MILL VILLAGE BOROUGH

ERIE COUNTY, PENNSYLVANIA

ZONING ORDINANCE

March 10, 2009

MILL VILLAGE BOROUGH ZONING ORDINANCE

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Zoning Map

MILL VILLAGE BOROUGH ZONING ORDINANCE

Borough of Mill Village

Erie County, Pennsylvania

Ordinance No. _____

An Ordinance dividing the Borough into various zoning districts and regulating the construction, alteration and use of the structures or land within each of these districts, defining terms and prescribing minimum standards, procedures, penalties and violations.

WHEREAS, the Mill Village Planning Commission, after properly advertised public meeting, has recommended adoption; and

WHEREAS, after due and timely notice by publication as required by law, public hearing upon the proposed Ordinance making districts and classifications as herein set forth having been held by the Mill Village Borough Council, and the Borough Council approved the Ordinance as herein set forth.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the governing body of Mill Village Borough, Erie County, Pennsylvania as follows:

ARTICLE 1

General Provisions

101 TITLE

The official title of this Ordinance shall be the "Mill Village Borough Zoning Ordinance."

102 EFFECTIVE DATE

This Ordinance shall take effect on MAY 26, 2009 and shall remain in effect until modified or rescinded by the governing body.

103 PURPOSE AND AUTHORITY

This Ordinance is adopted by virtue of the authority granted to the Mill Village Borough Council under the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended. The provisions of the Zoning Ordinance are designed:

(a) To promote, protect and facilitate one (1) or more of the following: the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, emergency management preparedness and operations, airports and national defense facilities, the provisions of adequate light and air, access to incident solar energy, police protection, vehicle parking and loading space, transportation, water, sewage, schools, recreational facilities, public grounds and other public requirements, the provision of a safe, reliable and adequate water supply for domestic, commercial, agricultural or industrial use and other public requirements, preservation of the natural, scenic and historic values in the environment and preservation of forests, wetlands, aquifers and floodplains, as well as, to prevent the overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers and to preserve prime agricultural and farmland considering topography, soil type, classification and present use and to provide for the use of land within the municipality for residential housing of various dwelling types encompassing all basic forms of housing.

(b) To be in accordance with an overall plan and with consideration for the rural character of the municipality, its various parts and suitability of the various parts for particular uses and structures.

104 COMMUNITY DEVELOPMENT OBJECTIVES

The zoning regulations and districts set forth in this Ordinance are made in accordance with a comprehensive plan for the general welfare of the Mill Village Borough and are intended to achieve, among others, the following purposes:

(a) To lessen congestion in the streets; and

(b) To secure safety from fire and other dangers; and

(c) To provide adequate light and air; and

(d) To prevent the overcrowding of the land and to avoid undue concentration of population; and

(e) To facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements, as well as the conservation of the value of land and buildings; and

(f) Reserve development opportunities for Route 6; and

(g) Preserve agricultural and related uses to the extent possible; and

(h) To strengthen the basic tax base of the municipality.

105 COMPLIANCE

No structure shall be located, erected, demolished, constructed, reconstructed, moved, altered externally, converted, or enlarged, nor shall any structure or land be used or be designed to be used, except in full compliance with all the provisions of this Ordinance, and after the lawful issuance of all permits and certifications required by this Ordinance; except that the Borough of Mill Village will be exempt from the provisions of this Ordinance in the exercise of its municipal functions.

106 INTERPRETATION OF REGULATIONS

Whenever the provisions of this Ordinance are at variance with any other lawfully adopted rules, regulations, or ordinances, the more restrictive requirements shall govern.

107 SEVERABILITY

If any provision of this Ordinance or the application of any provision to particular circumstances is held invalid, the remainder of this Ordinance or the application of such provisions to other circumstances shall not be affected.

108 REPEAL

Any resolution or ordinance of the municipality, or any part of any resolution or ordinance conflicting with the provisions of this Ordinance is hereby repealed to the extent of such conflict.

109 MUNICIPAL RESPONSIBILITY AND LIABILITY

The provisions within this Ordinance are designed to fulfill the objectives cited in Section 104. The degree of protection sought by the conditions and requirements of this Ordinance for the present and future residents and land owners in the municipality is considered reasonable for regulatory purposes in the various zoning districts. This Ordinance does not imply that compliance with the minimum requirements or that land uses permitted within such districts will be free from inconvenience, conflicts, dangers or damages. Therefore, this Ordinance shall not create liability on the part of individual members of the governing body or any officer, appointee, consultant or employee of the municipality for any damages that may result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

110 LANDOWNER/DEVELOPER RESPONSIBILITY

An applicant under the administration of this Ordinance, which is the owner of land or structures and/or the developer of land or structures, in the municipality is responsible for compliance with all federal, state, county or other authority laws, rules and regulations. The municipality is responsible only for compliance with those laws, rules and regulations that it adopts.

ARTICLE 2

Definitions

201 INTERPRETATION

For the purpose of this Ordinance, words used in the present tense shall include the future. The singular number shall include the plural and the plural shall include the singular. The masculine shall include the feminine and the neuter. The word "shall" is always mandatory. The word "building" includes "structure" and shall be construed as if followed by the words "or any part thereof." The phrase "used for" includes "arranged for," "person" includes an individual, corporation, partnership, incorporated association, or any other legal entity. The word "includes" or "including" shall not limit the term to the specified example, but is intended to extend its meaning to all other instances of like kind and character. Except as defined within this Ordinance, all words and phrases shall have their normal meaning and usage.

202 SPECIFIC TERMS

The following words and phrases shall have the meaning given in this section.

Accessory Building - a subordinate building, incidental to and located on the same lot as the principal building, and used for an accessory use.

Accessory Use - a use incidental and subordinate to and located on the same lot occupied by the principal use to which it relates, and includes fences, parking areas, landscaping, etc.

Adult Entertainment – any adult bookstore, adult cabaret or mini-motion picture theater, as defined herein and which, under the Section 5903 of the Crimes Code, 18 Pa.C.S.A. Section 5903, must exclude minors or may not knowingly disseminate to minors.

Adult Bookstore – an establishment, having as a substantial or significant portion of its stock in trade (for sale or rental), books, magazines or other materials which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined herein. (See also "commercial use, retail").

Adult Cabaret – a cabaret, tavern, theater or club which features strippers, male or female impersonators or similar entertainers who exhibit, display or engage in nudity, sexual conduct or sadomasochistic abuse, as defined in the Section 5903 of the Crimes Code, 18 Pa. C.S.A. Section 5903. (See also "recreational use").

Adult Mini-Motion Picture Theater – an enclosed building offering video presentations distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons within private viewing booths and/or use of token or coin operated projectors or other video machines. (See also "recreational use").

Adult Theater – any business, indoor or outdoor, which exhibits a motion picture show or other presentation which, in whole or in part, depicts nudity, sexual conduct or sadomasochistic abuse defined in the Crimes Code, 18 Pa.C.S.A. Section 5903. (See also "recreational use").

Massage Establishment – any establishment or business which provides the services of massage and body manipulation, including exercises, heat and light treatments of the body, and all forms and methods of physical therapy, unless operated by a medical practitioner, chiropractor or professional physical therapist licensed by the State. This definition does not include an athletic club, school, gymnasium, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service. (See also "retail services use").

Agricultural Uses - all production of crops and livestock, both outdoors and indoor, including forestry, fishing, hunting and trapping, excluding agricultural business services and industries.

Applicant - a landowner or developer, as hereinafter defined, who has filed an application for development including his heirs, successors and assigns.

Application for Development - every application, whether preliminary, tentative or final, required to be filed and approved prior to start of construction or development, including but not limited to an application for a building permit, for the approval of a subdivision plat or plan or for the approval of a development plan.

Authority - a body politic and corporate created pursuant to the Act of May 2, 1945 (P.L. 382, No. 164), known as the Municipality Authorities Act of 1945.

Board - the Zoning Hearing Board of the municipality.

Business Unit - a building or portion thereof containing one (1) or more rooms for a business enterprise accessible from the outdoors either directly or through an entrance hall shared with other business units, and used or intended to be used by one (1) business.

Commercial Businesses - all enterprises primarily related to: retail trade, wholesale trade, services, finance, insurance, real estate, entertainment, etc.

Decision - final adjudication of any board or other body granted jurisdiction under any land use ordinance or this act to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be appealable to the court of common pleas of the county and judicial district wherein the municipality lies.

Determination - final action by an officer, body or agency charged with the administration of any land use ordinance or application thereunder, except the following: the governing body; the zoning hearing board; or the planning agency, only if and to the extent the planning agency is charged with final decision on preliminary or final plans under the subdivision and land development ordinance or planned residential development provisions. Determinations shall be appealable only to the boards designated as having jurisdiction for such appeal.

Developer - any landowner, agent of such landowner, or tenant with the permission of such landowner, who makes or causes to be made a subdivision of land or a land development or a new land use.

Dwelling - a building arranged, intended, designed or used as the living quarters for one or more families living independently of each other upon the premises. The term "dwelling" includes "home occupation."

(a) Single family dwelling - a detached building containing only one (1) dwelling unit on a separate lot of record.

(b) Multi-family dwelling - a building or parcel containing two or more dwelling units, including apartment houses, townhouses, flats, condominiums, duplexes, etc.

Dwelling Unit - a building or portion thereof containing one (1) or more rooms for living purposes together with separate and exclusive cooking and sanitary facilities, accessible from the outdoors either directly or through an entrance hall shared with other dwelling units, and used or intended to be used by one (1) family.

Essential Services - the erection, construction, alteration or maintenance by public utilities or municipal authority or other governmental agencies of underground or overhead: gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduit cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection thereof; reasonably necessary for the furnishing of adequate services by such public utilities or municipal authority or other governmental agencies or for the public health or safety or general welfare, including structures; which are designated as tax exempt property by the Erie County Tax Assessment Bureau. If not tax-exempt, these services are considered industrial businesses.

Forestry - the management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting and selling trees for commercial purposes, which does not involve any land development.

Governing Body - the Borough Council of the municipality.

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

Industrial Businesses - all enterprises primarily related to: manufacturing, transportation, construction, private utilities (including tele-communication facilities), disposal and/or storage (including landfills, injection wells, saw mills, junkyards and recycling operations), and all other businesses not considered commercial by the governing body.

Institutional Services - all public land and buildings related to: governments, municipal authorities, education, health, religion, recreation, utilities, etc.; and non-profit organizations and clubs; which are designated as tax exempt property by the Erie County Tax Assessment Bureau. If not tax exempt, these services are considered commercial businesses.

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

Lot - a designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.

Mobilehome - a transportable, single family dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

Mobilehome Lot - a parcel of land in a mobilehome park, improved with the necessary utility connections and other appurtenances necessary for the erections thereon of a single mobilehome.

Mobilehome Park - a parcel or contiguous parcels of land which has been so designated and improved that it contains two (2) or more mobilehome lots for the placement thereon of mobilehomes.

Municipal Authority – a body politic and corporate created pursuant to the Act of May 2, 1945 (P.L. 382, No. 164), known as the Municipality Authorities Act of 1945.

Municipality - the Borough of Mill Village, Erie County, Pennsylvania.

Natural Resource Extraction - all mining operations related to: removing solids, liquids, and/or gases from the surface of or below ground.

No-Impact Home-Based Business – a business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with residential use.

Nonconforming Lot - a lot the area or dimension of which was lawful prior to the adoption or amendment of this Ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.

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

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

Open Land Uses - these recreational uses involve the need for large areas of open land and include: golf courses, country clubs, fairgrounds, fishing and hunting and bird watching clubs and/or animal preserves, state game lands, cross-country skiing and/or hiking, riding stables, campgrounds, etc. and do not include firearm discharging hunting or shooting clubs and/or preserves, or motorized racetracks or clubs, all of which are considered commercial businesses.

Planning Agency - the Planning Commission or Committee of the municipality.

Public Hearing - a formal meeting held pursuant to public notice by the governing body or planning agency, intended to inform and obtain public comment, prior to taking action in accordance with this Ordinance.

Public Meeting - a forum held pursuant to notice under the Act of July 3, 1986 (P.L. 388, No. 84), known as the Sunshine Act.

Public Notice - notice published once each week for two (2) successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.

Report - any letter, review, memorandum, compilation or similar writing made by any body, board, officer or consultant other than a solicitor to any other body, board, officer or consultant for the purpose of assisting the recipient of such report in the rendering of any decision or determination. All reports shall be deemed recommendatory and advisory only and shall not be binding upon the recipient, board, officer, body or agency, nor shall any appeal lie therefrom. Any report used, received or considered by the body, board, officer of agency rendering a determination or decision shall be made available for inspection to the applicant and all other parties to the proceeding upon request, and copies thereof shall be provided at cost of reproduction.

Sign - any structure, building, wall, or other outdoor surface, or any device or part thereof, which displays or includes any letter, word, model, banner, flag, pennant, insignia, device, or other representation used for announcement, direction, advertisement or identification.

Street - includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct and any other ways used or intended to be used by vehicular traffic or pedestrians, whether public or private.

Structure - any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

(a) Fence - A boundary or barrier of posts, wire mesh or other building materials used to protect or enclose which is under six (6) feet in height for residential and under eight (8) feet in height for business uses.

(b) Screen Planting - screen planting shall mean an evergreen hedge at least six (6) feet high, planted in such a way that it will block a line of sight. The screening may consist of either one (1) or multiple rows of evergreen bushes or trees.

(c) Screening - Screening shall mean a fence, screen planting or wall at least six (6) feet high, provided in such a way that it will block a line of sight.

(d) Wall - Upright structure of stone, brick, wood or other building materials that supports, encloses, protects or divides which is under six (6) feet in height for residential and under eight (8) feet in height for business uses.

Yard - that portion of a lot which is unoccupied and open to the sky and extends from the lot line to the yard line.

Yard, Front - a yard between an adjacent right-of-way and the building line and extending for the full width of the lot.

Yard, Rear - a yard between the rear lot line and a line drawn parallel thereto at such distance therefrom as may be specified herein for any zoning district, and extending for the full width of the lot.

Yard, Side - an open yard space between the side lot line and parallel thereto extending from the front lot line to the rear lot line.

Zoning Officer - the Zoning Officer of the municipality.

ARTICLE 3

District Regulations

301 ZONING MAP

A map entitled the "Zoning Map of Mill Village Borough" is hereby adopted as part of this Ordinance. The Zoning Map shall be kept on file and be available for examination at the municipality's Office.

302 ZONING DISTRICTS

The municipality is divided into the following districts as shown by the district boundaries as set forth by the Zoning Map:

Due to the very rural nature of the municipality, all types of public/institutional and related uses will be accommodated throughout the municipality. Lot area reductions are allowed with the use of public utilities. In addition to the above uses, the following districts will allow other land uses as designated:

302.10 R-1 Rural Residential (Low Density) District: Large lot single family residential uses, and all types of agricultural and related uses.

302.20 R-2 Medium Density Residential District: Medium density single family residential uses, multi-family residential uses, including mobilehome parks.

302.30 CB Central Business District: All types of residential and related uses and all types of commercial and related uses located in the heart of the municipality.

302.40 C Commercial District: All types of commercial and related uses located along the major thoroughfare on medium sized lots.

302.50 I Industrial District: In addition to all types of commercial uses, all types of industrial and related uses located along and in the vicinity of the major thoroughfares on large sized lots.

302.60 FP Floodplain District: The purpose of this District is to provide for the protection of life and property in the recognized flood hazard areas. This District shall be defined as the outer limits of the federally designated floodplain and shall be considered to be an overlap district such that structures for primary uses may not be located in this District in the floodplain, although accessory buildings will be permitted.

303 ANNEXED AREAS

Any territory hereafter annexed by the Borough of Mill Village will be considered as zoned R-1 Rural Residential, until otherwise classified by the governing body.

304 DISTRICT BOUNDARIES

District boundaries that are shown between the lines of streets, streams, and transportation rights-of-way shall be deemed to follow their centerline. When the Zoning Officer cannot definitely determine the location of a district boundary by such centerlines, by the scale of dimensions stated on the Zoning Map, or by the fact that it clearly coincides with a property line, he shall deny the application and/or refuse action, and the Planning Commission shall interpret the location of the district boundary with reference to the scale of the Zoning Map and the intentions and purposes set forth in all relevant provisions of this Ordinance.

305 ZONING DISTRICT CHANGES

All approved changes to Zoning Districts shall be promptly recorded on the Zoning Map by the Zoning Officer.

306 PERMITTED USES

The Permitted Uses for each District are shown in the following table (Table 306.10) and are considered principal uses unless clearly noted. Uses in each category shall be according to the common meaning of the term or according to definitions set forth in Article 2.

TABLE 306.10

ZONING DISTRICTS/PERMITTED USES TABLE

	R-1	R-2	CB	C	I	FP
Adult Entertainment					C	
Ag Organizations	P					
Airports	C					
Apartments		P				
Asphalt Plant					C	
Athletic Clubs			P			
Auto Service			P			
Auto/truck/trailer rental			P			
Auto sales and service			P			
Banks			P			
Barber & beauty shops			P			
Bed & breakfast homestay	P	P	P			
Bed & breakfast inn	P	P	P			
Bicycle rental/sales			P			
Book stores			P			
Building material supply			P			
Bus station			P			
Business school			P			
Business service			P			
Campgrounds & RV parks	SE					C
Car wash			P			
Concrete batch plant					C	
Cemeteries	SE					
Churches	P	P	P	P		
Colleges & universities			P			
Convalescent homes		C				
Convenience stores			P	P		
Cottages (resorts)		P				
Craft shop			P	P		
Day care		C	C			
Delicatessens			P	P		
Dental offices			P	P		
Distributing plants		C			P	
Drug stores			P	P		
Duplexes		C	C			
Eating/drinking establishments			P	P		

ZONING DISTRICTS/PERMITTED USES TABLE (continued)

	R-1	R-2	CB	C	I	FP
Essential services	P	P	P	P	P	P
Fabrication operations					P	
Farms	P	P	P			
Financial institutions			P	P		
Fire stations	C	C	C	C		
Florist shop			P	P		
Fraternal clubs				C		
Freight terminals					P	
Funeral homes			P	P		
Gas service stations			C	P		
Gift/Souvenir shops			P	P		
Golf courses	P	P				
Gravel pits	SE				SE+	
Greenhouses	P	P	P	P		
Group home	SE	SE	SE	SE		
Health spas			P	P		
Home occupations	C	C	C	C	C	
Hospitals			P	P		
Hotels			P	P		
Industrial parks					P	
Junk yards					C	
Laundromats			P	P		
Laundry/cleaning/dying			P	P		
Libraries		C	P			
Livestock	P	P	P	P		
Luggage shop			P	P		
Manufacturing					P	
Marine sales/service			P	P		
Medical clinics			P	P		
Medical offices			P	P		
Mineral extraction					C	C
Mini-warehouse					P	
Mobile home parks		C				
Mobile home sales			P	P		
Motels			P	P		
Motor inns			P	P		
Multi-family dwellings		C				
Municipal buildings	P	P	P	P		

ZONING DISTRICTS/PERMITTED USES TABLE (continued)

	R-1	R-2	CB	C	I	FP
Music shops			P	P		
Newsstand		P	P	P		
No-impact home –based business	P	P				
Nursery school	C	P	P			
Nursing home		C	C			
Offices			P	P		
Parking lots (public)			P	P		
Parks	P	P	P	P		P
Personal service			P	P		
Petroleum bulk storage					P	
Photo shop			P	P		
Planned residential development		P				
Plant nurseries	P	P				
Poultry raising	P	P				
Printing/publishing				P		
Processing/packaging				P		
Professional offices			P	P		
Race tracks	C					
Recreation (commercial indoors)				P	C	
Recreation (commercial outdoors)	C					
Recreational facilities-non-commercial	C		P	P		
Recreation vehicle sales/service				P		
Research laboratories				P		
Restaurants			P	P		
Retail business			P	P		
Retail wearing apparel shop			P	P		
Retirement home			P	C		
Riding academies	P					
Roadside stands	P	P				
Rooming house		C				
Salvage operations					C	
Sawmills					P	
Schools (public & parochial)	P	P	P	P		
Scrap materials storage/processing					C	
Single family dwellings	P	P	P			

ZONING DISTRICTS/PERMITTED USES TABLE (continued)

	R-1	R-2	CB	C	I	FP
Social clubs			P	P		
Specialized animal husbandry	SE					
Sporting goods store			P	P		
Stables	P					
Storage facilities				P		
Tourist homes				P		
Townhouses		C				
Truck/heavy equipment sales/service				C	P	
Truck stop					C	
Two-family dwellings		P	C			
Utility operations					P	
Warehouse					P	
Water recreation/storage	SE	SE	SE	SE		
Wholesale distribution facilities					P	

Table 306.10 Legend:

P = Permitted Use

C = Conditional Use

SE = Special Exception

307 ACCESSORY BUILDING PERMIT EXEMPTION

An accessory building not exceeding 100 square feet in size is exempt from the building permit requirements, but placement of said accessory building on the property must comply with the building setback requirements of this Ordinance.

308 LOT AND YARD REQUIREMENTS

The minimum lot area, minimum lot area per family, minimum depth of front yard, minimum depth of rear yard, minimum side yard and maximum lot coverage requirements for each District shall be as specified in Table 308.10.

TABLE 308.10 LOT AND YARD REQUIREMENTS

ZONING DISTRICT	Minimum Lot Area (1) (Sq. Ft. or acres)	Minimum Lot Width (2) (Feet)	Minimum Front Yard (3) (Feet)
R-1 RESIDENTIAL			
All Uses	1 Acre	150	35
R-2 RESIDENTIAL			
Single Family	30,000	100	35
All Other Uses	1 Acre	150	35
CB CENTRAL BUSINESS			
Single Family	20,000	75	30
Multi-Family	15,000	50	30
All other Uses	30,000	90	30
C COMMERCIAL			
Multi-Family	20,000	75	50
All Other Uses	1 Acre	150	50
I INDUSTRIAL			
All Uses	1 Acre	150	50
FP FLOODPLAIN			
All Uses	3 Acres	250	50

TABLE 308.10 LOT AND YARD REQUIREMENTS (continued)

ZONING DISTRICT	Minimum Each Side Yard (4) (Feet)	Minimum Rear Yard (5) (Feet)	Maximum Lot Coverage (6) (Percent)
R-1 RESIDENTIAL			
All Uses	10	40	20
R-2 RESIDENTIAL			
All Other Uses	10	40	20
CB CENTRAL BUSINESS			
Single Family	10	20	30
Multi-Family	15	30	30
All other Uses	25	40	30
C COMMERCIAL			
Multi-Family	15	30	40
All Other Uses	25	40	40
I INDUSTRIAL			
All Uses	25	40	50
FP FLOODPLAIN			
All Uses	25	40	50

TABLE 308.10 FOOTNOTES

(1) Lot area is measured exclusive of a public road right-of-way or private street.

(1) (2) Lot area and lot width requirements are for each dwelling unit or business unit and may be reduced for two (2) or more dwelling units or business units by one quarter the requirement for each provided that the following state/county approved facilities are provided: a sewage collection/treatment system, or a water supply/treatment system, except that no reduction shall be permitted in the R-1 Zoning District.

(2) (3) Lot width and front yard are measured: at the public road right-of-way; or along the front of the lots along a private street in a private development, such as a subdivision, apartment complex, mobilehome park, plaza, industrial park, etc. See also Section 407.

(3) (4) (5) Front, side and rear yard requirements are for all accessory and principal structures and buildings, not for accessory uses such as fences, crops, livestock, lawns, parking areas, etc. No structure or building shall be closer to the side and rear lot lines than its total height.

(6) Lot coverage is the total ground floor area for all accessory and principal structures and buildings.

ARTICLE 4

Supplementary Regulations

401 NONCONFORMING USES AND STRUCTURES

The following provisions shall apply to all nonconforming uses and structures. It is the intention of Mill Village Borough that all legal nonconforming uses and structures shall be able to continue; however, all changes in such uses shall only be as allowed in this Article.

401.10 Any nonconforming use may be continued, or may be changed to a use of the same or a more restrictive classification, but may not be extended or expanded unless to a conforming use, except as permitted by the Board in accordance with the provisions of this Ordinance.

401.2 Any nonconforming building which has been damaged or destroyed by fire or any other means may be reconstructed and used as before, if such reconstruction is performed within six (6) months of discontinuance of use and if the restored building covers no greater area and contains no greater cubic content. If approved by the Board, a reconstructed structure may exceed its original lot coverage and cubic content, but must meet the minimum yard requirements of the district in which the structure is located, and it must meet the off-street parking and loading requirements of this Ordinance.

401.30 In the event that any nonconforming use, conducted in a structure or otherwise, ceases, for whatever reasons, for a period of one (1) year, such nonconforming use shall not be resumed and any further use shall be in conformity with the provisions of this Ordinance.

401.40 The nonconforming use of a building may be extended throughout those parts thereof which were manifestly arranged or designed for such use at the time of adoption of this Ordinance. A nonconforming building or structure may, with the approval of the Board, be extended, enlarged or replaced if such expansion does not occupy an area greater than fifty percent (50%) more than the structure occupied prior to such expansion, enlargement or reconstruction. Furthermore, such activities must meet the minimum yard regulations and height restrictions of the district in which the structure is located, and must meet all off-street parking and loading requirements of this Ordinance.

401.50 Nothing contained herein shall require any change in the overall layout, plans, construction, size or designated use of any development, building, structure or part thereof for which official approval and required permits have been granted prior to the effective date of this Ordinance and where construction is complete within six (6) months from the date of issuance of the permit.

401.60 Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use.

401.70 Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another of a different classification, this Article shall also apply to any uses which thereby become nonconforming.

402 EXISTING LOTS OF RECORD

Any lot of record existing at the effective date of this Ordinance, and held in separate ownership different from the ownership of adjoining lots, may be used for the erection of a structure conforming to the use regulations of the district in which it is located even though its lot area and width are less than the minimum required by this Ordinance, however, such lot must comply with the yard, height and coverage standards of the zoning district wherein it is located.

403 APPLICATION OF YARD REQUIREMENTS

403.10 Where a structure exists on an adjacent lot and is within one hundred fifty (150) feet of the proposed structure, and existing structure has a front yard less than the minimum depth required, the minimum front yard shall be the average depth of the front yard of the existing structure on the adjacent lot and the minimum depth required for the district; where structures exist on both adjacent lots, the minimum depth of the front yard shall be the average depth of the front yards of the existing adjacent structures.

403.20 All structures, whether attached to the principal structure or not, and whether open or enclosed, including porches, carports, balconies or platforms above normal grade level, shall not project into any minimum front, side or rear yards except as noted in Section 403.30.

403.30 A wall or fence under six (6) feet in height and paved terraces without walls, roofs or other enclosures may be erected within the limits of any yard. Retaining walls and fences required for screening under this Ordinance are not subject to the six (6) foot height limitation.

404 TEMPORARY STRUCTURES

Temporary structures in conjunction with construction work shall be permitted only during the period that the construction work is in progress.

405 FLOOD HAZARD AREAS

The Borough of Mill Village has adopted an ordinance regulating development within flood plains. All development within designated areas are required to follow the regulations contained in said ordinance.

406 PERMANENT FOUNDATIONS

All structures, which are not considered temporary structures or accessory buildings, shall be placed on permanent foundations of steel, concrete, concrete block or pressure treated wood extending below the frost line, and properly anchored. All above-ground structures shall be properly skirted with durable materials of masonry, fiberglass, aluminum, rigid plastic or other weatherproof building materials.

407 BUILT-UP AREAS

In the built-up areas of Mill Village Borough, where the front yard and side yard lines are already established, the minimum front yard or side yard need not be greater than the average of those located for a distance of two hundred (200) feet on both sides of the lot for which a zoning certificate is being requested. All other lot and yard requirements apply.

408 PERFORMANCE STANDARDS

All accessory or principal structures or uses shall not cause nor project onto any adjoining lot or in the general vicinity of said structures or uses any of the following, with the exception of those operations protected within agricultural security areas (Refer to Section 110 of this Ordinance):

(1) An electrical disturbance adversely affecting radio, television or other equipment.
(2) Noise which is determined to be objectionable because of volume, frequency or beat, except fire sirens and other apparatus used solely for public purposes shall be exempt from this requirement.
(3) Vibrations detectable without instruments.
(4) Discernable odors or malodorous gas or matter.
(5) Pollution of air by fly ash, dust, smoke, vapors, heat or other substances which are harmful to health, animals, vegetation or property.
(6) Lighting devices that produce objectionable direct or reflected glare.
(7) Erosion by wind or water which will carry objectionable substances into neighboring properties.

409 DWELLINGS

Any dwelling must have a minimum of 800 square feet of living space.

410 OFF-STREET PARKING AND LOADING

410.10. Each off-street parking space shall be nine (9) feet by twenty (20) feet exclusive of access drives or aisles, and be in usable shape and condition. There shall be adequate ingress and egress to all parking spaces. Parking or loading areas shall be designed to provide sufficient turn around area so that vehicles are not required to back into arterials. No parking spaces or areas are allowed within any public road right of way.

410.20. Access to off-street parking or loading areas shall be limited to no more than two (2) well defined locations, and in no case shall there be unrestricted access along the length of a street or alley.

411 HOME OCCUPATIONS

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

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

(2) The occupation is carried on by a member of the family residing in the dwelling unit, with not more than one (1) employee outside the family; and

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

(4) There shall be no exterior display or exterior sign other than permitted by Section 412 of this Ordinance, no exterior storage or materials, and no exterior indication of the home occupation or variation from the residential character of the principal structure; and

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

(6) The occupation shall occupy no more than thirty percent (30%) of the principal structure.

B. No-Impact Home-Based Business: The business or commercial activity must satisfy the following requirements:

(1) The business activity shall be compatible with the residential use of the property and the surrounding residential uses.

(2) The business shall employ no employees other than family members residing in the dwelling.

(3) There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.

(4) There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.

(5) The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio and television reception, which is detectable in the neighborhood.

(6) The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.

(7) The business activity shall be conducted only within the dwelling and may not occupy more than twenty five percent (25%) of the habitable floor area.

(8) The business may not involve any illegal activity.

412 SIGNS

1. Definition of Sign. A sign is any structure, device, light or natural object including the group itself, or any part thereof or any device attached thereto, or painted or represented thereon, which shall be used to identify, advertise or attract attention to any object, produce, place, activity, person, institution, organization, firm, group, commodity, profession, enterprise, industry, or business, or which shall display any letter, word, model, number, banner, flag, pennant, insignia, device or representation used as an announcement, direction or advertisement, and which is intended to be seen from off the premises or from a parking lot. The word sign shall include the structure which supports the sign face as well as the sign face itself. The word sign shall not include signs which are affixed to the inside of windows and glass doors of enclosed buildings except for illuminated or animated show windows. No other indoor sign shall be deemed a sign within this Ordinance.

2. No signs shall be permitted except as herein provided.

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

a. Signs shall not be illuminated in any manner which will cause undue distraction, confusion or hazard to vehicular traffic. Signs which contain, include or are illuminated by any flashing, intermittent or moving light or lights are prohibited, except those giving public service information such as time, temperature, weather, or similar information in the Central Business and Commercial Districts.

b. Signs greater than ten (10) square feet in area shall be located not closer than seventy five (75) feet to a road intersection.

c. Signs shall not be located to interfere with highway and roadway horizontal sight distances, nor shall be located at curves.

d. Permanent signs must be of professional quality and constructed of durable materials, must be kept in good condition and repair, and not allowed to become dilapidated.

e. Any permanent off-premise sign which has remained without bona fide advertising for twelve (12) months or which has been without a current lease from the landowner for more than ninety (90) days shall be presumed to be abandoned and shall be removed within sixty (60) days after notice from the municipality of the abandonment.

4. The following signs shall be permitted in all districts, and no permit shall be required to erect such signs, provided such signs are not erected or placed in any public right of way:

a. Temporary signs announcing a campaign, drive or event of a civic, political, philanthropic, educational or religious organization, provided such sign shall not exceed thirty-two (32) square feet in area.

b. Signs offering the sale or rental of the premises upon which the sign is erected, provided that the area of such sign shall not exceed eight (8) square feet and not more than one (1) such sign shall be placed on the property unless such property fronts on more than one (1) street, in which case one (1) sign may be erected on each street frontage.

c. Temporary signs of contractors, developers, architects, engineers, builders and artisans, erected and maintained on the premises where the work is being performed, including development signs for advertising the development of a site being constructed or altered upon the premises, provided that the area of such sign shall not exceed thirty-two (32) square feet in area, and provided that such sign shall be removed upon completion of the work.

d. No trespassing signs, signs indicating the private nature of a road, driveway or premises, signs controlling fishing or hunting on the premises, provided that the area of such sign shall not exceed four (4) square feet in area.

e. Signs advertising the sale of agricultural products. Such signs shall not exceed thirty-two (32) square feet in area.

f. Temporary holiday decorations and lights, unless determined by the Borough Officials to constitute a hazard to public safety.

g. Garage and yard sale. Signs indicating the location and occurrence of a garage or yard sale shall be permitted during the time period of said sale, the size of which shall not be in excess of six (6) square feet in area, with no more than two (2) signs permitted on the

property where the sale is occurring, and said signs are to be removed promptly after the completion of said sale.

h. Auction sale. Signs indicating the location and occurrence of an auction sale shall be permitted during and seven (7) days prior to the time period of said sale, the size of which shall not be in excess of six (6) square feet in area, with no more than two (2) signs permitted on the property where the sale is occurring, and said signs are to be removed promptly after the completion of said sale.

i. Directional and information signs, not exceeding two (2) square feet in area and used for the direction and protection of the public, shall be permitted in all districts.

j. Memorial signs or tablets and signs denoting the date of erection of buildings.

k. The flag, pennant or insignia of any government or of any religious, charitable, or fraternal organization.

l. Permanent residential development signs at major entrances designed to identify a residential subdivision and containing no commercial advertising. Such signs shall not exceed thirty-two (32) square feet in area.

m. Non-profit organizations fund raising sales: Temporary signs indicating the location and occurrence of a non-profit organization's fund raising sale or event shall be permitted during and thirty (30) days prior to the time period for such sale. The size of any such sign shall not exceed thirty two (32) square feet in area. All signs pertaining to the sale or event shall be removed within two (2) weeks after the end of the sale or event.

n. Nameplate signs indicating the name and address of the occupant of the premises, and the identification of the occupants of the building may be erected and maintained, provided that no more than two (2) such signs are erected and maintained on a property in a single or separate ownership of not more than two (2) square feet per sign. The size of any such sign shall not exceed thirty two (32) square feet in area.

o. One (1) bulletin board not exceeding thirty two (32) square feet in area will be permitted in connection with any church, school or similar public premises.

p. Permanent signs advertising a business, commodity, service or entertainment conducted, sold or offered elsewhere than on the premises shall have an area not to exceed fifty (50) square feet, nor any single dimension exceed ten (10) feet.

5. Zoning permits shall be required for all signs larger than ten (10) square feet in area which shall be regarded as structures within this Ordinance unless specifically excluded.

6. Application for a zoning permit for sign placement shall include the following information:

a. Name, address and telephone number of the applicant and property owner.

b. A map or site plan showing the location of the building, structure or lot to which the sign is to be attached or erected, and showing the position of the sign in relation to nearby buildings, existing signs and thoroughfares. Such a map or site plan must be drawn to scale.

c. A plan showing the design of the sign, materials used and method of construction and means of attachment to the building or the ground.

d. Name of the person, firm, corporation or association erecting, altering or moving said sign.

ARTICLE 5

Administration, Enforcement and Appeals

501 ZONING OFFICER

The governing body shall appoint the Zoning Officer and shall do so in accordance with the provisions of this Ordinance, and of the Pennsylvania Municipalities Planning Code. The Zoning Officer shall not hold any elective office in the municipality.

502 DUTIES OF THE ZONING OFFICER

The Zoning Officer shall administer this Ordinance in accordance with its literal terms and shall not have the power to permit any construction or any use or change of use which does not conform to this Ordinance. The Officer shall be considered as qualified to perform his duties by meeting the qualifications established by the municipality. In addition, the Zoning Officer's duties, obligations and responsibilities include the following:

502.10 Application for Building/Zoning Permits: The Zoning Officer shall receive applications for Building/Zoning Permits. A Building/Zoning Permit is an application filed prior to the start of construction/development by a developer to describe the proposed activity in sufficient detail to determine whether or not it meets the requirements of this and other applicable Borough ordinances. Applications conforming to such ordinances shall be approved, while those not conforming to such ordinances shall be denied.

502.20 Inspections: The Zoning Officer or a duly appointed assistant may examine, or cause to be examined, all structures and/or land for which an application for a Building/Zoning Permit or a Zoning Certificate has been requested. Such inspection may be made from time to time during construction and shall be made upon the termination of construction and prior to the issuance of a Certificate of Occupancy.

502.30 Permits, Applications, Appeal and Certificates: The Zoning Officer shall issue or deny such permits or certificates as required by this Ordinance where no other body is involved and shall receive all applications for Variances and forward same to the appropriate body. In addition, the Zoning Officer shall receive all applications for appeals prior to forwarding same to the Zoning Hearing Board.

502.40 Enforcement: The Zoning Officer is authorized to institute civil enforcement proceedings as a means of enforcing this Ordinance.

503 PERMITS AND CERTIFICATES

503.10 Building/Zoning Permits: An application for a Building/Zoning Permit will be to show compliance with this and other appropriate Mill Village Borough ordinances. Applications shall contain information relative to the proposed construction and use in sufficient detail to inform the Zoning Officer of the scope and extent of the proposed development. The exact details required, including sketches, plat plans as well as the number of copies, time limits and fees for such applications shall be determined by the governing body. The application or filing fee shall be in accordance with a fee schedule annually affixed by resolution of the governing body and as from time to time may be modified by same. This fee schedule resolution may contain penalty provisions requiring the payment of an additional fee by any person failing to obtain the proper permits and/or approvals prior to commencing construction.

503.20 Certificate of Occupancy: A Certificate of Occupancy shall be required prior to the occupancy or use of any vacant land prior to the occupancy or use of any structure hereafter constructed, reconstructed, moved, altered or enlarged. The purpose of the Certificate of Occupancy is to confirm that the development described in the Building/Zoning Permit Application has been completed in compliance with the application and this Ordinance. Certificates of Occupancy shall also be required for a change of use of a structure or land to a different use and changes to a nonconforming use or structure.

503.30 Zoning Certificate: The Zoning Certificate shall be issued upon request to confirm that the use of land or a building within Mill Village Borough is in compliance with this Ordinance. The exact form of the Certificate and fees charged shall be determined by the governing body.

503.40 Sign Permit: A sign permit shall be required prior to the erection or alternation of any sign, which sign shall not intrude upon any right-of-way or private street.

504 APPEALS AND VARIANCES

The Zoning Officer shall receive all appeals and applications for variances. Said applications shall be on forms as approved by the governing body and shall be accompanied by a fee as set by the governing body. It is the intent of the Ordinance that all appeal processes should follow the Pennsylvania Municipalities Planning Code or other appropriate state law.

505 VIOLATIONS

505.10 Enforcement Notice: When it appears to the governing body and/or the Zoning Officer that a violation has occurred, the Zoning Officer shall send an enforcement notice. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding the parcel, and to any other person requested in writing by the owner of record. The enforcement notice shall state the following:

(a) The name of the owner of record and any other person against whom the governing body intends to take action.

(b) The location of the property in violation.

(c) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the Ordinance.

(d) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.

(e) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in this Ordinance.

(f) That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

505.20 Causes of Action: In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Ordinance, the governing body, the Zoning Officer of Mill Village Borough, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of the action shall be served upon Mill Village Borough at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the governing body of Mill Village Borough. No such action may be maintained until such notice has been given.

505.30 Jurisdiction: District Judges shall have initial jurisdiction over proceedings brought under this section.

505.40 Enforcement Remedies: Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Zoning Ordinance shall be, upon being found liable therefore in a civil enforcement proceeding commenced by the governing body, pay a judgment of not more than five hundred ($500) dollars plus all court costs, including reasonable attorney fees incurred by Mill Village Borough as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Judge. If the defendant neither pays nor timely appeals the judgment, Mill Village 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 this 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 continues shall constitute a separate violation by the District Judge and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of zoning ordinances shall be paid over to the governing body. Nothing contained in this section shall be construed or interpreted to grant any person or entity other than Mill Village Borough and its Zoning Officer the right to commence any action for enforcement pursuant to this section.

ARTICLE 6

Zoning Hearing Board

601 CREATION

There is hereby created a Zoning Hearing Board herein after referred to as the "Board," consisting of three (3) residents of Mill Village Borough appointed by the governing body pursuant to the Pennsylvania Municipalities Planning Code, as amended. Said Board shall perform all the duties, and exercise all powers prescribed by said Code and as herein further provided.

602 APPOINTMENT

The terms of office of the Board shall be three (3) years and shall be so fixed that the term of office of one (1) member shall expire each year. The Board shall promptly notify the governing body of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in Mill Village Borough, nor be a member of the Planning Commission. The governing body shall also appoint one (1) alternate member to the Board. The appointment, rights and duties of the alternate member shall be in accordance with the Pennsylvania Municipalities Planning Code.

603 REMOVAL OF MEMBERS

Any Board member may be removed for misfeasance or nonfeasance in office, or for other just cause, by a majority vote of the governing body, taken after the member has received fifteen (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.

604 ORGANIZATION OF BOARD

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 or taking of any action, a quorum shall be not less than the majority of all the members of the Board. If any member has been disqualified or is absent, an alternate member shall be seated and continue to serve on the Board in all proceedings that involve the matter or case for which the alternate was initially appointed until the Board has made a final decision on the matter. The Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf, and the parties may waive further action by the Board as provided in the Pennsylvania Municipalities Planning Code. The Board may make, alter and rescind rules and forms for its procedure, consistent with Borough ordinances 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 governing body as requested by the governing body.

605 EXPENDITURES FOR SERVICES

Within the limits of funds appropriated by the governing body, 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 from time to time by the governing body, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the governing body.

606 LEGAL COUNSEL

Where legal counsel is desired, an attorney, other than the Borough Solicitor, shall be used.

607 HEARINGS

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

(a) Notice shall be given to the public by notice published one each week for two (2) successive weeks in a newspaper of general circulation in Mill Village Borough. Such notice shall state the time and place of the referring and the particular nature of the matter to be considered at the hearing. The first publication shall be not more than thirty (30) days or less than seven (7) days from the date of the hearing. Written notice shall be given to the applicant, the Zoning Officer, and to any person who has made timely request for the same. Written notices shall be prescribed by rules of the Board. In addition to the notice provide herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing.

(b) The governing body may prescribe reasonable fees with respect to hearings before the Zoning Hearing Board. Fees for said hearings may include compensation for the secretary and members of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other technical consultants or expert witness costs.

(c) The hearing shall be held within sixty (60) days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time.

(d) The hearing shall be conducted by the Board or the Board may appoint any member as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Board, but the parties may waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.

(e) The parties to the hearing shall be Mill Village Borough, any person affected by the application who has made timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.

(f) The chairman or acting chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and production of relevant documents and papers, including witnesses and documents requested by the parties.

(g) 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.

(h) Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

(i) The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either avert the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

(j) The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, except that advice from the Board's Solicitor is exempt from this restriction; shall not make 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 after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

(k) The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within forty five (45) days after the last hearing before the Board or hearing officer. Where 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 Ordinance or the Pennsylvania Municipalities Planning Code, or any rule or regulation shall contain a reference to the provision relied on and the reasons why 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 or her decision or findings are final, the Board shall make his report and recommendations available to the parties within forty five (45) days, and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than thirty (30) days after the report of the hearing officer. Where the Board fails to render the decision within the period required by this Ordinance or the Pennsylvania Municipalities Planning Code, or fails to hold the required hearing within sixty (60) days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of said decision within ten (10) days in the same manner as provided in the Pennsylvania Municipalities Planning Code. Nothing in this subsection shall prejudice the right of any party to appeal the decision to a court of competent jurisdiction.

(l) A copy of the final decision or, when no decision is called for, of the findings shall be delivered to the applicant personally or mailed to the applicant 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, a brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

608 BOARD'S FUNCTIONS

(a) Substantive challenges to the validity of any land use ordinance, except those brought before the governing body pursuant to the Pennsylvania Municipalities Planning Code.

(b) Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment of adoption which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said ordinance.

(c) Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application thereof, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.

(d) Appeals from a determination by the municipal engineer or the Zoning Officer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance.

(e) Applications for variances from the terms of the Zoning Ordinance and flood hazard ordinance or such provisions within a land use ordinance, pursuant to the Pennsylvania Municipalities Planning Code and Section 608(h) of this Ordinance.

(f) Appeals from the Zoning Officer's determination under the Pennsylvania Municipalities Planning Code.

(g) Appeals from the determination of the Zoning Officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development not involving applications of the Pennsylvania Municipalities Planning Code.

(h) Variances: The Board shall hear requests for variances where it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the Zoning Officer. The Board may grant a variance provided that all of the following findings are made where relevant in a given case:

(1) That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood or district in which the property is located;

(2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;

(3) That the unnecessary hardship has not been created by the applicant;

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

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

In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purpose of this Ordinance.

609 SPECIAL EXCEPTION USES

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

(1) The use is compatible with adjacent uses and structures.

(2) The use is suited to the topography and other characteristics of the site.

(3) The use complies with all off-street parking and other provisions of this Ordinance.

(b) In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the health, safety and general welfare of Mill Village Borough.

610 NONCONFORMING USES

(a) The Zoning Hearing Board shall have the power to authorize changes of lawful nonconforming uses as follows:

(1) A nonconforming use which occupies a portion of a structure or premises may be extended within such structure or premises as they existed when the prohibitory provision took effect, but not in violation of the area and yard requirements of the districts in which such structure or premises are located.

(2) The Board may impose such conditions as it deems necessary for the protection of adjacent property and the public interest.

611 APPEAL FROM THE ZONING HEARING BOARD'S DECISION

Any person aggrieved by any decision of the Zoning Hearing Board or any taxpayer or any officer of Mill Village Borough, may within thirty (30) days after a decision is rendered by the Board, appeal to the Court of Common Pleas of Erie County, Pennsylvania, in accordance with the Pennsylvania Municipalities Planning Code.

612 PARTIES APPELLANT BEFORE BOARD

Appeals under Section 608 and proceedings to challenge the Ordinance under Section 608 of this Ordinance may be filed with the Board in writing by the landowner affected, any officer or agency of Mill Village Borough, or any person aggrieved. Requests for a variance under Section 608 may be filed with the Board by any landowner or any tenant with the permission of such landowner.

613 TIME LIMITATIONS; PERSONS AGGRIEVED

No person shall be allowed to file any proceeding with the Board later than thirty (30) days after an application for development, preliminary or final, has been approved by an appropriate Borough officer, agency or body if such a proceeding is designed to secure reversal or to limit the approval in any manner unless such a person alleges and proves that he had no notice, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest.

614 STAY OF PROCEEDINGS

Upon filing of any proceeding referred to in Section 608 of this Ordinance and during its pendency before the Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or any agency or body, and all official action thereunder shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals on petition after notice to the Zoning Officer or other appropriate agency or body.

ARTICLE 7

Amendments

701 General

The governing body may introduce and/or consider amendments to the text of this Ordinance and to the Zoning Map, as proposed by a member of the governing body, the Planning Commission, or by a petition of a person or persons residing or owning property within Mill Village Borough.

702 Petitions

Petitions for amendments shall be filed with the Planning Commission; and the petitioners, upon such filing, shall pay an advertising deposit and a filing fee, in accordance with a fee schedule affixed by the governing body.

703 Referral

Any proposed amendment presented to the governing body without written findings and recommendations from the Mill Village Borough Planning Commission and the Erie County Department of Planning, shall be referred to these agencies for their review and recommendations prior to the public hearing by the governing body. The governing body shall not hold a public hearing upon such amendments until required reviews and recommendations are received or the expiration of thirty (30) days from the date that such proposed amendments were submitted to Mill Village Borough and Erie County Planning agencies.

704 Action

Before acting upon a proposed amendment, the governing body shall hold a public hearing thereon. Public notice of such hearing is required and shall contain a brief summary of the proposed amendment and reference to the place where copies of the same may be examined, shall be published in accordance with the provisions of the Pennsylvania Municipalities Planning Code. If the proposed amendment involves a change to the Zoning Map, notice of the public hearing shall be posted at the affected tract in accordance with the Pennsylvania Municipalities Planning Code at least one (1) week prior to the date of the hearing.

705 Curative Amendments

A landowner who desires to challenge on substantive grounds the validity of this Zoning Ordinance 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 governing body with a written request that his challenge and proposed amendment be heard and decided as provided in the Pennsylvania Municipalities Planning Code, as amended. The governing body shall commence a hearing thereon within sixty (60) days. As with other proposed amendments, the Curative Amendment shall be referred to the Mill Village Borough Planning Commission and the Erie County Department of Planning at least thirty (30) days before the hearing is conducted by the governing body. Public notice shall be given in accordance with applicable provisions of the Pennsylvania Municipalities Planning Code. The hearings shall be conducted in accordance with instructions as set forth by the Pennsylvania Municipalities Planning Code. The findings, actions and considerations of the governing body shall be in accordance with the Pennsylvania Municipalities Planning Code.

The governing body may institute a Municipal Curative Amendment in accordance with the Pennsylvania Municipalities Planning Code.

MILL VILLAGE ZONING ORDINANCE 2009

ORDAINED AND ENACTED this 26th day of May, 2009.

ATTEST:

Catherine M Wise

Borough Secretary

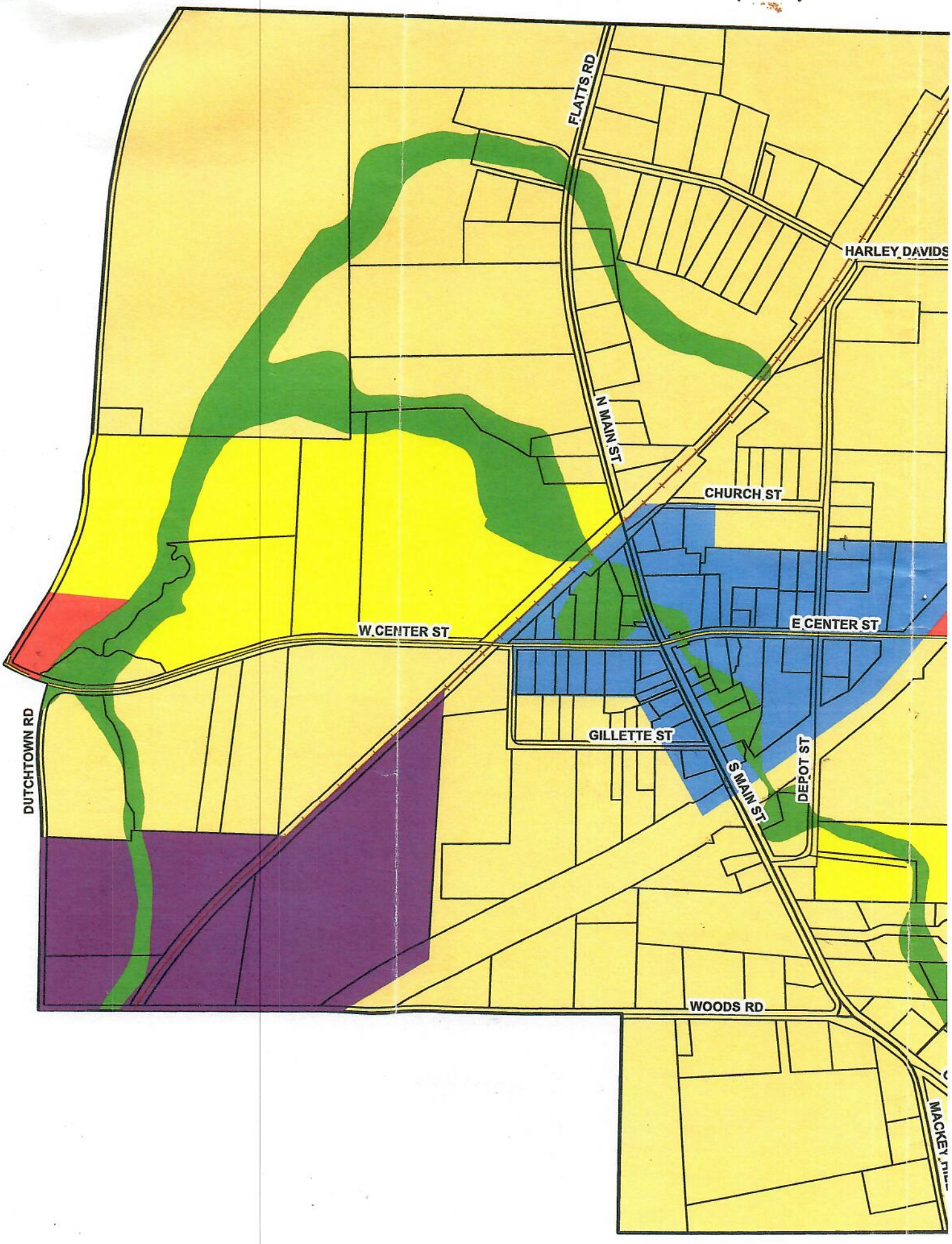
Theodore L. Gast

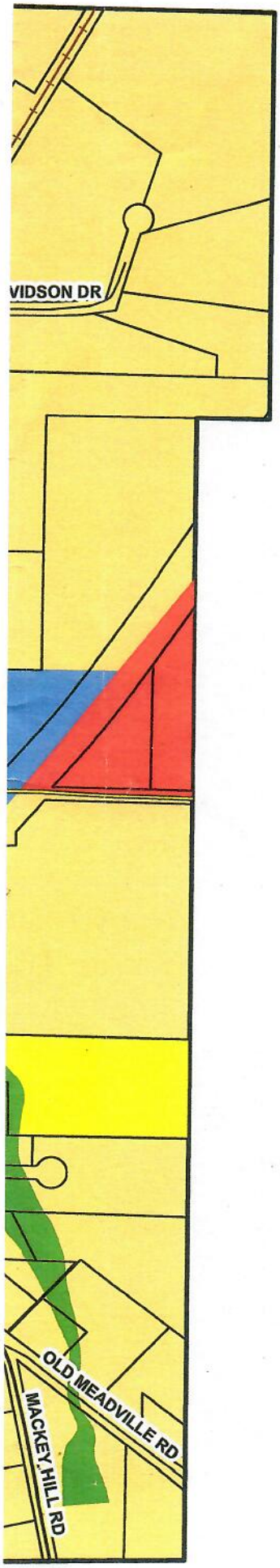
President of Borough Council

APPROVED this 26th day of May, 2009.

Mayor

SEAL


FLATTS RD
HARLEY DAVIDS
N MAIN ST
CHURCH ST
W CENTER ST
E CENTER ST
DUTCHTOWN RD
GILLETTE ST
S MAIN ST
DEPOT ST
WOODS RD
MACKEY



Zoning Map of Mill Village Borough

Legend

Zoning Districts

- Commercial - C
- Central Business - CB
- Industrial - I
- Rural Residential - R-1
- Medium Density Residential - R-2
- Flood Plain - SP

Roads and Railroads

- Federal Highway
- State Highway
- Major Road
- Street
- Unpaved Road
- Railroad

Boundaries

- Mill Village Borough Boundary
- Parcel Boundaries

Erie County, Pennsylvania
Department of Planning

The information on this map is designed for general planning purposes. It is not intended for appraisal, engineering, legal or any other purposes.

2008 Erie County Department of Planning

