

PART 12

TELECOMMUNICATION FACILITIES

§1201. PURPOSE.

It is the general purpose and intent of this Section to comply with the requirements of the Federal Telecommunications Act of 1996, as amended, and to exercise the Borough's zoning powers under state law, by authorizing towers and antennas needed to operate wireless communications systems, subject to certain conditions and requirements. It is the further purpose and intent of this Section to provide for such authorization in a manner which will retain the integrity of neighborhoods and the character, property values, and overall quality of life of the Borough.

§1202 APPLICABILITY.

All new, expanded or altered wireless communication facilities in the Borough shall be subject to this Section. There will be additional costs (which will be charged to the applicant) for professional review of the application and related matters, including by an independent consultant or consultants.

- A. **New Towers.** All new wireless towers shall require a Special Use Permit in accordance with the requirements of Part 15 – Special Uses, as well as this Chapter.
- B. **Colocation.** The Borough encourages the colocation of antennas on existing towers, monopoles, utility poles located in a public right-of-way, water towers, and other existing similar structures. Colocation requests shall be expedited by the Borough and approved or denied by the Zoning Officer in accordance with this Section. The Zoning Officer may also forward the request to the Planning Commission if it is determined that the request warrants additional review.

§1203 GENERAL SUBMITTAL REQUIREMENTS.

All applications for all telecommunication facilities shall include the following:

- A. **Application.** A fully completed, signed, and dated application, indicating the property owner, service provider, and the provider's ownership or lease interest in the property, building or structure upon which facilities are proposed for placement, construction, or modification.
- B. **Site Plan.** A detailed site plan showing the following:
 - 1. The location, size, height, design and setbacks of the tower, and the number, size, mounting height, and design of antennas.
 - 2. The location, size, design and setbacks of any accessory structures, fences, and outdoor equipment.

3. The location of all structures within two-hundred fifty (250) feet of the subject site.
 4. A landscape plan, showing the location, number, and species of plants.
 5. The location of any drives and/or access easements.
 6. Legal description of the parent parcel and leased parcel (if applicable).
 7. Other information required for site plans under Part 4, §405 et seq.
- C. **Notification.** Notice of any application being filed under this section shall be sent by the applicant by first class mail to the owner of every parcel of property within 500 feet of the tower, to the owner of every parcel of property adjoining at any point the property from which the applicant proposes to create the tower site, and to the owner of every parcel of property directly across the street from said property.
- D. **Fees.** All applicable fees (including zoning escrow fees where applicable).

§1204 NEW TOWER SUBMITTAL REQUIREMENTS.

Applications for new telecommunications facility shall require the following additional information:

- A. **Statement of Need.** A statement of what is proposed and demonstrating the need for the proposed facility based upon the presence of one or more of the following factors:
1. Inability to find a suitable colocation site.
 2. Proximity to an interstate highway or major thoroughfare.
 3. Areas of population concentration.
 4. Concentration of commercial, industrial and/or other business centers.
 5. Areas where signal interference has occurred due to buildings, masses of trees or other obstructions.
 6. Topography of the proposed facility location in relation to other facilities within which the area where the proposed facility is to operate.
 7. The need for additional coverage, capacity and/or quality.

8. A copy of the applicant's FCC license, or, if the applicant is not an FCC license holder, a copy of at least one letter of commitment from an FCC license holder to locate at least one antenna on the applicant's tower.
 9. Other specifically identified reason(s) for creating the need for the facility.
- B. **Facilities Map.** A map showing existing and known proposed telecommunication facilities wireless towers, and existing buildings and/or other structures of the same approximate height within a four (4) mile radius of the proposed site, including sites outside of the Borough, which are relevant in terms of potential colocation or in demonstrating the need for the proposed facility. This information will be used in determining the necessity of a new tower.
- C. **Supplemental Information.** The following information shall also be submitted:
1. **Technology.** The existing form of technology being used and any changes to that technology
 2. **ERP.** The proposed and existing service area of the tower and the attached wireless communication facility, and tower height and type, and signal power expressed in Effective Radiated Power (ERP) upon which the service area has been planned.
 3. **Fall Zone.** A certification by the Commonwealth of Pennsylvania licensed and registered professional engineer regarding the manner in which the proposed tower will fall. The certification will be utilized in determining appropriate setbacks to be required for the tower.
 4. **Other Agencies.** If required, evidence of applicable approvals and licenses from the Federal Aviation Administration, the Federal Communication Commission and the applicable Pennsylvania agencies.
 5. **Maintenance.** A maintenance plan to ensure the long term, continuance maintenance of the facility, along with the name, address and telephone number of the person to contact for engineering, maintenance and other notice purposes. This information must be continuously updated and provided to the Borough during all times the facility is on the premises.

§1205 REQUIREMENTS AND STANDARDS OF REVIEW.

All new wireless communications facilities shall comply with all of the following requirements in addition to the requirements as detailed in Part 15, et seq.— Special Exceptions:

- A. **General.** The proposed tower or antennae shall not be injurious to the neighborhood or otherwise detrimental to the public safety and welfare. The proposed tower shall be located and designed to be harmonious with the

surrounding areas, and to be aesthetically and architecturally compatible with the natural environment, as well as the environment as altered by development.

- B. **Location.** New towers shall be permitted on a priority basis in descending priority upon the following sites, subject to application of all other standards contained within this Part and Part 15 et seq.:

1. C-3 zoning district

No Telecommunication Tower, measured in a straight line from point to point, shall be within one-half ($\frac{1}{2}$) mile from one another.

- C. **Need.** A proposal for a new tower shall not be approved until and unless it can be documented by the applicant that the communications equipment planned for the proposed tower cannot be feasibly colocated and accommodated on an existing or approved tower (or other existing structure) due to one or more of the following reasons as documented by a qualified and licensed professional engineer:

1. The planned equipment would exceed the structural capacity of the existing tower, and could not be reinforced, modified or replaced to accommodate planned or equivalent equipment.
2. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the existing tower or other existing structure and the interference cannot be prevented by any other means.
3. Existing towers within a $\frac{1}{2}$ mile radius cannot accommodate the planned equipment at a height necessary for the coverage area and capacity needs to reasonably function.
4. Refusal of the existing provider to permit a feasible colocation.
5. Other unforeseen reasons that make it unfeasible to locate the planned communications equipment upon an existing tower or structure.

- D. **Colocation.** Any proposed commercial tower shall be designed to accommodate at least 4 antennae platforms unless shown to be unreasonable give the tower height and type. Proposed towers must be designed to allow for future rearrangement of attached wireless communication facilities upon the tower and to accept attached wireless communication facilities mounted at varying heights.

- E. **Height.** The height of all proposed towers and attached antennae shall be the minimum height necessary to serve its intended function, provided that no tower shall be higher/taller than 90 feet (measured at natural grade) so that the structure

does not require lighting per FAA/FCC Regulations. The accessory structures (not on the tower) shall be limited to the maximum height for accessory structures within the respective district.

F. **Setbacks.** Setbacks for wireless communications facilities shall conform to the following:

1. **Telecommunication towers.** All telecommunication towers shall be setback a minimum of 100 feet from the property boundary in all directions and shall be a minimum of 250 feet from any adjoining structure.
2. **Accessory structures (not on the tower).** Accessory structures setbacks shall conform to the minimum setbacks for accessory structures for that zoning district.

For good cause shown, the Planning Commission may alter the required setbacks, based on tower height, tower fall zone, and the proximity of any structures or public rights-of-way.

G. **Access.** There shall be unobstructed access to the tower and accessory structures for maintenance, repair, inspection and emergency purposes, which may be provided through an easement. This access shall have a width and location determined by such factors as: the location of adjacent thoroughfares and traffic circulation within the site; utilities needed to service the wireless communication support structure and any attendant facilities; the location of buildings and parking facilities; proximity to residential districts and minimizing disturbances to the natural landscape; and the type of equipment which will need to access the site.

H. **Use of Existing Building.** Where a telecommunication facility is proposed on the roof of a building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or may be an accessory building, provided that it conforms to all district requirements for accessory buildings.

I. **Visual Impact.** The Borough or its Planning Commission shall, with respect to the color of the proposed tower and all accessory buildings, review and approve such items so as to minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with surroundings.

K. **Radio Frequency.** Telecommunication facilities shall comply with all applicable federal and state standards, including, without limitation, those standards relative to the environmental effects of radio frequency emissions.

L. **Landscaping.** Landscaping shall be provided which screens the tower base, accessory buildings and enclosures. In all cases, there shall be fencing of at least six feet in height surrounding the accessory buildings and equipment enclosures.

- M. **Lot size.** A telecommunication facility shall not be located on any lot or parcel of land that is not at least one acre.
- N. **Facilities Removal.** A bond shall be posted covering the cost of removal of the wireless communication facility with the Borough prior to construction. The bond shall be forfeited to the Borough upon failure to remove the antenna or tower in a timely manner as required as follows:

If, for any reason, a tower ceases operations or is abandoned, the Borough may order its removal as well as the removal of any related structures. The owner of the tower and/or property owner will have six (6) months to remove the tower upon receiving notification from the Borough to do so. If the tower is not removed within the specified time period, and a time extension is not granted by the Borough, the Borough may cause the removal of the tower.

§1206 COLOCATION REFUSAL.

If a provider refuses to permit a feasible collocation on a tower owned or otherwise controlled by it, the result will be that a new and unnecessary additional structure will be compelled, in direct violation of and in direct contradiction to, the basic policy, intent and purpose of the Borough. The provisions of this subsection are designed to carry out and encourage conformity with the policy of the Borough.

- A. **Nonconforming.** If a party who owns or otherwise controls an existing tower fails or refuses to accommodate a proposed and otherwise feasible collocation, such tower shall be deemed to be a nonconforming structure and use, and shall not be altered, expanded or extended in any respect.
- B. **Penalty.** A party who fails or refuses to allow a feasible collocation shall be prohibited from receiving approval for a new tower within the Borough for a period of five (5) years from the date of the failure or refusal to permit the collocation. Such a party may seek and obtain a variance from the Zoning Board of Appeals if and to the limited extent the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the five (5) year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication service.

PART 13 MOBILE HOME PARKS

This Article contains provisions setting forth minimum standards for the design, construction, alteration, extension, and maintenance of mobile home parks and related utilities and facilities. Provisions are also included authorizing the issuance of permits for such construction, alteration, and extension of mobile home parks, the licensing of those who operate mobile home parks, the inspection of mobile home parks by authorized Borough officials; and the fixing of penalties for the violation of any of these provisions.

§1301 DEFINITIONS.

License – written approval, in whatever form as issued by the Borough of Southmont annually, authorizing a person to operate and maintain a mobile home park.

Mobile Home – a transportable, single-family dwelling intended for permanent occupancy, office, or place of assembly contained in one unit, or in two units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor or incidental unpacking and assembly operations, and constructed so that it may attached or anchored to a permanent foundation.

Mobile Home Lot – a parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home, which is leased by the park owner to the occupants of the mobile home erected on the lot.

Mobile Home Park – a parcel of land under single ownership which has been planned and improved for the placement of mobile homes for non-transient use, consisting of two or more mobile home lots.

Person – any individual, firm, trust, partnership, public or private association or corporation, or other entity.

Recreation Vehicle – a vehicle which is designed for human occupancy under transient circumstances, such as camping, travel, or other recreation, sometimes variously known as a “travel trailer” or a “camping trailer.”

Service or Recreational Building – a structure housing operational office, recreational, park maintenance, and other facilities built to conform to required local standards.

§1302 PLAN APPROVAL FOR MOBILE HOME PARK CONSTRUCTION, ALTERATION, OR EXTENSION.

- A. Permits Required. It shall be unlawful for any person to construct, alter, or extent any mobile home park within the limits of Southmont unless a valid certificate has been issued by the Pennsylvania Department of Environmental Resources, in the name of such person for the specific construction, alteration, or extension proposed, and also a plan approval and license by Southmont.

- B. Application to the Pennsylvania Department of Environmental Resources. All applications for a Certificate of Registration shall be made by the owner of the mobile home park or his authorized representative to the Pennsylvania Department of Environmental Resources in accordance with their rules and regulations.
- C. Application to Borough Concerning Mobile Home Parks. Copies of the application submitted to the Pennsylvania Department of Environmental Resources shall be concurrently filed with the Borough Secretary. Such application shall be accompanied by a plan at a scale not smaller than one (1) inch equaling forty (40) feet and containing the following information:
1. All information as required by the Pennsylvania Department of Environmental Resources.
 2. Name of mobile home park.
 3. Name and address of owner of record and/or applicant.
 4. Name of engineer, surveyor, or other qualified person preparing plan.
 5. North arrow, scale, and date of plan preparation.
 6. Location map.
 7. Site data:
 - (a) number of mobile home lots
 - (b) total number of acres
 - (c) number of lots/acres
 - (d) zoning district – conditional use approved
 - (e) number of off-street parking spaces
 8. Topography showing existing and proposed contours at intervals of two (2) or five (5) feet, depending upon the slope of the land.
 9. The location of any existing bodies of water or watercourses, flood plain areas, tree masses, buildings or structures, public facilities, and any other man-made or natural features within or near the proposed mobile home park area.
 10. A storm water management plan.
 11. Existing and proposed property, lot and boundary lines, including setback lines, and information concerning lot dimensions, lot areas, and the location of all utilities and easements.
 12. Location and dimension of all mobile home lots.

13. The location of all existing and proposed streets with information concerning pavement widths, types of paving, and street name
14. Typical cross-sections of all streets.
15. Street center line profiles.
16. Location of all off-street parking areas.
17. Location and dimension of all pedestrian ways and sidewalks.
18. Location of proposed recreation areas.
19. Location of all plantings and landscaping.
20. Location, dimensions, and proposed use of all service and accessory structures.
21. Location any type of all fire extinguishers and waste containers.
22. Location of bench mark and datum used.
23. Location of proposed monuments and markers.
24. Engineer's or surveyor's seal with certification that survey and plan are correct.
25. Block for approval by Planning Commission.
26. Block for approval by Borough Council.

D. Review of Plans and Issuance of Permit

1. With the exception of Section 306 Preliminary Plan Specifications and Section 208 Final Plan Specifications, the procedures to be followed in reviewing proposed plans which have been submitted to the Borough for approval, shall be the same as those contained in Article III of this ordinance.
2. At the time a final plan is approved, Borough Council shall authorize the Zoning Officer to issue a permit to the applicant.

E. Plan Review Fees

Each application for a preliminary plan approval shall be accompanied by a fee in accordance with the provisions of the fee schedule established in the appendix to this ordinance.

§1303 REGISTRATION AND LICENSING.

A. License Required

It shall be unlawful for any person to operate any mobile home park within the limits of the Borough unless he holds a Certificate or Registration issued annually by the Pennsylvania Department of Environmental Resources, and a license issued annually by the Borough of Southmont.

B. Renewal Licenses

Annual licenses shall be issued by the Southmont Borough Zoning Officer upon the furnishing of proof by the applicant that his park meets the standards prescribed by the Pennsylvania Department of Environmental Resources, and this Chapter.

C. Application to Borough for Annual License

Application for initial or renewal licenses to operate a mobile home park shall be made, in writing, to the Borough zoning Officer using a form furnished by the Borough. All such applications shall be accompanied by a fee of one hundred dollars (\$100.00) and shall contain any change in the information submitted since the original license was issued or latest renewal issued.

D. Transfer of Ownership

Every person holding a Department of Environmental Resources Certificate and/or Borough license shall file a written notice to the Pennsylvania Department of Environmental Resources and the Southmont Borough Zoning Officer within ten (10) days after having sold, transferred, given away, or otherwise disposed or, interest in or control of any mobile home park. If the Certificate of Registration and/or license is transferred by the Pennsylvania Department of Environmental Resources, proof of such transfer shall be furnished to the Borough Zoning Officer.

E. Suspension

Whenever, upon inspection of any mobile home park, it is determined that conditions or practices exist which are in violation of any provisions of this ordinance, or of any regulations adopted pursuant thereto, the Southmont Borough Zoning Officer shall give written notice to the person to whom the Department of Environmental Resources Certificate of Registration and Borough license was issued, advising him that unless such conditions or practices are corrected within a reasonable period of time specified in the notice, the license to operate in the Borough shall be suspended. At the time end of such period, such mobile home park shall be inspected and if such conditions or practices have not been corrected, and the licensee has not requested a hearing, the Zoning Officer shall suspend the license and give notice, in writing, of such suspension to the person to whom the certificate and license is issued.

§1304 INSPECTION OF MOBILE HOME PARKS.

The Southmont Borough Zoning Officer or other authorized Borough representative may inspect a mobile home park periodically to determine compliance with this ordinance. As a result of such inspection, the Zoning Officer may give notice for any violation of this ordinance.

§1305 DESIGN AND CONSTRUCTION REQUIREMENTS.

- A. Minimum Park Area. A mobile home park shall have a gross area of at least five (5) acres.
- B. Site Location. The location of all mobile home parks shall comply with the following minimum requirements:
 - 1. Free from adverse influence by swamps, marshes, garbage or rubbish disposal areas, or other potential breeding places for insects or rodents.
 - 2. Not subject to flooding.
 - 3. Not subject to any hazard or nuisance, such as excessive noise, vibration, smoke, toxic matter, heat, odor, glare, etc.
- C. Storm Water Management
 - 1. The ground surface in all parts of a park shall be graded and equipped to drain surface water in a safe, efficient manner. Where necessary, storm sewers, culverts, and related facilities shall be provided to permit the unimpeded flow of natural watercourses and ensure the adequate drainage of all locations within the park.
 - 2. A drainage plan in accordance with the provisions of Section 504 shall be prepared and submitted prior to the granting of a plan approval or license for any mobile home park.
 - 3. All storm water facilities shall be kept completely separate from any sanitary waste facilities.
- D. Soil and Ground Cover Requirements
 - 1. Ground surfaces in all parts of every park shall be paved, covered with stone or other acceptable material, or planted with a vegetative growth that is capable of preventing soil erosion and the emanation of dust during dry weather.
 - 2. Park grounds shall be maintained free of vegetative growth which is poisonous or which may harbor rodents, insects, or other pests.

E. Park Areas for Non-Residential Uses

1. No part of any park shall be used for non-residential purposes, except such uses that are required for direct servicing, management or maintenance of the park and its residents.
2. Nothing contained in this section shall be deemed as prohibiting the sale of a mobile home located on a mobile home lot and connected to utilities.

F. Setbacks, Buffer Strips, and Screening

1. Mobile homes shall be located at least sixty (60) feet from the center line of any abutting existing or proposed public local street, seventy (70) feet from the center line of any abutting existing or proposed public collector street.
2. There shall be a minimum distance of twenty-five (25) feet between an individual mobile home, including accessory structures attached thereto, and adjoining pavement of a park street, or common parking area or other common areas and structures.
3. Mobile home parks shall provide a screen planting (trees, shrubs) along the property boundary line separating the park and adjacent uses. The landscaped strip shall provide an open space of fifty (50) feet along the street frontage with a collector or arterial street and twenty-five (25) feet wide and along all other boundary lines or street frontages.
4. Mobile homes shall be located at least twenty-five (25) feet from any park property line and at least ten (10) feet from any side or rear mobile home lot line.

G. Placement of Mobile Homes

1. Mobile homes shall be separated from each other and from other buildings, structures, and outdoor living areas by at least twenty (20) feet on all sides.
2. An enclosure of compatible design and material shall be erected around the entire base of each mobile home. Such enclosure shall provide sufficient ventilation to inhibit decay and deterioration of the structure.
3. All mobile homes shall be properly placed upon a mobile home foundation and securely fastened to the foundation by anchoring or other permanent methods.

H. Park Street System

1. A safe and convenient vehicular access shall be provided from abutting public streets or roads.
2. The entrance road, or area, connecting the park with a public street or road shall have a minimum pavement width of thirty-six (36) feet. The Borough shall approve the location of the entrance road connection to Borough street.
3. Other internal streets shall be as follows:
 - (a) Where parking is permitted on both sides, a minimum width of thirty-six (36) feet will be required.
 - (b) A minimum pavement width of twenty-eight (28) feet will be required where parking is limited to one (1) side.
 - (c) A minimum pavement width of twenty-five (25) feet will be required if no on-street parking is allowed.
 - (d) Dead end streets shall be provided at the closed end with a paved turn-around having an outside diameter of at least sixty (60) feet.
4. Grades of all streets shall be at least 0.5 percent and not more than 8.0 percent.
5. Intersections of more than two (2) streets are prohibited.
6. Within one hundred (100) feet of an intersection, streets shall be approximately right angles. In no case shall streets intersect at less than seventy-five (75) degrees.
7. If intersecting streets are not in alignment, a distance of at least one hundred twenty-five (125) feet shall be provided between the center line of intersecting streets.
8. Minimum curb or edge of pavement radii at intersections shall be as follows:
 - (a) Minor street with minor street 15 feet
 - (b) Minor street with collector street 20 feet
 - (c) Collector street with collector street 20 feet
9. All streets shall be constructed in accordance with Borough specifications.
10. All streets within a mobile home park shall be privately owned and maintained.

I. Off-Street Parking Areas

1. A paved off-street parking space for two (2) motor vehicles shall be provided at each mobile home lot.

J. Walks

1. All mobile home parks shall be provided with pedestrian walks on both sides of the street. Such walks shall be at least three and one-half (3 ½) feet in width.
2. All mobile home lots shall be connected to a pedestrian walk with an individual walk at least two (2) feet in width.
3. All pedestrian walks shall be constructed of a hard, durable, all-weather material that can be easily maintained, in accordance with Borough specifications.

K. Mobile Home Lots

1. All lots shall abut and be accessible from a park street.
2. Mobile home lots within the park shall have a minimum area of four thousand (4,000) square feet and a minimum width of forty (40) feet frontage in any direction.
3. Each mobile home lot shall be improved to provide a hard surfaced mobile home stand and adequate permanent foundation for the placement of the mobile home unit.

L. Recreation Areas

1. All mobile home parks shall have a recreation area or areas, with suitable facilities which shall be maintained within the park for the use of all park residents.
2. Land required for such recreation areas shall not be less than ten (10) percent of the gross area of the mobile home park.

M. Outdoor Living Area. An outdoor living and service space shall be provided for each mobile home as follows:

1. Such space shall be located for privacy, convenience, and optimum use.
2. The minimum size of such space shall be not less than three hundred (300) square feet with a least dimension of fifteen (15) feet.

3. A paved or hard surface area shall be provided which shall be at least one hundred (100) square feet in area with a least dimension of ten (10) feet.
4. Visual barriers such as walls, fences, or planting shall be of a size and character to assure reasonable privacy and visual appeal.

§1306 WATER SUPPLY.

- A. General. All mobile home parks shall connect to the public water supply system, and every mobile home, service building, and other accessory facilities shall use water from the public system exclusively.
- B. Individual Connections
 1. Individual water riser pipes having an inside diameter of no less than one-half (1/2) inch shall be provided on each mobile home stand and shall terminate no less than four (4) inches above the ground level. The water outlet shall be capped when a mobile home does not occupy the lot.
 2. Adequate provisions shall be made to prevent freezing of service lines, valves, and riser pipes and to protect risers from heaving and thawing actions of ground during freezing weather.
 3. A shut-off valve below the frost line shall be provided near the water riser pipe on each mobile home lot.

§1307 SEWAGE DISPOSAL.

- A. General. All mobile home parks shall be connected to the public sewage system, and every mobile home, service building, and other accessory facilities shall use the public sewage system exclusively. All such proposed sewage disposal facilities shall be approved by Southmont Borough.
- B. Individual Connections.
 1. Individual sewer riser pipes having at least a four (4) inch diameter shall be located on each mobile home stand and shall extend at least one (1) inch above the ground level.
 2. Provisions shall be made for plugging the sewer riser pipe when the mobile home lot is unoccupied.

§1308 ELECTRICAL DISTRIBUTION SYSTEM.

- A. General. Every park shall contain an electrical wiring system consisting of wiring, fixtures, equipment, and appurtenances, which shall be installed and maintained in accordance with local electric power company's specifications regulating such systems.

B. Power Distribution Lines.

1. All power lines shall be placed underground at least eighteen (18) inches below the ground surface and shall be insulated and specifically designed for such installation. Such lines shall be located not less than one (1) foot distance from any other utility line, facility, or installation.
2. Meter poles shall have a maximum height of six (6) feet.

C. Individual Electrical Connections. Each mobile home lot shall be provided with an approved disconnecting device and over-current protective equipment. The minimum service per outlet shall be 120/240 volts, AC, 100 amperes.

D. Required grounding. All exposed non-current-carrying metal parts of mobile homes and all other equipment shall be grounded by means of an approved grounding conductor run with feeder or branch circuit conductors or other approved method of grounded metallic wiring. The neutral conductor shall not be used as an equipment ground for the mobile home or other equipment.

§1309 SERVICE BUILDINGS AND OTHER PARK SERVICE FACILITIES.

A. Applicability. The requirements of this section shall apply to other service buildings, recreation buildings, and other community service facilities as follows:

1. Management offices, repair shops, and storage area.
2. Laundry facilities.
3. Indoor recreation areas.
4. Commercial uses supplying essential goods or services for the exclusive use of park occupants.

B. Facilities

1. Every mobile home park shall have a structure clearly designed as the office of the mobile home park manager.
2. Service and accessory buildings located in a mobile home park shall be used only by the residents of the mobile home park.

C. Structural Requirements for Buildings

1. All portions of the structure shall be properly protected from damage by ordinary uses and by decay, corrosion, termites, and other destructive elements. Exterior portions shall be of such materials and be so constructed as to prevent entrance or penetration of moisture and weather.

2. All rooms containing lavatory facilities shall:
 - (a) Have sound resistant walls extending to the ceiling between male and female sanitary facilities. Walls and partitions in lavatories and other plumbing fixtures shall be constructed of dense, non-absorbent, waterproof material or covered with moisture-resistant materials.
 - (b) Have at least one (1) window or skylight facing directly to the outdoors. The minimum aggregate gross area of windows for each required room shall be not less than ten (10) percent of the floor area served by them.
 - (c) Have at least one (1) window, which can be easily opened, or a mechanical device, which will adequately ventilate the room.
3. Toilets shall be located in separate compartments equipped with self-closing doors.

§1310 REFUSE HANDLING.

The storage, collection, and disposal of refuse in the mobile home park shall be the responsibility of the mobile home park owner or manager and shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution and shall comply with all applicable Borough and state regulations. Refuse shall be removed weekly at a minimum.

§1311 INSECT AND RODENT CONTROL.

Grounds, buildings, and structures shall be maintained free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall comply with all applicable Borough and state regulations.

§1312 FUEL SUPPLY AND STORAGE.

A. Natural Gas System

1. Natural gas piping systems when installed in mobile home parks, shall be installed and maintained in conformity with the specifications of the company serving the area.
 - (a) Each mobile home lot provided with piped gas shall have an approved shutoff valve installed upstream of the gas outlet. The outlet shall be equipped with an approved cap to prevent accidental discharge of gas when the outlet is not in use.

B. Liquefied Petroleum Gas System. Liquefied petroleum gas systems provided for mobile homes, service buildings, and other structures when installed shall be

maintained in conformity with any applicable rules and regulations and shall include the following:

1. Systems shall be provided with safety devices to relieve excessive pressures and shall be arranged so that the discharge terminates at a safe location.
2. Systems shall have at least one (1) accessible means for shutting off gas. Such means shall be located outside the mobile home and shall be maintained in effective operating condition.
3. All LPG piping outside of the mobile homes shall be well supported and protected against mechanical injury. Undiluted liquefied petroleum gas in liquid form shall not be conveyed through piping equipment and systems in mobile homes.
4. Vessels of more than twelve (12) and less than sixty (60) U.S. gallons gross capacity may be securely but not permanently fastened to prevent accidental overturning.
5. No LPG vessels shall be stored or located inside or beneath any storage cabinet, carport, mobile home, or any other structure unless such installations are specially approved by the authority having jurisdiction.

C. Fuel Oil Supply Systems

1. All fuel oil supply systems provided for mobile homes, service buildings, and other structures shall be installed and maintained in conformity with any applicable rules and regulations.
2. All piping from outside fuel storage tanks or cylinders to mobile homes shall be securely, but not permanently, fastened in place.
3. All fuel oil supply systems provided for mobile homes, service buildings, and other structures shall have shut-off valves located within five (5) inches of storage tanks.
4. All fuel storage tanks or cylinders shall be securely placed and shall not be less than five (5) feet from any mobile home exit.
5. Storage tanks located in areas subject to traffic shall be protected against physical damage.

§1313 FIRE PROTECTION.

- A. Local Regulations. The mobile home park area shall be subject to all local fire protection rules and regulations.
- B. Litter Control. Mobile home park areas shall be kept free from litter, rubbish, and other flammable materials.
- C. Fire Extinguishers. Portable fire extinguishers of a type approved by the fire prevention authority shall be kept in public service buildings under park control and a sufficient number shall be maintained throughout the park in readily accessible and well marked positions.
- D. Fire Hydrants
 - 1. Fire hydrants shall be installed accordance with the following requirements:
 - (a) The water supply source shall permit the operation of a minimum of one (1) four and one-half (4 ½) inch connection for a fire engine pumper, and two (2) two and one-half (2 ½) inch connections for direct hose connection.
 - (b) Each of the nozzles, held four (4) feet above the ground, shall deliver at least five hundred (500) gallons of water per minute at a flowing pressure of at least thirty (30) pounds per square inch at the highest point of the park with a four and one-half (4½) inch connection.
 - 2. Fire hydrants shall be located at the entrance of the park and shall be installed in accordance with all applicable Borough specifications.
 - 3. The park management shall give the Borough Zoning Officer or other authorized Borough representative free access to all mobile home lots, service buildings, and other community service facilities for inspection purposes.

§1314 REGISTER OF OCCUPANTS.

The management shall maintain a register containing the names of all park occupants. Such register shall be available to any authorized person inspecting the park. The management shall notify the appropriate officer in accordance with state and local taxation laws of the arrival and departure of each mobile home and in accordance with the Southmont Borough Housing Code.

§1315 REMOVAL OF MOBILE HOME.

No mobile home, whether installed on a single lot or in a mobile home park, shall be removed from the Borough without first obtaining a removal permit from the Borough Tax Collector as required by Act No. 54, 1969, the Pennsylvania General Assembly. Such permit shall be issued upon payment of a fee of two dollars (\$2.00) and real estate taxes assessed against the home and unpaid at time the permit is requested.

PART 14

WIND ENERGY FACILITIES

§1401. PURPOSE.

The purpose of this chapter is to provide specific regulations regarding the location and use of wind energy facilities and to provide for the land planning, installation and construction of wind energy facilities in Borough subject to reasonable conditions that will protect the public health, safety and welfare.

§1402. DEFINITIONS.

The following words, terms and phrases, when used in this ordinance, unless the context indicates otherwise, shall have the following meanings ascribed to them:

Accessory Wind Energy Facility (AWEF)- An electric generation facility comprised of a wind turbine, tower, and associated control/conversion/distribution equipment and structures constructed primarily for generation of electricity for on-site use.

Facility Owner – The entity or entities having a legal or equitable interest in the Wind Energy Facility, including the respective successors and signs.

Flicker – A repeating cycle or changing light intensity.

Ground Clearance – The Minimum distance between the ground and any part of the wind turbine blade, as measured from the lowest point of the arc of the blades.

Hub Height – The distance measured from the surface of the tower foundation to the highest point of the wind turbine hub, to which the blade is attached.

Meteorological Tower – A tower used for the measurement of wind resources.

Non-Participating Landowners – Any landowner except those on whose property all or a portion of a wind energy facility is located pursuant to an agreement with the facility owner or operator.

Occupied Building – A residence, school, hospital, church, public library, commercial building or other building used for public gathering that is in use when the permit application is submitted.

Operator – The entity responsible for the day-to-day operation and maintenance of the wind energy facility.

Participating Landowner – A landowner upon whose property all or a portion of a wind energy facility is located pursuant to an agreement with the facility owner or operator.

Principal Wind Energy Facility (PWEF) – A system designed as the primary use on a lot, wherein the power generated is used primarily for off-site consumption.

Rotor – That portion of the wind turbine, i.e. blades and associated hub and shaft, which is intended to be moved or activated by the wind.

Shadow Flicker – Alternating changes in light intensity caused by a moving wind rotor blade casting shadows on the ground or stationary objects.

Total Height – When referring to a wind turbine, the distance measured from the surface of the tower foundation to the highest point of a wind rotor blade when the blade is positioned at 90 degrees to the surface of the ground.

Tower – The supporting structure of a wind turbine on which a rotor and accessory equipment are mounted. The basic types of towers include self-supporting (free standing) or guyed.

Turbine Height – The distance measured from the surface of the tower foundation to the highest point on the wind rotor.

Wind Turbine – A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer, if any.

§1403 PERMITTED DISTRICTS FOR ACCESSORY WIND ENERGY FACILITIES (AWEF).

An Accessory Wind Energy Facility (AWEF) shall be permitted in C-3 districts as an accessory use. Applications for such uses shall be subject to the requirements of this Ordinance, as well as all other applicable State or Federal regulations.

§1404 COMPLIANCE WITH INDUSTRY STANDARDS.

The layout, design and installation of AWEF shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), Det Notske Veritas, Germanischer Lloyd Wind Energies, the American Society of Testing and Materials (ASTM), or other pertinent certifying organizations and comply with the PA Uniform Construction Code and all applicable building and electrical codes of Southmont. The manufacturer specifications shall be submitted as part of the permit application.

§1405 NUMBER OF AWEF PERMITTED.

A. One ground mounted AWEF shall be permitted per lot, if all requirements for mounting or constructing same on said lot are met.

B. One building mounted AWEF shall be permitted per lot, if all requirements for mounting or constructing same on said lot are met.

§1406 NOISE.

- A. The sound produced by an AWEF shall not exceed 45 dBA as measured at the property line at ground level.
- B. Methods for measuring and reporting acoustic emissions from AWEF shall be equal to or exceed the minimum standards for precision described in American Wind Energy Association (AWEA) Standard 2.1 – 1989 titled Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume 1: First Tier, as amended.

§1407. ACCESSORY BUILDING STORAGE.

When an accessory building is necessary for storage cells or related mechanical equipment, the accessory building shall comply with accessory building requirements of the underlying zoning district.

§1408 UNDERGROUND REQUIREMENTS.

All on-site utility, electric distribution lines and cables shall to the maximum extent possible be placed underground.

§1409 UTILITY NOTIFICATION.

The owner of an AWEF shall provide Southmont written confirmation that the public utility to which the AWEF will be connected has been informed of the customer's intent to install a grid connected system and approved of such connection. Off-grid AWEF shall be exempt from this requirement.

§1410 SIGNAGE.

The display of advertising is prohibited, except for identification of the manufacturer of the system.

§1411 LIGHTING.

AWEF shall not be lighted, except for any lighting required to comply with Federal Aviation Administration (FAA) or Pennsylvania Department of Transportation Bureau of Aviation (BOA) regulations.

§1412 COLOR.

AWEF shall be painted a non-reflective, flat color such as white, off-grey or grey unless required to be colored differently by FAA or BOA regulations.

§1413 BRAKING SYSTEM.

AWEF shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, overspeeding and excessive pressure on the tower structure, rotor blades and turbine components. These systems shall include redundant systems to ensure safe operation of said system.

§1414 SHADOW FLICKER.

An AWEF shall not cause shadow flicker on any occupied building on a non-participating landowner's property.

§1415 LOCATION.

No part of any AWEF shall extend over parking areas, access drives, driveways or sidewalks.

§1416 INSURANCE.

The owner of the AWEF shall provide evidence to Southmont that the owner's insurance policy has been endorsed to cover an appropriate level of damage or injury that might result from the installation and operation of the AWEF.

§1417 ICE THROW.

The potential ice throw or ice shedding for an AWEF shall not cross the property line of the lot on which the AWEF is located nor impinge on any right-of-way or overhead utility line.

§1418 ELECTRONIC INTERFERENCE.

The owner of the AWEF shall ensure that the design and operation of the AWEF avoids disruption or loss of radio, telephone, television, cell, internet or similar signals, and shall mitigate any harm caused thereby. If the AWEF causes such interference and cannot be mitigated to acceptable levels, the AWEF shall be prohibited as this shall be a condition precedent to construction of same.

§1419 WARNINGS.

- A. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers.
- B. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along guy wires up to a height of ten (10) feet above the ground.

§1420 LOCAL EMERGENCY SERVICES.

- A. The permit applicant shall provide a copy of the project summary and site plan to local and county emergency services, including paid or voluntary fire departments(s).

- B. Upon request the permit applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the AWEF.

§1421 DECOMMISSIONING.

- A. Each AWEF and related equipment shall be removed within twelve (12) months of the date when the use has been discontinued or abandoned by the system owner and/or operator, or upon termination of the useful life of same.
- B. The AWEF shall be presumed to be discontinued or abandoned if no electricity is generated by such AWEF for a period of twelve (12) continuous months.
- C. A bond shall be posted covering the cost of removal of the Wind Energy Facility with the Borough prior to construction. The bond shall be forfeited to the Borough upon failure to remove the Wind Energy Facility in a timely manner.

§1422 PERMIT REQUIREMENTS.

- A. Zoning/building permit applications for AWEF shall be accompanied by an overview of the project, standard drawings of the wind turbine structure and stamped engineered drawings of the tower, base, footings, and/or foundation as provided by the manufacturer. Permits shall show the location of the AWEF on the lot, lot lines, rights-of-way, identification of adjacent properties, adjoining occupied buildings, and above ground utility lines located on the lot. Permits shall be kept on the premises where the AWEF is constructed.
- B. The zoning/building permit shall be revoked if the AWEF, whether new or pre-existing, is moved or otherwise altered, either intentionally or by natural forces, in a manner which causes the AWEF not to be in conformity with this Ordinance.
- C. For standard soil conditions (not including gravel, sand or muck), foundations developed by the wind turbine manufacturer shall be acceptable for AWEF installations of 20kW or less and will not require project-specific soils studies. Applicants proposing projects involving substandard soil conditions or installations of AWEF greater than 20kW may be required by the Zoning Officer to submit detailed soil studies.
- D. The AWEF shall be properly maintained and be kept free from all hazards, including, but not limited to faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare. In the event a violation of any of the foregoing provisions, the Zoning Officer shall give written notice specifying the violation to the owner of the AWEF to conform or to remove the AWEF.

§1423 GROUND MOUNTED AWEF.

- A. Lot Size. Ground mounted AWEF may be placed only on lots containing at least one acre.

- B. Height. AWEF shall comply with the height restrictions of the underlying zoning district.
- C. Ground Clearance. The minimum ground clearance for the AWEF shall be 18 feet. Measuring shall be from the bottom of the blade to ground level.
- D. Setbacks.
 - 1. AWEF shall be set back a minimum of 100 feet from property lines, above ground utility lines, roadways, railroads and/or rights-of-way.
 - 2. AWEF shall be a minimum of 200 feet from adjacent occupied dwellings.
- E. Location. Ground mounted AWEFs shall be prohibited in front yards, between the principal building and the street or right-of-way and shall be located in such a manner to minimize the visual impact of said structure.
- F. Safety and Security
 - 1. The owner shall post electrical hazard warning signs on or near the AWEF.
 - 2. Access doors to any AWEF electrical equipment shall be locked to prevent entry by unauthorized persons.
 - 3. All AWEF shall be surrounded by a minimum 6' high fence with a locking gate.

§1424 BUILDING MOUNTED AWEF.

- A. Lot Size. Building mounted AWEF may be placed only on lots containing at least one acre.
- B. Height. A building mounted AWEF shall comply with the height restrictions of the underlying zoning district.
- C. Compliance With Codes. The applicant shall provide evidence to Southmont that the plans for a building mounted AWEF comply with the Uniform Construction Code and other adopted building codes of Southmont, including indication that the building is capable of supporting the load imposed on the structure.

§1425. PRINCIPAL WIND ENERGY FACILITIES (PWEF) PROHIBITED.

Principal Wind Energy Facilities (PWEF) shall be prohibited in all zoning districts of Southmont. Because of the qualities associated with PWEFs, Southmont believes that erection and construction of PWEFs violates the health, safety and welfare of Southmont citizenry and further believes that erection of PWEFs is not consistent or appropriate given the dwellings and character of the neighborhood. Southmont believes that these structures are most suitable for large open expanses of ground which Southmont does not have.

§1426 REMEDIES.

- A. It shall be unlawful for any person, firm, or corporation to violate or fail to comply with or take any action which is contrary to the terms of this Article, or any permit issued under this Article, or cause another to violate or fail to comply, or to take any action which is contrary to the terms of this Article or any permit issued under this Article.
- B. If Southmont determines that a violation of this Chapter or the permit has occurred, Southmont shall provide written notice to any person, firm, or corporation alleged to be in violation of this Article or permit. If the alleged violation does not pose an immediate threat to public health or safety, Southmont and the parties shall engage in good faith negotiations to resolve the alleged violation. Such negotiations shall be conducted within thirty (30) days of the notice of violation.
 - 1. If after thirty (30) days from the date of the notice of violation Southmont determines, in its discretion, that the parties have not resolved the alleged violation; Southmont may institute civil enforcement proceedings or any other remedy at law to ensure compliance with this Article or permit.

PART 15

NONCONFORMING USES AND BUILDINGS

§1501. CONTINUANCE.

The lawful use of a building existing at the time of the effective date of this Chapter may be continued, although such use does not conform to the provisions hereof. Nothing contained herein shall require or permit any change in the construction, alteration or intended use of any structure or business, the construction or alteration of which has begun prior to the effective date of this article.

§1502. REGISTRATION OF NONCONFORMING USE.

The Zoning Officer shall identify and register all nonconforming uses and nonconforming buildings and shall issue appropriate rules and procedures for such registration.

§1503. NONCONFORMING LOTS.

A lot held in single and separate ownership or a lot in a recorded plan at the effective date of this Chapter or of any subsequent amendment hereto which is not of the required minimum area or width may be used for the construction, alteration or reconstruction of a building, or may be otherwise used, if the construction, alteration, reconstruction or other use itself is in compliance with the use, yard, setback density and other pertinent provisions of this Chapter.

§1504. EXISTING NONCONFORMING USES.

Except as hereinafter provided, the lawful use of a building or structure or of any land or premises existing at the time of the effective date of this Chapter or any subsequent amendment, or at the time of a change in the Zoning Map, may be continued although such use does not conform to the provisions hereof or of any subsequent amendment.

- A. A nonconforming use may be changed to another nonconforming use by grant of special exception only upon determination by the Zoning Hearing Board, after public hearing, that the proposed new use will be no more detrimental to its neighborhood and surroundings than is the use it is to replace. In determining relative detriment, the Zoning Hearing Board shall take into consideration, among other things: comments, concerns and opinions from adjacent/adjoining property owners, traffic generated; nuisance characteristics (such as emission of noise, dust and smoke); fire hazards; and hours and manner of operation.
- B. A nonconforming use shall not be extended or enlarged, and a nonconforming building shall not be extended or structurally altered unless the Zoning Hearing Board shall, as a special exception, authorize the extension of a nonconforming use. The Zoning Hearing Board may grant such special exception; provided, that:
 - 1. It is clear that such extension is not materially detrimental to the character of the surrounding area or the interest of the municipality.

2. It is clear that denial of the use would work an undue hardship upon the landowner.
3. Any extension of a building shall conform to the area, height and setback regulations of the district in which it is situated.
4. Whenever a nonconforming use of land, premises, building or structure, or any part or portion thereof, has been discontinued for a period of 1 year, unless specifically waived by the Zoning Hearing Board, the nonconforming use shall not thereafter be reestablished, and all future uses shall be in conformity with the provisions of this Chapter.

§1505. EXISTING NONCONFORMING STRUCTURES.

The continuation, alteration or extension of a nonconforming structure shall be in compliance with the following requirements:

- A. A nonconforming structure being used, or proposed to be used, for a conforming purpose may continue and may even be altered or enlarged unless the alteration or enlargement would increase the nonconformity of the structure with respect to the setback requirements (by reason of the physical encroachment of such proposed alteration or enlargement upon the setback areas), the land coverage requirement or the density requirement of the district in which the structure is located at the time such alteration or enlargement is proposed to be made.
- B. A nonconforming building or structure which has been seriously damaged or destroyed by fire or other casualty may be reconstructed in its former location and to its former dimensions and used for the same purpose for which it was used before its damage or destruction; provided, that such reconstruction shall be commenced within 1 year from the date of damage or destruction and shall be completed within 1 year after commencement of construction
- C. A nonconforming building shall not be expanded, enlarged or structurally altered for a nonconforming purpose unless the Zoning Hearing Board shall, as a special exception, authorize the expansion, enlargement or structural alterations. The Zoning Hearing Board may grant such a special exception; provided, that:
 1. It is clear that such extension is not materially detrimental to the character of the surrounding area or the interest of the Borough.
 2. It is established that denial of the expansion, enlargement or alteration would be an undue hardship upon the landowner.
 3. Any expansion of a building shall conform to the area, height and setback regulations of the district in which it is situated.

§1506. NEW NONCONFORMING USES AND/OR STRUCTURES UNDER SPECIAL EXCPETIONS

This Ordinance provides certain uses by special exception. In situations where there is a new request/application to use a property under special exception, the party seeking to use the property by way of special exception shall make application to the Borough's zoning officer, who shall in turn advise the Zoning Hearing Board of the request/application. The request/application shall then follow the procedure set forth below in Park 16, "Zoning Hearing Board."

§1507 HISTORICAL LANDMARKS.

The provisions of this Part shall not apply to any building or structure which is designated by the Planning Commission, with concurrence of the Borough Council, to be a historical landmark.

PART 16

ZONING HEARING BOARD

§1601. CREATION AND ORGANIZATION.

- A. Creation and Memberships. There is hereby established a Zoning Hearing Board. The membership of the Board shall consist of five residents of the Borough appointed by the Borough Council. The members of the Board shall be appointed for a 5 year term. The Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. The Borough Council may appoint one, two or three residents of the Borough to serve as alternate members of the Zoning Hearing Board. Members of the Board, and alternates, shall hold no other office in the Borough.
- B. Removal of Members. Any Board member may be removed for malfeasance, misfeasance or nonfeasance in the office or for other just cause by a majority vote of the Borough Council taken after the member has received 15 days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.
- C. Organization. The Board shall elect from its own membership its officers who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board but the Board may appoint a hearing officer to conduct any hearing on its behalf and the parties may waive further action by the Board. The Board may take, alter and rescind rules and forms for its procedure consistent with ordinances of the Borough and laws of the Commonwealth. The Board shall keep full official records of its procedure, consistent with ordinances of the Borough and laws of the Commonwealth. The Board shall keep full public records of its business and shall submit a report of its activities to the Borough Council as needed.
- D. Expenses. Within the limits of funds appropriated by the Borough, the Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Board may receive compensation for the performance of their duties as may be fixed by the Borough.

§1602. POWERS AND DUTIES.

- A. Powers Relative to Errors. The Board shall hear and decide appeals filed with the Board in writing when it is alleged by any person aggrieved or by a proxy of the aggrieved that the Zoning Officer has failed to follow prescribed procedures or has misinterpreted or misapplied any provisions of a valid ordinance or map or any valid rule or regulation governing the action of the Zoning Officer.
- B. Powers to Grant Variance. Where it is alleged that the provisions of this Chapter inflict unnecessary hardship upon the applicant, the Board may grant a variance if the following conditions are found relevant in a given case:

1. There are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape or exceptional topographical or other physical conditions peculiar to the particular property and that the hardship is due to such conditions and not the circumstances or conditions generally created by the neighborhood or district in which the property is located.
2. Because of such physical circumstances or conditions there is no possibility that the property can be developed in strict conformity with the provision of this Chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
3. Such hardship has not been created by the applicant.
4. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
5. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issued.

In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary.

C. Powers Relative to Grant Special Exceptions.

1. Upon application and/or appeal, the Board shall be empowered to review and permit the following special exceptions in addition to those specifically set forth in other parts of this Chapter.
 - (a) To permit the reconstruction of a district where the boundary line of a district divides a lot of record in single ownership.
 - (b) To permit the reconstruction, alteration, extension or enlargement of a nonconforming building as provided in Part 15, et seq.
 - (c) To interpret the provisions of this Chapter where the street layout actually on the ground varies from the street layout as shown on the maps fixing the several districts, which map is attached to and made a part of this Chapter.
 - (d) To vary parking regulations of this Chapter whenever the character or use of the building is such as to make unnecessary the full provision of parking facilities or when such regulations would impose an unreasonable hardship upon the use of the lot as contrasted with merely granting an advantage or convenience.

2. The approval of any special exceptions is subject to the following general conditions:
 - (a) Such use shall be one which is specifically authorized as a special exception use in the district in which it is to be located.
 - (b) Such permits shall only be granted subject to any applicable conditions and safeguards required by this Chapter.
 - (c) Such permits may be granted to any additional conditions and safeguards as may be deemed by the Board to be advisable and appropriate.
 - (d) Such use shall be found by the Board to be in harmony with the general purposes and intent of the zoning District.
 - (e) Such use shall not adversely affect the character of the District, the conservation of property values, or the health and safety of persons residing/working in close proximity or adjacent properties to the requested special exception.
 - (f) Such use shall be such appropriate size and so located and laid out in relation to its access streets that vehicular and pedestrian traffic to and from such use will not create undue congestion or hazards prejudicial to the general neighborhood.
 - (g) Such use shall not conflict with the direction of buildings development in accordance with any comprehensive plan or portion thereof which has been adopted by the Planning Commission.
3. In granting a special exception, the Board may attach such reasonable conditions and safeguards as the Board may deem necessary. The reasonable conditions, safeguards, shall include, but not limited to review of the following:
 - (a) Height. The maximum height of structures/dwellings.
 - (b) Lot Area. The minimum lot areas required for special use.
 - (c) Yard Areas. The yard area to required for the special use.
 - (d) Percentage of Lot Coverage. The amount of lot to covered by structure in for the special use.
 - (e) Site Plan. As required under Chapter 4, §405, of the Zoning Ordinance.
 - (f) Off-Street Parking Facilities. A review of the driveway or entry of vehicles to a give special use. The size and location of the parking area required for the proper number of vehicles. Impact that a parking area will have on adjacent owners. A determination of proper traffic flow for

minimal impact on neighboring properties and the area in general, and safety concerns. The need for individuals to park, load and unload children or otherwise having activity on a street where safety of the children and/or persons is compromised shall be minimized or prevented where possible.

- (g) Fence. The type of fence and the area to be surrounded by a fence or natural barrier and to be provide conformance with height limitations in the zoning district in which it is located.
- (h) Signs. Any signage shall comply generally with the requirements as set forth in Chapter 10, Signs. Additionally, a review of the size, type, character of any signage to be used in a special exception and minimize impact on adjacent owners and to maintain character of the neighborhood.
- (i) Bedrooms. When applicable, the number of bedrooms for guests as compared to the square footage of home.
- (j) Safety. Review of safety requirements for a given usage. This may also include a review and/or certification by an applicable local, state, and/or federal agency to confirm compliance with applicable laws.

- D. Powers Relative to Zoning Challenges. The Zoning Hearing Board shall exercise the privileges given to it under the Pennsylvania Municipalities Planning Code in reference to challenges to the validity of any provision of this Chapter or the Zoning Map of the Borough of Southmont.
- E. Exercise of Powers. In exercising the above powers, the Board may reverse or affirm wholly or partly or may modify the order, requirement, decision or determination appealed from and such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken. In considering all appeals, the Board shall, before making any finding in a specific case, first determine the proposed change will not permit a nonpermitted use for the district and will not impair an adequate supply of light and air to increase the danger of fire or materially diminish or impair the public health, safety, comfort, morals and welfare of Southmont Borough. Every change granted or denied by the Board shall be accompanied by a written finding of fact based on sworn testimony and evidence, specifying the reason for granting or denying the variation. The decision of the Board shall be made a part of any building permit in which variation is allowed.
- F. Required Action. The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Officer or to decide in favor of the applicant on any matter upon which it is required to pass under this Part or to allow any variation of this Part.
- G. Appeal from Action of the Board. Any party before the Board or any office or officer of the borough or the aggrieved may appeal to the Court of Common Pleas. All zoning appeals shall be filed with the Prothonotary not later than 30 days after issuance of the

notice of the decision or report of the Board. Appellant's procedure shall follow the requirements of the Pennsylvania Municipalities Planning Code, Act 247.

§1603. PROCEDURE.

Appeals, variances and the special exceptions listed in this Part and their accessory buildings and uses may be permitted by the Zoning Hearing Board in accordance with the procedures and requirements set forth in this Part.

- A. Initiation of Zoning Board Review Process. Any aggrieved party shall file with the Borough a written document along with the applicable fee(s) advising the Borough what decision he/she is appealing or what type of variance/special exception he/she is requesting. The written document must provide the following:
1. Name, address and telephone number where party can be reached or receive formal correspondence from the Borough and/or Board;
 2. The address of the property within the Borough in question;
 3. Citation to all the applicable provisions of the Zoning Ordinance which are in question and/or controlling;
 4. An explanation why the aggrieved party believes the zoning officer's decision was incorrect or why the variance/special exception should be granted.
 5. Advise the Borough whether a hearing is demanded or if the aggrieved party is initially requesting only an informal review of the decision or the variance/special exception request by the Zoning Board.
- B. Informal Review. If the aggrieved party has advised in his written document that he/she desires an informal review by the Zoning Board, the Board shall schedule an initial meeting with the aggrieved party within 30 days to discuss same. At the informal review meeting, the aggrieved party and Board shall review and discuss the issues pertinent to their situation to determine if an amicable resolution can be reached. No discussions or decisions which occur during the informal review will be binding upon either the Board or the aggrieved party. After the initial review, the aggrieved party and Board can take whatever action is deemed appropriate (additional meetings, obtaining of information, etc.) If an agreement is reached by the parties, a formal Consent Order will be issued which memorializes the understanding.

During the informal review, the aggrieved party or the Board may choose to end the process by providing written notification. When the informal review process is ended by notification, the aggrieved party must file written notice within 30 days that he/she is requesting a formal hearing before the Board. Failure to file this additional notice within the 30 days will result in automatic dismissal of the appeal or request for variance/special exception.

- C. Hearing Procedures. Upon receiving a timely written notice from the aggrieved party requesting a hearing, either initially or after the informal review process, the Board shall provide notice, conduct hearings and make decisions in accordance with Article IX, "Zoning Hearing Board and Other Administrative Proceedings" of the Municipal Planning Code (53 P.S. §10901 et seq.) (as amended) and where said Article IX defers to an Ordinance passed by a municipality, the following shall apply:
1. Notice shall be given to the public (by publishing a notice of the proposal in at least one newspaper of general circulation in the Borough once each week for 2 consecutive weeks. Such notice shall state the time and place of the hearing and the particular notice of the matter to be considered at the hearing. The first publication shall not be more than 45 days nor less than 10 days from the date of the hearing.
 2. Notice shall also be given in writing to the applicant, residents adjacent to the affected property, the zoning officer, such other persons as the Borough Council shall designate by resolution and to any person who has made timely request for the same at least 30 days prior to the date of the hearing. Written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.
 3. The Borough may prescribe reasonable fees with respect to hearings before the zoning hearing board by Resolution and as provided by Article IX of the Municipal Planning Code.
 4. The hearings shall be conducted by the Board or the Board may appoint an independent attorney to serve as hearing officer. The decision or, where no decision is called for, the findings shall be made by the Board but the parties may waive decision or findings of the hearing officer as final.
 5. The parties to the hearing shall be any person who is entitled to notice under subsection (A) without special request therefore who has made timely appearance of record before the Board and any other person permitted to appear by the Board.
 6. The chairman or acting chairman of the Board or the hearing officer presiding shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers including witnesses and documents requested by the parties.
 7. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
 8. Formal rules of evidence shall not apply but irrelevant, immaterial or unduly repetitious evidence may be excluded.
 9. The Board or the hearing officer, as the case may be, shall keep a record of the proceedings either stenographically or by sound recording and a transcript of the

proceedings and copies of graphic or written material received in evidence shall be made available to any party at cost.

10. The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his/her representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda or other materials unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings with any party or his/her representatives unless all parties are given an opportunity to be present.
 11. The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application or appeal within 45 days after the last hearing before the Board or hearing officer. When the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of this act or any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer and there has been no stipulation that his/her decision or findings are final, the Board shall make his/her report and recommendations available to the parties and the parties shall be entitled to make written recommendations thereon to the Board prior to final decision and entry of findings and the Board's decision shall be entered no later than 45 days after the decisions within the period required by this subsection or fails to hold the required hearing within 60 days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the municipality shall give public notice of said decision within 10 days in the same manner as provided in subsection (1) of this Section. Nothing in this subsection shall prejudice the right of any party opposing the application to urge that such decision is erroneous.
 12. The 45 day time period for rendering a decision can be extended with consent or without consent if payments of fees proscribed herein are not paid.
 13. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide by mail or otherwise, brief notice of the decision of findings and a statement of the place which the full decision or findings may be examined.
- D. Any individual or entity who is a party to the proceedings before the Board may utilize mediation as provided in Article IX of the Municipal Planning Code (as amended).

E. A fee set by the Borough Council by resolution shall be paid by the applicant at the time any appeal or request for a hearing is filed. At the conclusion of the hearing or proceeding the Borough may also assess the applicant for additional costs incurred by the Zoning Hearing Board or the Borough, such as stenographic costs and obtaining the stenographic record, in the conduct of the proceedings.

1. An additional fee may be charged by the Borough for the reproduction, clerical services, materials, supplies or other costs incurred by the Borough in supplying materials, exhibits or other documents requested by any individual.
2. The failure to pay the fees proscribed herein is grounds to withhold a decision of the Zoning Board or dismiss the appeal if fees are not paid.
3. All fees shall be paid to Southmont Borough to be deposited in the general fund.

PART 17

ADMINISTRATION AND ENFORCEMENT

§1701. ZONING OFFICER.

- A. Zoning Enforcement. A Zoning Officer shall be appointed by the Borough Council to administer and enforce.
- B. Duties and Powers of Zoning Officer. It shall be the duty of the Zoning Officer to enforce the provisions of this Chapter, as amended, and he shall have such duties and powers as are conferred on him or her by this Chapter as are reasonably implied for those purposes. The Zoning Officer's duties shall include but are not limited to the following:
- (1) Receive applications for and issue permits.
 - (2) Keep an official record of all business and activities, including complaints of a violation of any of the provisions of this Chapter and of the action taken consequent on each such complaint and a complete list of all nonconforming uses and structures. All such records shall be open to public inspections according to the Open Records Act. File copies of all applications received, permits issued, reports and inspections made in connection with any structure, building, sign and/or land shall be retained according to the Deposition of Records Code.
 - (3) Make inspections as required to fulfill his/her duties. He/She shall have the right to enter any building or structure or enter upon any land at any reasonable hour in the course of his duties.
 - (4) Issue permits for special exception uses and for variances only after such uses and/or buildings have been approved by the Zoning Hearing Board in accordance with the regulation of this Chapter.
 - (5) Be responsible for keeping this Chapter and the Zoning Map up to date so as to include all amendments thereto.
- C. Notice of Violation. The Zoning Officer shall serve a notice of violation on any person, firm, corporation or partnership responsible for violating any of the provisions of this Chapter or in violation of a detailed statement or a plan approved thereunder. Notice of violation shall be in writing, indicating the nature of the violation and action necessary to correct same. If the notice of violation is not complied with, the Zoning Officer shall order the discontinuance of such unlawful use of structure, building, sign and/or land or order that it be torn down or that the conditions complained of be repaired according to advice from the Borough Solicitor.

§1702. ZONING PERMIT.

No building, structure or sign shall be erected, constructed, moved, added to, structurally altered or permanently improved, nor shall land be put to any use without a permit therefore, issued by the Zoning Officer. No such permit shall be issued except in conformity with the provisions of this Chapter, or upon written order from the Zoning Hearing Board in the form of an administrative review, special exception or variance as provided by this Chapter or by the court and in compliance with the Zoning Map.

A. Form of Application.

- (1) All applications shall be made in writing and shall be accompanied by two sets of plans showing at least the following information where relevant:
 - (a) Actual dimensions and shape of the lot to be built upon.
 - (b) The exact size and location on the lot of buildings, structures or signs existing and/or proposed extensions thereto.
 - (c) The number of dwelling units, if any, to be provided.
 - (d) Methods of sewage and solid waste disposal, plus information on quantity and quality of sewage involved and proposed method of treatment required.
 - (e) Parking spaces provided and/or loading facilities.
 - (f) Statement indicating the existing or proposed use.
 - (g) Height of structure, building or sign.
 - (h) All other information necessary for such Zoning Officer to determine conformance with and provide for enforcement of this Chapter.
- (2) One copy of the plans shall be returned to the applicant by the Zoning Officer after he shall have marked such copies either as approved or disapproved and attested to same by his signature on such copy.
- (3) One copy of all such plans shall be retained by the Zoning Officer according to the Disposition of Records Code.
- (4) Such approval and/or building permit shall be issued or refused within 30 days from date of application. In case of refusal, the applicant shall be informed of his rights of appeal. The application for a permit shall be submitted in such form as the Zoning Officer may prescribe. Plans are to be reviewed by the Zoning Officer, but commercial plans shall be reviewed by Labor & Industry.

- (5) Expiration of Building Permit. A building permit shall expire within 180 days from date of issuance if work described in any permit has not begun. If work described in any building permit has begun, said permit shall expire after 1 year from date of issuance thereof. Application for extension of time for a building permit for delayed start of construction, or other reasons, shall require payment of ½ of the original permit fee.

§1703. CERTIFICATE OF USE AND OCCUPANCY.

A certificate of use and occupancy shall be required when: (1) there is construction or renovation work requiring a building permit from the Borough on any structure in all zoning districts; or (2) any pre-existing residential structure or dwelling in the R-1, R-2, R-3 or R-4 Districts will be changed or modified to a special use as set forth in this Ordinance; or (3) a property will be used for commercial use. In the cases referenced herein, it shall be unlawful to use and/or occupy any structure, building and/or land portions thereof in a district in any manner until a certificate of use and occupancy has been issued. A certificate of use and occupancy is not required in regards to residential properties that do not meet the criteria set forth herein.

A. Form of Application. The application for certificate of use and occupancy shall be submitted in such form as the Zoning Officer may prescribe.

B. Issuance of Certificate of Use and Occupancy.

- (1) The Zoning Officer or his/her agent shall inspect any structure, building, sign and/or land or portions thereof and shall determine the conformity therewith. If he/she is satisfied that the structure or completed work on the structure is in conformity with the building permit (if applicable), this Zoning Ordinance, other applicable Ordinances/Codes/Regulations of the Borough, and other applicable Statutes/Codes/Regulations of this Commonwealth (when required) he/she shall issue a certificate of use and occupancy. In certain circumstances, the Zoning Officer may utilize agents from other agencies to determine the suitability of issuing a Use and Occupancy Permit.
- (2) A certificate of use and occupancy shall be granted or refused in writing within 10 days from the date of application unless circumstances require that a reasonable amount of additional time is needed to grant or refuse said permit.

§1704. SCHEDULE OF FEES.

- A. Each application for a building permit/certificate of use and occupancy shall be accompanied by cash, certified check or money order payable to Southmont Borough in accordance with the schedule of fees set by the Borough Council by resolution.
- B. Payment of permit/certificate fee does not obligate the Zoning Officer of Southmont Borough to grant a permit/certificate to the applicant. All permits/certificates issued must be in conformance with the provisions of this Chapter; and in the event a permit is not issued, the application fee will be retained by Southmont Borough and shall be credited to the general fund.

§1705. CHANGES, AMENDMENTS & COMPREHENSIVE PLANS.

- A. Whenever it is deemed desirable in order to meet the public needs, promote the convenience and welfare to the public, conform with good zoning practice and the intent and purpose of this Chapter, the Borough may, by ordinance, after report thereon by the Planning Commission and subject to the procedure provided in Article VI, "Zoning" of the Municipal Planning Code (53 P.S. §10601 et seq.)(as amended) and this Chapter, supplement or change the regulations, district boundaries or classifications of property, now or hereafter established by this Chapter and the Municipal Planning Code.
- B. Any amendment, supplement, reclassification, modification or change may be initiated by any of the following:
 - (1) The Planning Commission may initiate action by filing a written report to the Borough.
 - (2) The Borough may initiate action by filing a written request to the Planning Commission.
 - (3) The owner or owners of 51% or more of frontage of the property, between two intersecting streets, proposed to be changed, may submit a notarized petition to the Borough.
- C. Petition for Map Change or Amendment or Comprehensive Change:
 - (1) Form and Content. Petitions for change of district boundaries or reclassification of districts as shown on the Official Zoning Map shall be in writing and shall set forth information and/or documents providing the following:
 - (a) The change requested and the reason(s) for such change;
 - (b) A description of the limits of the requested change by street name or recognizable physical feature;
 - (c) The specific reason for the requested change;
 - (d) The specific use, type of development and type of structure to be erected under proposed change;
 - (e) A map and/or preliminary site plan of the area to be rezoned shall also be submitted to the Borough and County Planning Commissions for reference and review by the Commissions.
 - (2) Review by the Cambria County Planning Commission. Any map change, amendment or comprehensive change to this Zoning Ordinance shall be sent for review by the Cambria County Planning Commission consistent with Pennsylvania's Municipal Planning Code.

- (3) Review by the Borough Planning Commission. After the facts presented and the data and information from the petition are reviewed and studied by the Borough Planning Commission, including comments from the Cambria County Planning Commission, the Commission shall, within 30 days after its regularly scheduled meeting, submit the petition with its preliminary recommendations to the Borough Council. The preliminary report by the Planning Commission is not intended to establish final approval by the Commission but rather to serve as a means of providing a format for action and review by the Borough Council.
- (4) Action by Borough Council.
- (a) Prior to any action by the Borough on the preliminary reports as provided by the Planning Commission on a change, amendment or comprehensive change, the Borough shall, at a minimum, comply with all relevant provisions of Article VI of the Municipal Planning Code (as amended) in implementing and enacting changes, amendments or a comprehensive change to its zoning ordinance. Compliance includes provisions related to, but is not limited to, notices and hearings.
- (5) Conduct of Public Hearing. The Borough Council, its Solicitor or a hearing officer appointed by the Borough Council shall be responsible for the conduct of the public hearing.
- (a) The purpose of the public hearing is to receive relevant facts, data and other material desirable and necessary for a decision on the petition for change.
- (b) The president or acting president of Council, Solicitor or the hearing officer shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
- (c) The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument to cross-examine adverse witnesses on all relevant issues.
- (d) Formal rules of evidence shall not apply but irrelevant, immaterial or unduly repetitious evidence may be excluded.
- (e) The Council, Solicitor or the hearing officer, as the case may be, shall keep a record of the proceedings, either stenographically or by sound recording, and a transcript of the proceedings and copies of graphic or written material received in evidence shall be made available to any party at cost.
- (6) Final Report by Borough Planning Commission.

- (a) Within 30 days following the public hearing, the Borough Planning Commission shall review all material, data, testimony and facts submitted for consideration. The Commission shall make a final report on the petition for change setting forth in detail reasons wherein public necessity, convenience and general welfare do or do not justify the proposed change and determining that the change is or is not in accord with the general objectives of the Borough and good zoning practices and shall forward its findings and recommendations to the Borough Council.
- (b) If the Planning Commission fails to file such report within the specified time in the specified manner, it shall be presumed that the Planning Commission has approved the proposed amendment, supplement or change. In any event the recommendation of the Planning Commission shall be regarded as advisory in nature and shall not be binding on the Borough or other parties to the issue.

(7) Final Action by the Borough Council.

- (a) The passage of an ordinance amending or supplementing the zoning ordinance or modification of the regulations, or the passage of an ordinance providing comprehensive change, shall require the affirmative vote of a majority of the members of the Borough Council.
- (b) Any ordinance amending or supplementing the zoning ordinance or modification of the regulations, or the passage of an ordinance providing for comprehensive change, if not passed by the Borough Council within 90 days after the required public hearing, shall require a new public hearing as prescribed in this Chapter.

(8) Curative Amendments.

- (a) Landowners who desire to challenge on substantive grounds 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 may submit a curative amendment to the Borough Council with a written request that his challenge and proposed amendment be heard and decided as provided in this Part. The Borough Council shall commence a hearing thereon within 60 days of the request. The curative amendment shall be referred to the Southmont Borough Planning Commission and the Cambria County Planning Commission.
- (b) Notice of the curative amendment application shall be given in accordance with this Part.

- (9) Fees. Any person other than the Borough Council or Planning Commission requesting an amendment of this Chapter shall pay a fee established by Borough Council by resolution at the time the request is filed to the Secretary of the

Borough. At the conclusion of the proceedings the Borough may assess the applicant for costs incurred by the Borough in the conduct of the proceedings. All fees shall be paid to the Borough to be deposited in the general fund. No part of the fees shall be refunded to the applicant.

§1706. ENFORCEMENT.

- A. Remedies. In case any buildings or structures are erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this Chapter or any building permit the Borough Council, or with their approval the Zoning Officer, in addition to other remedies in this Chapter and those listed in the Borough Code, may institute in the name of Southmont Borough any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.
- B. Penalties. For any and every violation of the provisions of this Chapter or the terms of building permit issued the owner, general agent or contractor of a building or premises where such violation has been committed or shall exist and the owners, general agent, contractor, lessee or tenant of any part of a building or premises where such violation has been committed or shall exist, and the owners, general agent, contractor, lessee or tenant of any part of a building or premises in which part such violation has been committed or shall exist and the general agent, architect, builder, contractor or any other person who knowingly commits, takes part or assists in any such violation or who maintains any building or premises in which any such violation shall exist, shall upon being found liable, therefore, in a civil enforcement proceeding commenced in the name of Southmont Borough, pay a judgment of not more than \$1,000 plus all court costs, including reasonable attorney's fees incurred by Southmont Borough as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of the violation by a District Judge. If the defendant neither pays nor timely appeals the judgment, Southmont Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Judge determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the District Judge and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney's fees collected for the violation of this Chapter shall be paid over to Southmont Borough and shall be credited to General Fund.

PART 18

INTERPRETATION OF ZONING ORDINANCE

§1801. INTERPRETATION OF ZONING ORDINANCE AND ITS PARTS

In their interpretation and application, the provisions of the Zoning Ordinance and its Parts shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety or the general welfare. Whenever the requirements of this Ordinance are at variance with the requirement of any other lawfully adopted rules, regulations or variances the most restrictive, or that imposing the higher standards, shall govern. Any previous ordinance or part thereof which is in conflict herewith is hereby superseded.

PART 19

SUBDIVISION

§1901. SUBDIVISION.

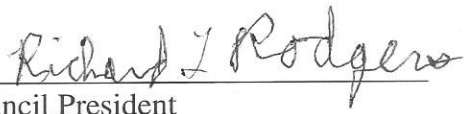
No subdivision of land within the Borough into lots or parcels of less than 5 acres each shall be valid until the same has been submitted to and approved by the Borough Council. The Council shall take action on such subdivision submitted in not less than 90 days after its submission and the failure to so act shall be deemed an approval by the Borough Council. In determining action on land subdivision, the Council shall be guided by the provisions of the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended, which provisions are incorporated herein by reference.

This Zoning Ordinance is enacted this 23rd day of April, 2018, by Council of the Borough of Southmont.

Attest:

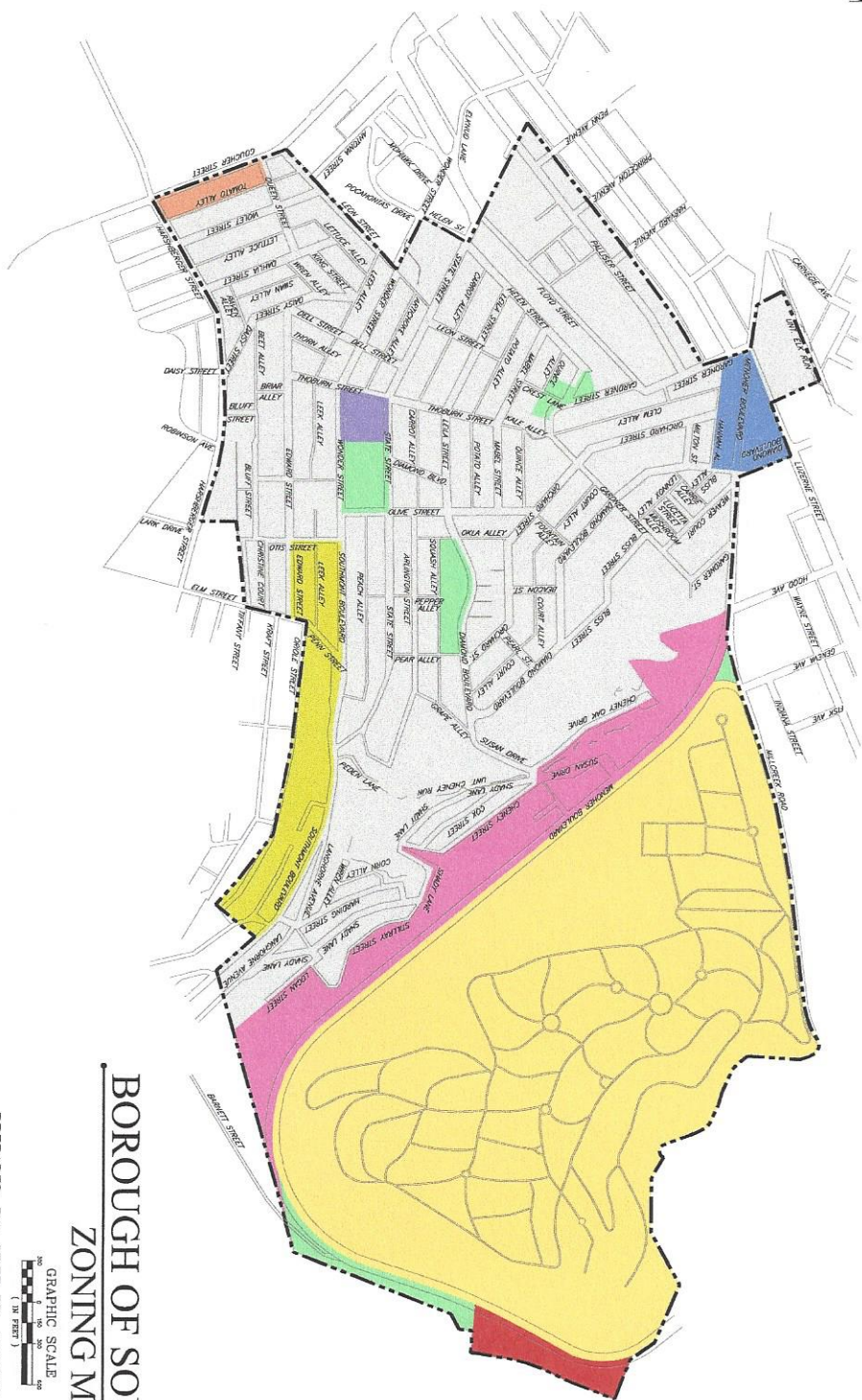
SOUTHMONT BOROUGH


Secretary


Council President

Approved this 27th day of April, 2018.


Mayor



- LEGEND**
- R-1 RESIDENTIAL DISTRICT-SINGLE FAMILY
 - R-2 RESIDENTIAL DISTRICT-SINGLE FAMILY
 - R-3 RESIDENTIAL DISTRICT - MIXED USE
 - R-4 RESIDENTIAL DISTRICT - MIXED USE
 - C-1 COMMERCIAL DISTRICT
 - C-2
 - C-U COMMUNITY-UNIT
 - CEMETERY
 - GREEN SPACE DISTRICT

BOROUGH OF SOUTHMONT **ZONING MAP**

PREPARED BY: STIFFLER, MCGRAW & ASSOCIATES
 REVISED: 03/26/2018

