identify and record all uses of land and buildings in the Borough made nonconforming by adoption of this chapter.
- B. He shall keep the record current as amendments to this chapter create new nonconforming uses, and as removal of buildings and uses eliminates nonconforming uses.

¹⁸ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

¹⁹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

²⁰ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

ARTICLE VIII
Zoning Hearing Board

§ 93-39. Creation.

- A. The Borough Council shall appoint at the time of adoption of this chapter a Zoning Hearing Board hereafter known as the "Board," made up of three residents of the Borough, none of whom shall hold any other public office in the Borough, elected or appointed.
- B. In the initial appointment one member shall be appointed for three years, one for two years and one for one year. Thereafter, all appointments or reappointments shall be for three years. If a vacancy occurs on the Board, Council may fill it only for the unexpired portion of the term.
- C. A Board member may be removed from office by Council for malfeasance, misfeasance of nonfeasance in office or other just cause after a majority vote by Council. The accused member shall be given 15 days notice before the vote and may make a written request for a hearing before Council if he wishes to contest the proposed action, in which case Council shall not vote until after hearing the accused person.
- D. Alternate members. Council may appoint up to three alternate members of the Zoning Hearing Board, to serve in the absence of a regular member or in the case where a regular member has a conflict of interest. Alternate members shall be appointed for three-year terms, as in the case of regular members' appointment, and they shall hold no other public office in the Borough, elected or appointed.²¹

§ 93-40. Functions.

- A. Appeals from a determination of the Zoning Officer. The Board shall hear and decide appeals where it is alleged by the appellant that the Zoning Officer has failed to follow prescribed procedures or has misrepresented or misapplied any provision of this chapter, including but not limited to, the granting or denial of any permit, or failure to act on the application therefor; the issuance of any cease and desist order or the registration or refusal to register any nonconforming use.
- B. Variances.
 - (1) The Board shall hear requests for variances where it is alleged that the provisions of this chapter inflict unnecessary hardship upon the applicant. The written application for a variance, submitted to the Board Secretary in advance of the hearing, shall demonstrate, where relevant:
 - (a) That the property to be developed is of a peculiar shape or size and/or contains unusual topographic or other conditions creating a hardship;

²¹ Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (b) That because of these circumstances and not the regulations of the ordinance there is no possibility the property can be developed in strict accordance with the regulations;
 - (c) That such hardship has not been created by the appellant;
 - (d) That the requested variance, if granted, will not downgrade the character of the neighborhood nor impair the future development of adjacent properties in conformance with this chapter or undermine the public health or safety; and/or
 - (e) That if authorized, the variance will represent the least deviation from the regulations that will afford relief.
- (2) In granting a variance the Board may attach appropriate conditions necessary to protect the intent of this chapter and the public health and safety.
- C. Challenges to the validity of this chapter. The Board shall hear such challenges on substantive grounds when a landowner challenges the validity of this chapter or Zoning Map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest. The Board shall also hear challenges to the validity of this chapter raising procedural questions or alleged defects in the process of enactment in the adoption of this chapter or any amendments thereto, provided such a challenge is made within 30 days after the effective date of the ordinance or amendment.
- D. Appeals from determinations of the Municipal Engineer or Zoning Officer regarding the administration of Chapter 49, Floodplain Management, of the Code of the Borough of Callery.²²
- E. Special exceptions. The Board shall hear and decide requests for special exception uses, which are listed specifically in Article IV of this chapter. The submission required by § 93-32 shall be provided and the review criteria in § 93-34 shall be considered by the Board, which may attach conditions to approval that must be accepted by the applicant.

§ 93-41. Organization.

- A. The Board shall annually elect from its members a Chairman, Vice Chairman and Secretary, all of whom may succeed themselves. The Board shall reorganize at its first meeting each year.
- B. The Chairman shall call and conduct hearings. The Vice Chairman shall act in place of the Chairman. The Secretary shall keep minutes, distribute copies of testimony as needed, and place hearing advertisements.
- C. For the conduct of a hearing or the taking of any action, a quorum shall be not less than two members, but the Board may appoint a Hearing Officer from its membership to conduct a hearing on its behalf.

²² Editor's Note: The following original sections, which immediately followed this section, were deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I): 802.5, Appeals from decisions of Council; and 802.6, Determinations upon nonconforming uses.

- D. The Board shall keep full public records of its business and shall submit an annual report of its activities to Council, not later than the first of March each year.
- E. The Board may contract for legal, stenographic or consulting services within its budget appropriated by Council. The Board's attorney shall not also be the Borough Solicitor.

§ 93-42. Parties appellant before Board.

An appeal, challenge or request for a variance or determination may be filed in writing with the Secretary of the Board, by any owner of land in the Borough, any tenant wishing a variance with the permission of his landowner, any officer or agency of the Borough, or any aggrieved person.

§ 93-43. Preliminary activities for hearings.

- A. When a request for a hearing is received by the Board Secretary, the Board shall schedule and hold or at least commence the hearing within 60 days of receipt of the request.
- B. Hearings shall be conducted by the Board or by a Hearing Officer member, whose decision or findings where no decision is required, may be considered final if acceptable to all parties.
- C. The parties to a hearing shall be the Borough, the appellant, and anyone affected by the application and/or any civic or community organization who or which requests in writing the opportunity to appear prior to the hearing.
- D. Notice of a hearing shall be mailed at least 15 days before the hearing to all parties, and in addition, to the Zoning Officer and to owners of properties within 100 feet of the boundary of the property or properties or area of a property affected by the hearing, as well as to others who have filed a timely request to receive notice.
- E. Public notice shall be placed by the Borough Secretary twice in a newspaper of general local circulation, once in each of two consecutive weeks, the first notice not more than 30 days and the second not less than seven days before the hearing. In addition, if a variance is sought, or an appeal requested involving specific property, notice shall be posted conspicuously on the affected property and at the Borough office at least seven days before the hearing by the Zoning Officer.
- F. Notices shall indicated the date, time and place of the hearing and the specific nature of the request to be heard.

§ 93-44. Conduct of hearings.

- A. The Chairman or Hearing Officer shall have the power to administer oaths and issue subpoenas to compel attendance of witnesses and the production of relevant documents, including those requested by the parties.
- B. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and arguments, and to cross-examine adverse

witnesses on all relevant issues. Formal rules of evidence shall not apply but irrelevant, immaterial or unduly repetitious evidence may be excluded.

- C. The Board or the Hearing Officer shall cause to have kept a stenographic record of the proceedings. The appearance fee for the stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if ordered by the Board or Hearing Officer, or by the party appealing from the decision of the Board if such appeal is made. The cost of additional copies of the transcript or of other written or graphic materials received in evidence shall be paid by the party requesting the same.
- D. The Board or the Hearing Officer shall not communicate, directly or indirectly, with any party and/or representatives of any party in connection with any issue relevant to the hearing, except upon notice and opportunity for all parties to participate; shall not take legal notice of any communications, reports or other materials unless all parties are afforded an opportunity to contest the material so noticed; and shall not inspect any site or its surroundings with any party and/or representative of any party after the start of a hearing unless all parties are given an opportunity to be present.
- E. The Board or Hearing Officer shall render a written decision, or, when no decision is required, written findings on the application within 45 days after the conclusion of the hearing before the Board or Hearing Officer. Decisions shall be accompanied by findings of fact and conclusions based on them together with the reasons therefor. Conclusions based on any provisions of this chapter or any other ordinance or regulation of the Borough or the State Planning Code shall contain a reference to the provision relied on and the reasons why a conclusion is deemed appropriate in the light of the facts.
- F. If the hearing is conducted by a Hearing Officer, and there has been no stipulation that his decision or findings are final, the Board Secretary shall make the Hearing Officer's report and recommendations available to the parties at the same time that it is available to the Board, and the parties shall be entitled to make written representations thereon to the Board prior to the Board's final decision or entry of findings, which shall be made not more than 30 days after the Hearing Officer's report.
- G. When the Board or Hearing Officer fails to render a decision where it or he has the power to do so within 45 days after hearing the application, or fails to hold the public hearing within 45 days of receiving the request for one, the decision shall be deemed to have been rendered in favor of the applicant, unless he has agreed in writing to a specific time extension.²³
- H. When the decision favors the applicant as a result of the Board's failure to render a decision or schedule a hearing, the Board shall give public notice of the decision once in a newspaper of general local circulation within 10 days after the last day it was required to schedule the hearing or reach a decision.
- I. A copy of the final decision, or the findings if no decision is required, shall be mailed to the applicant not later than the day after the date of the decision. All others requesting notice of the decision not later than the last day of the hearing shall receive by mail a

²³ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

summary of the findings or decision and a statement of the place at which the full decision or findings may be examined.

§ 93-45. Zoning appeals.

- A. Once the Zoning Officer has acted on a development proposal pursuant to the regulations of this chapter, any party may appeal the determination to the Board not later than 30 days after the determination, unless the party can prove he had no knowledge of the determination within the thirty-day period. A second party succeeding in interest, shall be bound by the first party's knowledge.
- B. While an appeal is pending before the Board, any development affected by the appeal shall be halted unless the Zoning Officer certifies to the Board that suspension would cause imminent peril to life and property. In this case suspension will occur only by a restraining order granted by the Board or Butler County Court. The party forced to stop shall have the right to petition the Court to require the appealing party to post a bond as a condition of continuing the appeal, the amount to be determined by the Court. The Court shall hear the petition, determine whether the appeal is frivolous, and, if so, may require the posting of the bond.
- C. Appeals from decisions of the Board, or reports of the Board in proceedings to challenge the validity of this chapter, shall be filed within 30 days of the decision, or completion of the report, with the Clerk of the Butler County Court of Common Pleas.

**ARTICLE IX
Administration**

§ 93-46. Duties of the Zoning Officer.

- A. A Zoning Officer shall administer and enforce this chapter in accordance with its literal terms. He or she shall be appointed by and be responsible to Council and shall hold no elective office in the Borough. The appointee shall demonstrate to the satisfaction of Council a working knowledge of municipal zoning as a condition of appointment.²⁴
- B. The Zoning Officer shall receive and process applications for building permits and permissions to occupy in accordance with this chapter, and shall not permit any construction or any use or change of use which does not conform to this chapter. Permit fees shall be set by Council resolution.
- C. The Zoning Officer shall investigate alleged violations and take action to gain compliance in accordance with § 93-47 of this chapter. He shall also testify before the Zoning Hearing Board on contested determinations he has made. He shall not be denied access to any property in the course of administering and enforcing this chapter.

²⁴ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 93-47. Building permits.

- A. No buildings or structures, including a mobile home or a sign, shall be erected, moved, or enlarged unless a building permit for such action has been issued by the Zoning Officer.
- (1) Permits shall be required only for the following:
 - (a) Any new building or structure, with an area on the ground greater than 100 square feet;
 - (b) Any structural alteration to an existing building or structure than increases the volume;
 - (c) Any sign requiring a permit as indicated in § 93-29D;
 - (d) The removal of a building; or
 - (e) The erection, raising or extension of a fence or wall.
 - (2) Once a permit has been issued by the Zoning Officer, anyone aggrieved by that action may, within 30 days thereafter, appeal the action to the Zoning Hearing Board.
- B. An application for a building permit shall include the following in duplicate on forms provided by the Zoning Officer. A site plan may be waived by the Zoning Officer if the application includes no construction outside the existing buildings on the lot.
- (1) A site plan drawn to scale showing the location of the proposed new construction on the property relative to property boundaries and abutting street, with distances indicated; the location of driveway entrances, signs, and off-street parking areas noting the arrangement and number of spaces; method of collecting and draining stormwater runoff, any grading contemplated, and location of edge of one-hundred-year floodplain if applicable.
 - (2) A statement describing the proposed use of the new construction and the length, width, and height of its components, as well as the number of dwelling and/or commercial units to be included if applicable;
 - (3) Approval from the State Department of Labor and Industry if an enclosed structure other than a one-family detached or two-family dwelling is proposed;
 - (4) Highway occupancy permit, if access to property is from a state highway;
 - (5) Affidavit of the applicant that all information provided is true and correct to the best of his knowledge; and
 - (6) Such additional information as the Zoning Officer may require to secure conformance with other Borough ordinances.
- C. If the application is satisfactory, the Zoning Officer shall inspect the premises where the construction is proposed to occur. If new construction is proposed, the Zoning Officer shall verify on the site that the location of the construction relative to adjacent property lines is in conformance with the building setback requirements and may order the owner to have stakes positioned by a registered surveyor to indicate the property line and outline of

the new construction if he is in doubt. Upon completing his inspection and finding the application and premises compatible, the Zoning Officer shall collect the appropriate building permit fee (see § 93-51), approve the application, and return one copy together with a signed building permit authorizing the applicant to proceed. The applicant shall post the permit prominently on the building site during construction.

- D. If the application is not satisfactory, the Zoning Officer shall return one copy of the application together with a letter indicating the specific reasons why the application cannot be approved.
- E. The Zoning Officer shall from time to time visit the property whereon the approved construction is taking place in order to assure himself that the work is proceeding in accordance with the building permit. The Zoning Officer shall not be denied access to the property during working hours in order to inspect the construction in progress, and may order the work corrected to conform to the permit or halted pending appeal to the Zoning Hearing Board.
- F. If an applicant wishes to amend the use, arrangement or construction of his building from that shown on the permit after the permit is approved, he shall file with the Zoning Officer an application for an amended building permit.
- G. A building permit shall become void, if after six months from the date of issue, construction has not commenced and been vigorously pursued. The life of a building permit shall be 18 months from the date of issue. Permits may be extended for not more than one additional year on large projects or where the applicant can prove to the Zoning Officer a hardship exists making it impossible to complete the project within the time limit. Once a permit has become void, a replacement permit may be obtained in the same manner as for the original permit. The replacement permit shall be for the uncompleted part of the project. No work shall be done after a permit has become void and before a replacement permit has been issued.
- H. A permit shall be required for the removal of any building or part of any building on a permanent foundation. The applicant shall be responsible for backfilling any excavation created by the razing and for the removal of all debris on the lot within 60 days after the issuance of the permit.
- I. The Zoning Officer shall keep records of all applications either approved or disapproved, including one copy of each permit issued, shall maintain a journal of his activities, and shall submit an annual summary report to the Borough Council detailing building activity in the Borough during the preceding year.
- J. Failure of a developer to secure a building permit prior to commencing construction shall result in a fee for the permit being double the normal amount.

§ 93-48. Permission to occupy.

- A. Before the use of a property or structure can be changed, or a commercial property occupied without the need of a building permit, the owner shall secure the approval of the Zoning Officer in writing. Such approval shall be required also whenever a greater number of dwelling units are being installed in a structure, a home occupation is introduced or

changed, or commercial or light industrial premises are converted to a second commercial or light industrial use.

- B. The owner shall be responsible for the use of his property, even though he leases it to others, and for securing the necessary occupancy permission if needed.

§ 93-49. Enforcement; violations and penalties.

- A. If the Zoning Officer finds any provisions of this chapter are being violated, such as the operation of an illegal use, the commencement of construction without a building permit, or the locating of a structure illegally on a lot, he shall notify the owner of the property upon which the alleged violation is occurring by mail, with a copy to the Borough Secretary.
- B. The notice shall indicate the suspected violation, citing specific sections of this chapter, the action necessary to correct the violation within 30 days or less, and the owner's appeal procedure.
- C. At the end of the correction period, the Zoning Officer shall inspect the property to determine if the violation has been removed. If it has not been removed and the owner has not appealed to the Zoning Hearing Board to reverse the Zoning Officer's decision, modify it or grant a time extension, the Zoning Officer shall take the owner before the District Justice, who, if he finds the owner guilty, shall assess penalties and/or order appropriate action.
- D. Continuation of a violation beyond the thirty-day limit or shorter correction period without appeal, or beyond an extension granted by the Zoning Hearing Board, shall make the party causing the violation liable for a civil enforcement proceeding before the District Justice brought by the Borough. A guilty finding will result in a judgment of not more than \$500 plus all court costs including reasonable attorney fees incurred by the Borough. The District Justice shall determine the first day of the violation but each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation shall be paid over to the Borough.
- E. The owner or tenant of any structure, premises or part thereof, and any architect, engineer, builder, contractor, agent or other person who commits, participates in, assists in, or maintains a violation may each be found guilty of a separate offense and suffer the penalties herein provided.
- F. Nothing herein contained shall prevent the Borough from taking such other lawful action as is necessary to prevent or remedy any violation, or to bring an action to enjoin any violation of this chapter.

§ 93-50. Zoning amendments.

- A. An amendment of this chapter may be initiated by Borough Council or by petition presented to Council by a property owner or owners, or person or corporation who or which has an option to purchase a property in the Borough.

- B. The proposed amendment shall be written exactly as proposed to be adopted. Revisions to the Zoning Map shall be specified in writing citing specific boundaries.
- C. When Council approves the amendment wording or map revisions it has proposed, or accepts a petition by a majority vote, Council shall establish a date for a public hearing. At least 30 days prior to the hearing date Council shall give copies of the proposed amendment to the Planning Committee to allow the Committee an opportunity to submit recommendations to Council, and at least 30 days before the hearing shall send a copy to the County Planning Commission for review and recommendations.²⁵
- D. Council shall advertise for its hearing twice, once in each of two consecutive weeks in a newspaper of general local circulation, the first notice not more than 30 days and the second not less than seven days before the hearing. The notice shall contain the full text of the amendment or a summary, reference to a place and times where and when the amendment may be examined before the hearing, and the date, time and place of the hearing.
- E. In addition, where a change of zoning district boundary is sought, the property or group of properties affected shall be posted by the Zoning Officer in at least one conspicuous location not less than seven days before the hearing with the same information as in the hearing advertisement. Owners of property within 100 feet of the boundaries of the property or properties to be rezoned shall be informed by mail at least seven days before the hearing with the same information.
- F. Council shall hold the hearing, keeping a written record of the testimony, and shall make a decision by majority vote to adopt or reject the amendment within 90 days after the hearing. Within 30 days after enactment a copy of the amendment shall be forwarded to the Butler County Planning Commission.
- G. Not less than seven days prior to adoption of an amendment, Council shall have the text thereof or map description, or a brief summary prepared by the Borough Solicitor, placed once in a newspaper of general local circulation. In addition, a copy of the proposed amendment shall be filed in the County Law Library.
- H. If an amendment is substantially revised after the hearing, or zoning district boundaries are further altered, Council, shall, at least 10 days before voting on enactment readvertise in a newspaper a brief summary of the amendment and all the proposed changes since the hearing.
- I. If a landowner submits a curative amendment under the provisions of Section 609.1 of the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended,²⁶ Council shall call and hold a public hearing within sixty 60 days of receiving the petition. If Council declares all or part of this chapter invalid, it shall not be required to receive a landowner curative amendment during the period of the ordinance review, but shall, within 30 days of its declaration, make a statement of the specific deficiencies it proposes to correct, and shall, within 180 days thereafter, either adopt its municipal curative amendment after public hearing or reaffirm the validity of the ordinance as it was prior to the declaration.

²⁵ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

²⁶ Editor's Note: See 53 P.S. § 10609.1.

Such action by Council may not again be taken for at least three years after deciding on a previous municipal curative amendment.²⁷

§ 93-51. Schedule of fees.

- A. Borough Council shall establish by resolution a schedule of fees to cover the cost of permits, conditional use approvals, petitions to amend the ordinance, or any action brought before the Zoning Hearing Board.
- B. The current fee schedule shall be available at the office of the Borough Secretary and may be amended only by official resolution of Council.
- C. No permit shall be issued nor any action taken on proceedings before Council or the Zoning Hearing Board until the appropriate fees have been paid in full.

§ 93-52. Enactment.

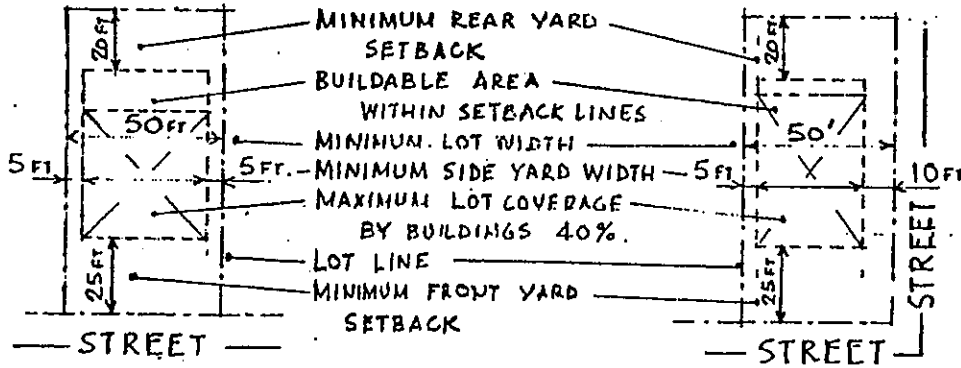
- A. This chapter is required for the immediate protection of the public health, safety and welfare and shall be effective upon its passage and signing by the officers of Council.
- B. This chapter has been duly presented after public hearings and adopted at a regular meeting of the Borough Council of Callery Borough, Butler County, Pennsylvania, held on the fourth day of June 1992.

²⁷ Editor's Note: Original Section 905.10, regarding appeal from a decision of Council on an amendment proposal, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

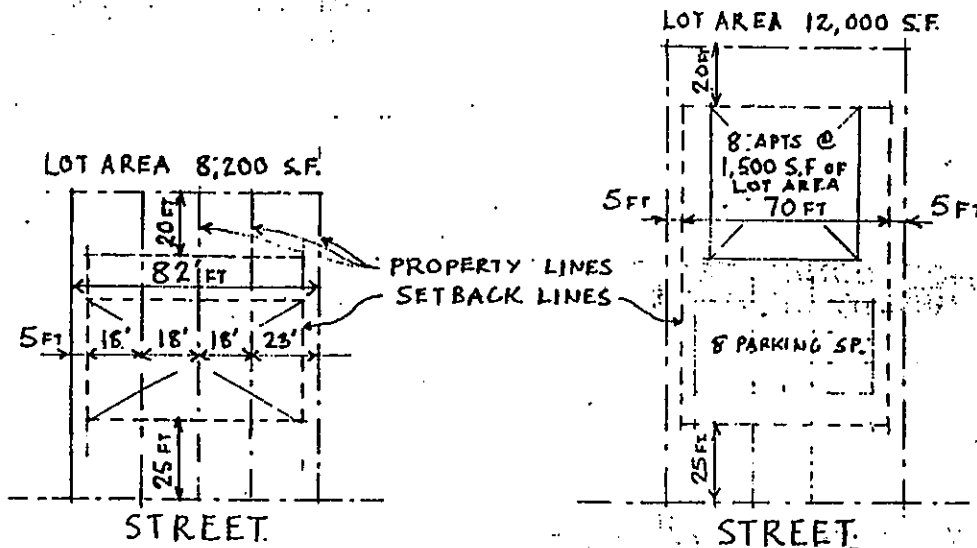


ZONING

DIMENSIONAL STANDARDS
VILLAGE CENTER ZONE DISTRICT
GALLERY ZONING ORDINANCE



MINIMUM LOT AREA 5,000 SQ. FT.



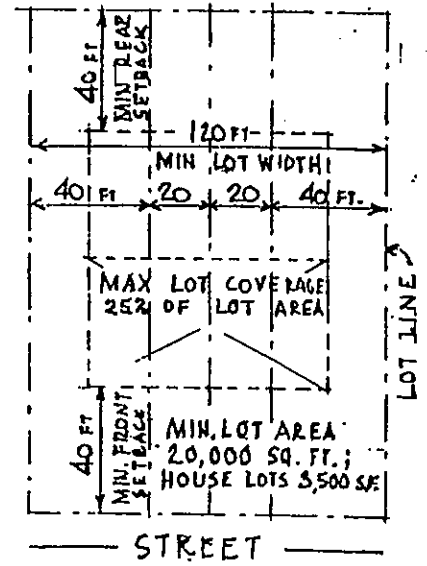
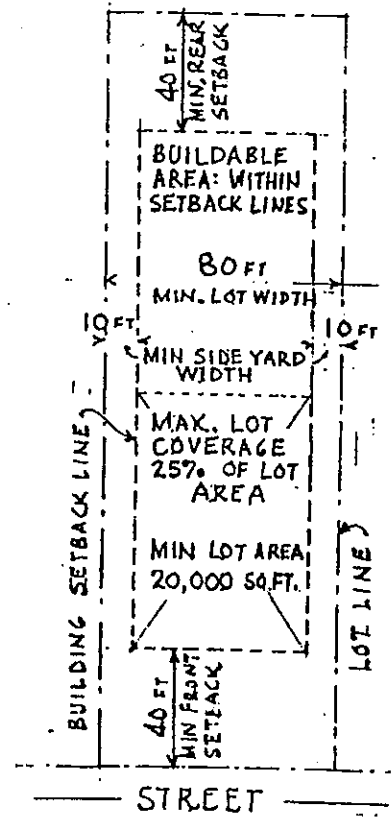
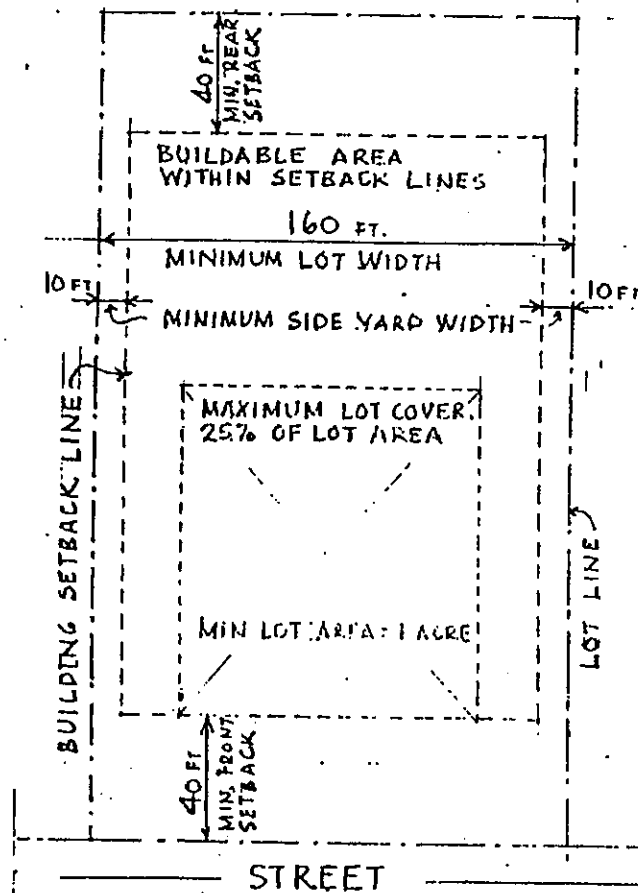
SCALE OF PLANS 1" = 50'-0"

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ZONING

DIMENSIONAL STANDARDS
RESIDENTIAL ZONE DISTRICT
GALLERY ZONING ORDINANCE



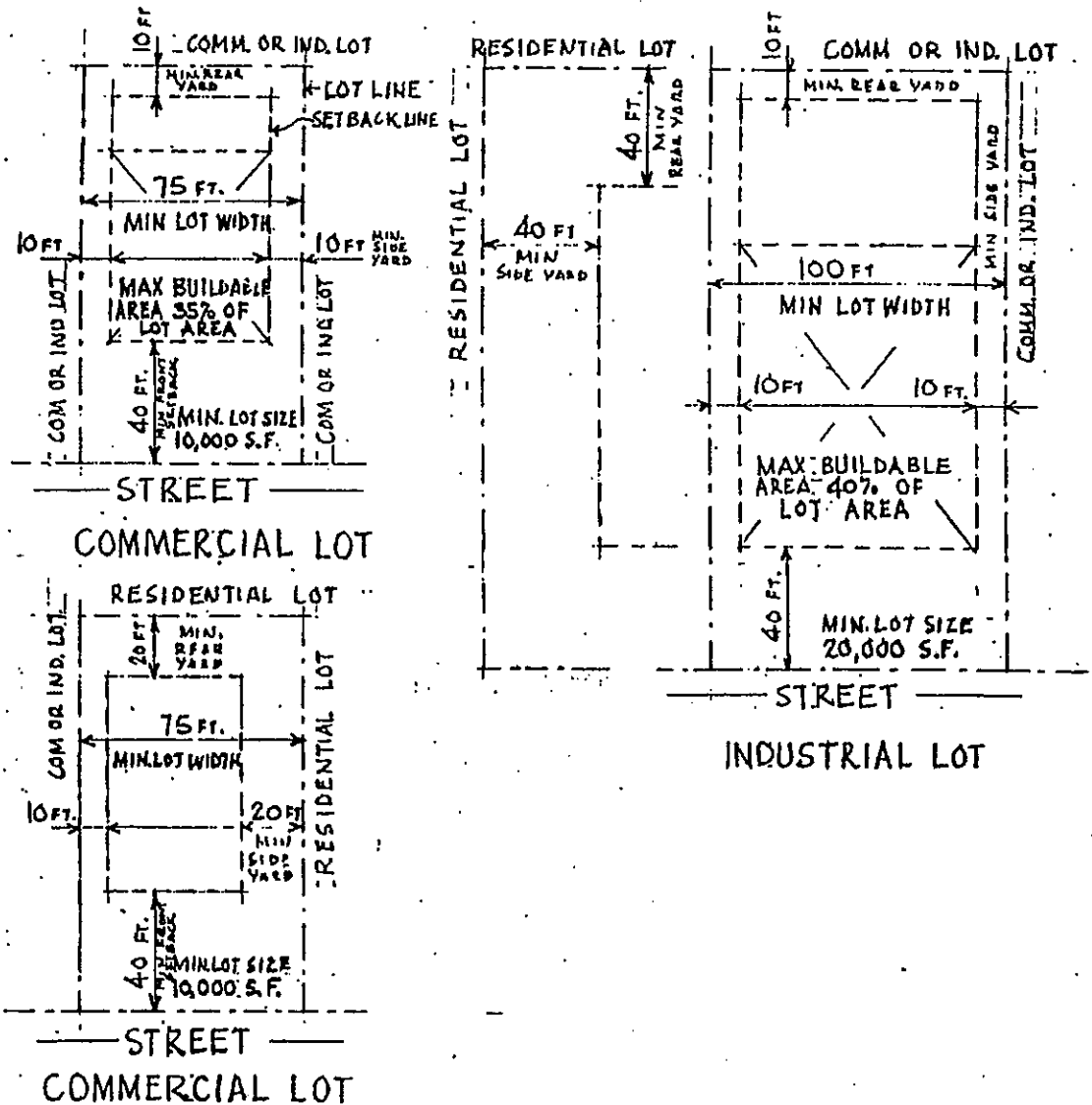
SCALE OF PLANS 1" = 50'-0"



ZONING

DIMENSIONAL STANDARDS
COMMERCIAL & LIGHT INDUSTRIAL ZONE DISTRICTS
GALLERY ZONING ORDINANCE

ONE ACRE LOT (LACKING PUBLIC SEWERS) SAME AS SHOWN ON RESIDENTIAL ZONE DISTRICT SHEET EXCEPT:
 MINIMUM REAR YARD SETBACK IS 10 FEET, OR 20 FEET WHERE COMMERCIAL LOT ABUTS A RESIDENTIAL LOT, OR 40 FEET WHERE INDUSTRIAL LOT ABUTS A RESIDENTIAL LOT.



SCALE OF PLANS 1" = 50'-0"

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