

CHAPTER 27

ZONING

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Part 1

Title, Purpose and Objectives

§101. Short Title. This Chapter shall be known and may be cited as "The Nazareth Borough Zoning Ordinance of 1988." (Ord. 561, 6/6/1988, §120)

§102. Declaration of Purpose. This Chapter is adopted for the following purposes:

A. To promote, protect and facilitate the following: the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, the provisions of adequate light and air, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, public grounds and other public requirements.

B. To prevent the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers. This Chapter is made in accordance with an overall program, and with consideration for the character of Nazareth Borough, its various parts and the suitability of the various parts for particular uses and structures.

(Ord. 561, 6/6/1988, §130)

§103. Statement of Community Development Objectives. This Chapter is intended to promote the following community development objectives, which are enunciated in the Comprehensive Plan for Nazareth Borough.

A. To maintain and enhance Nazareth's image as a residential community.

B. To encourage residential growth, while absorbing desirable commercial and industrial development to bolster and stabilize the Borough's tax base and overall economy.

C. To provide for a variety of residential densities and housing types, satisfying many age groups, income levels, family sizes and individual preferences.

D. To establish a park-like environment throughout the Borough.

E. To improve the centrality and compactness of the central business district.

F. To provide increased services and facilities to satisfy the ever-growing needs and demands of present and future residents.

G. To emphasize the rich historical heritage of Nazareth.

H. To eliminate undesirable, uneconomical and unattractive mixtures of land uses.

I. To promote sound standards of development, maximize stability of property values and encourage desirable economic activities.

J. To encourage the preservation of current sound buildings and the improvement or removal of dilapidated structures.

K. To provide a street system capable of circulating people and goods within and through the Borough safely and efficiently.

(Ord. 561, 6/6/1988, §140)

Part 2

Application of Regulations

§201. Uniformity of Application. The regulations set forth by this Chapter are to be considered the minimum requirements adopted for the promotion of the public health, safety, morals and general welfare. The regulations shall apply uniformly to each class of uses and structures within each district except as otherwise provided in this Chapter. (Ord.561, 6/6/1988, §210)

§202. Application of Regulations. No structure or land shall be used or occupied and no structure or part thereof shall be erected, constructed, reconstructed, moved or altered after the effective date of this Chapter except in conformity with the intent and regulations specified in this Chapter. (Ord. 561, 6/6/1988, §220)

§203. Relation of this Chapter to Other Provisions of Law.

1. Where this Chapter imposes a greater restriction upon the use of buildings, structures or requires larger lots, yards, courts or other open space than imposed or required by other provisions of law, ordinance or regulation, the provisions of this Chapter shall control. Wherever the provisions of any other law or ordinance or regulation impose a greater restriction than this Chapter, the provisions of such other law or ordinance or regulation shall control.

2. No provisions contained in this Chapter shall be construed as justifying the encroachment of any building or structure within any street lines now or hereafter laid down on the Borough Map.

(Ord. 561, 6/6/1988, §230)

Part 3

Definitions

§301. Interpretation of Certain Terms. Certain words and terms are used in this Chapter for the purposes hereof and are defined as follows:

1. Where a word used in this Chapter is not defined in §302 but a definition therefore is contained in the Pennsylvania Municipalities Planning Code, then said word shall be deemed to have the meaning and definition as set forth in the Pennsylvania Municipalities Planning Code as though it were fully set forth herein under the definitions in §302.

2. Where a word used in this Chapter is neither defined in this Part or in the definitions contained in the Pennsylvania Municipalities Planning Code, then said word shall be deemed to have the ordinary and common meaning of said word considering its context in this Chapter.

3. Unless the context clearly indicates the contrary words used in the present tense include the future, the singular includes the plural, and the plural the singular.

4. The word “person” includes a profit or nonprofit corporation, company, partnership or individual.

5. The words “shall” and “will” are mandatory, and the words “should” and “may” are permissive.

6. The word “lot” includes the word “plot.”

7. The word “structure” includes the word “building.”

8. The word “use” and the word “used” refer to any purpose for which a lot or land or part thereof is arranged, intended or designed to be used, occupied, maintained, made available or offered for use; and to any purpose for which a building or structure or part thereof is arranged, intended or designed to be used, occupied, maintained, made available or offered for use, or erected, reconstructed, altered, enlarged, moved or rebuilt with the intention or design of using the same.

9. The word “Borough” means the “Borough of Nazareth”, Northampton County, Pennsylvania; the term “Borough Council” means the Council of said Borough, the term “Zoning Hearing Board” means the Zoning Hearing Board of Nazareth Borough, the term “Planning Commission” means the Planning Commission of Nazareth Borough.

(Ord. 561, 6/6/1988, §301)

§302. Definition of Terms.

ABANDONED OR DILAPIDATED BUILDINGS – Buildings in which the original use has ceased operation or greater than fifty (50%) percent of the floor area is no longer utilized for it’s original use and the building or greater than fifty (50%) percent of the building has been vacant for a period of twelve (12) months or greater.

ACADEMIC CLINICAL RESEARCH CENTER–An accredited medical school within this Commonwealth that operates or partners with an acute care hospital licensed within this Commonwealth.

ACCESSORY USE OR STRUCTURE–A subordinate use or structure customarily incidental to, and located on the same lot occupied by the main use or building. The term “accessory structure” includes, but

is not limited to, a private garage, garden shed or barn, a private playhouse, a private greenhouse, a private swimming pool and private parking area.

ADULT BOOKSTORE—An establishment having a substantial or significant portion of its stock in trade, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined in this Chapter.

ADULT DAY CARE CENTER - Any premises operated for profit in which adult daycare is provided for adults who require assistance to meet personal needs because of physical or mental infirmity are maintained for part of the twenty-four (24) hour day.

ADULT MINI-MOTION PICTURE THEATER—An enclosed building with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this Chapter, for observation by patrons.

ADULT MOTION PICTURE THEATER—An enclosed building with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this Chapter, for observation by patrons.

AGRICULTURE—The raising and keeping of field, truck and tree crops. For purposes of this Chapter, the term “agriculture” does not include animal husbandry.

ANIMAL HUSBANDRY—The raising and keeping of livestock and poultry for profit.

ASSISTED LIVING RESIDENCE—any premises in which food, shelter, personal care, assistance or supervision and supplemental health care services are provided for a period exceeding twenty-four hours for four or more adults who are not relatives of the operator and who require assistance or supervision in such matters as dressing, bathing, diet, financial management, evacuation from the residence in the event of an emergency or medication prescribed for self-administration.

BED AND BREAKFAST HOMESTEAD—a single-family detached residence, owner-occupied, containing no more than three (3) guest rooms, which may provide overnight lodging and serve breakfast to transient guests. A bed and breakfast home shall be considered a home occupation business. (Ord. 606)

BED AND BREAKFAST INN—a single-family detached residence, owner occupied, which may provide overnight lodging and serve breakfast to transient guests containing more than three (3) guest rooms with its principal use being offering guest accommodations to the public, with breakfast as the only meal served and included in the charge for the room. [Ord. 606]

BOARDING OR LODGING HOUSE—A private dwelling in which at least two (2) but not more than six (6) rooms are offered for rent, payable in money or other consideration, whether or not table board is furnished to lodgers, and in which no transients are accommodated and no public restaurant is maintained, such as school or college dormitory, fraternity or sorority house, membership club with residents, and other similar uses.

BUILDING—A structure constructed or erected on the ground, with a roof supported by columns or walls. Structures divided by un-pierced masonry division walls extending from the ground to the roof shall be deemed to be separate buildings.

BUILDING, AREA OF—The horizontal area measured around the outside of the foundation walls and of the floors or roofed porches and roofed terraces inclusive, and including the area of accessory building, if

any. In the case of split-level dwellings, the “first floor area” shall be deemed to include floor areas on two (2) non-overlapping levels, separated by a half-story, or less, of height.

CAREGIVER—The individual designated by a patient to deliver medical marijuana.

CERTIFIED MEDICAL USE—The acquisition, possession, use or transportation of medical marijuana by a patient, or the acquisition, possession, delivery, transportation or administration of medical marijuana by a caregiver for the use as part of the treatment of the patient’s serious medical condition as authorized by certification by the Commonwealth.

CHILD DAY CARE CENTER - Any premises operated for profit in which child day care is provided simultaneously for seven (7) or more children who are not relatives of the operator.

CLINICAL REGISTRANT—An entity that:

1. Holds a permit both as a grower/processor and a dispensary; and
2. Has a contractual relationship with an academic clinical research center under which the academic clinical research center, or its affiliate, provides advice to the entity, regarding, among other areas, patient health and safety, medical applications and dispensing and management of controlled substances.

COIN OPERATED AMUSEMENT DEVICE - Any machine or device operated by means of the insertion of a coin, token or similar object for the purpose of amusement or skill and for the playing of which a fee is charged. “Coin-operated amusement device” does not include vending machines in which gaming or amusement features are not incorporated, nor does the term include any coin-operated mechanical musical devices.

COMMERCIAL BOARDING HOME - A residential living facility providing only food and shelter to adults in a private dwelling in which at least two (2) but not more than six (6) rooms are offered for rent.

COMMERCIAL RECREATION - A recreation facility operated on a profit basis, which is open to the general public.

COMMUNITY CENTER - A building or group of buildings, structures or facilities designed and intended for cultural, education, or recreational uses by residents of a community and its surrounding area. The term “community center” shall not include parks and play areas, art gallery, museum, commercial recreation area or use, or school.

COMPREHENSIVE PLAN - The Comprehensive Plan for Nazareth Borough.

CONTROLLED SUBSTANCE PARAPHERNALIA ESTABLISHMENT - Any establishment other than a licensed pharmacy involved in the sale of paraphernalia which may be assembled in order to be used in any way, with the introduction into the human body of a controlled substance as that term is defined by the “Controlled Substance, Drug Device, and Cosmetic Act” of the Pennsylvania Legislature.

DAY CARE FACILITY - A facility, which provides for profit, daytime care of children who are not related to the resident household.

DISPENSARY—A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit issued by the Department of Health (“DoH”) of the Commonwealth to dispense medical marijuana.

DUMP - A lot, land, building, structure or part thereof, used primarily for disposal by abandonment, dumping, burial, burning, or any other means for whatever purpose, of garbage, offal, sewage, trash, refuse,

junk, discarded machinery, vehicles or parts thereof, or waste material of any kind, excepting duly approved resource recovery plants.

DWELLING - A building arranged, intended or designed to be occupied by one (1) or more families living independently of each other upon the premises.

DWELLING UNIT - One (1) or more rooms with provision for cooking, living, sanitary and sleeping facilities arranged for the use of one (1) family. In a hospital, nursing or convalescent home, group care facility, family care facility of similar resident health care facility, three (3) beds is the equivalent of one (1) dwelling unit.

EFFICIENCY - A configuration for a dwelling unit within a multiple dwelling where a separate bedroom is not provided. The sleeping quarters are located in the same room as living quarters.

EMERGENCY SERVICES STATION—A building for the housing of fire, emergency medical or police personnel, vehicles and equipment and for related activities. Activities may include, but not limited to, housing, offices, training facilities, kitchens and support facilities for emergency personnel.
(Ord. 804, 2/2/2015)

FAMILY - One (1) or more persons occupying a single dwelling unit; provided, that unless all members are related by blood, marriage, foster parent relationship or legal adoption, no such family shall contain more than five (5) persons, but further provided, that domestic servants may be employed on the premises without being counted as a family or families.

FAMILY CARE FACILITY - A facility, which provides resident service in a private residence to six (6) or fewer individuals who are not related to the resident household. These individuals are handicapped, aged, disabled, or in need of adult supervision and are provided service and supervision in accordance with their individual needs. This category includes foster or boarding homes for children, group homes, and family homes.

FAMILY DAY CARE HOME - Any home in which child day care is provided at any one time to four (4) through six (6) children who are not relatives of the care giver.

FENCE - A barrier intended to prevent intrusion or escape, to mark a boundary or to provide screening. A fence can both involve man-made structures as well as organized plantings.

FLOOR AREA - The floor area shall be constructed as the sum of areas on all floors of the building measured from the outside faces of the exterior walls, including halls, lobbies, stairways, closets, elevator shafts, enclosed porches and balconies, and below grade floor areas, but excluding open terraces, patios, atrium and balconies, carports, garages, breezeways, and tool sheds.

FORM OF MEDICAL MARIJUANA—The characteristics of the medical marijuana recommended or limited for the particular patient, including the method of consumption and any particular dosage, strain, variety and quantity or percentage of medical marijuana or particular active ingredient.

GAME ARCADE - Any business establishment in which there are more than three (3) coin-operated amusement devices for use by members of the public. A game arcade shall not be considered to include those business establishments where such devices will contribute less than twenty-five percent (25%) of the total gross revenue of the business conducted at the location, and where the floor area devoted to such games is not in excess of five percent (5%) of the total floor area occupied by such business, and where the games are conducted in the same room or rooms as the principal business and are not operated in a separated room or partitioned area.

GARAGE - An accessory structure used primarily for vehicle parking maintained primarily for the convenience of the occupants of the main building and in which no business or other use is carried on and no service is rendered to the general public.

GROUP CARE FACILITY - A facility occupied by a group of individuals up to seven (7) under the supervision or care of an institution or individual responsible for the welfare of the residents for the maintenance and operation of the facility. This category includes uses, licensed, or supervised by any federal, state, or county health/welfare agency. The residents should receive specialized services, including health, social, or rehabilitative services provided in family environment.

GROWER/PROCESSOR—A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit from the DoH to grow and process medical marijuana.

HEIGHT OF A STRUCTURE - The vertical distance derived from the average finished grade at the foundation corners of the building or structure, to the highest point of the building or structure excluding a chimney or other similar structure listed in §401(3).

HOME OCCUPATION - A business or office conducted in the home by members of the resident family, clearly incidental and secondary to the use of the dwelling for residential purposes and meeting the requirements of §502(7) of this Chapter.

HOSPITAL - A building used for the diagnosis, treatment, or other care of human ailments, unless otherwise specified. A hospital shall be deemed to include a sanitarium, sanatorium, or clinic.

HOTEL - A building or group of such buildings, containing guest rooms for the temporary lodging of transient guests; provided, that no rooms shall have cooking facilities. Eating and drinking facilities may be accessory to the use.

IDENTIFICATION CARD—A document issued by the DoH that permits access to medical marijuana.

INDUSTRIAL PARK - A planned, organized industrial district with an overall development plan, which is designed to insure compatibility between the industrial operations therein, and the existing character of the Borough and to promote an open and park-like character.

JUNK - Any discarded material or article including, but not limited to scrap metal, scrapped, abandoned or junked motor vehicles, machinery, equipment, paper, glass containers, and structures. It shall not include, however, refuse or garbage kept in a proper container for the purpose of prompt disposal.

JUNKYARD - Any place where any junk, as hereinabove defined, is stored, disposed of, or accumulated.

LIFE CARE RETIREMENT CENTER - A planned residential development that provides continuing care to individuals, board and lodging, together with nursing services, medical services, or other health related services, for the life of the individual, or for a period in excess of one (1) year, including ancillary health care facilities, common areas for dining, recreation, and open space. Ancillary facilities are provided for the primary use of residents of the center.

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.

LOT AREA - The area contained within the property lines of a lot (as shown on the plan), excluding space within all streets and within all permanent drainage easements, but including the areas of all other easements. [Ord. 594]

LOT CORNER - A lot at the junction of and fronting on two (2) or more intersecting streets.

LOT COVERAGE - The percentage of the lot area that is occupied by buildings, including principal buildings and accessory buildings.

LOT, DEPTH OF - The distance along a straight line drawn from the midpoint of the front lot line to the midpoint of the rear lot line.

LOT, FLAG - A lot with direct frontage on a public road which does not meet the required lot width at the minimum required front yard setback line, which consists of an access lane with a minimum width of twenty-five (25) feet and a rectangular area, the dimensions of which exceed the minimum lot width requirements as established in this Chapter. [Ord. 594]

LOT LINE - Any boundary of a lot. Any lot lines, neither a rear lot line nor a front line, shall be deemed a side lot line.

LOT LINE, FRONT - The street line at the front of a lot. On a corner lot, the owner may specify the front lot line on the plot plan.

LOT LINE, REAR - The lot line or lines opposite to the front lot line.

LOT, THROUGH - A lot extending from one (1) street to another.

LOT, WIDTH OF - The distance between the side lot lines measured across the rear of the required front yard.

MAIN USE OR BUILDING - The principal or most important use or building on a lot.

MEDICAL AND DENTAL CLINIC - A building used exclusively by physicians and dentists for treatment and examination of patients, provided that no overnight patients shall be kept on the premises.

MEDICAL MARIJUANA—Marijuana for certified medical use as legally permitted by the Commonwealth of Pennsylvania with Act 16.

MEDICAL MARIJUANA ORGANIZATION OR FACILITY—A dispensary or a grower/processor of marijuana for medical purposes.

MEDICAL MARIJUANA DELIVERY VEHICLE OFFICE—Any facility used to house delivery vehicles for supplying marijuana plants or seeds to one or more marijuana grower/processors and/or dispensaries.

MEMBERSHIP CLUB - A building, structure, lot or land area used as a private club, fraternal or social organization.

MIXED USE – A use of land or of a structure, which includes more than one permitted principal use on a lot, provided such uses are restricted to those or any combination of those permitted uses in the respective zoning district.

MOBILEHOME - a transportable, single family dwelling intended for permanent occupancy, contained in one (1) unit or in two (2) or more units designed to be joined into one (1) 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. [Ord. 594]

MOTEL - A building or group of buildings, whether detached or in connected units, used as temporary lodging of transient guests, designed primarily for automobile travelers, and provided with accessory off-street parking facilities.

MOTORIZED VEHICLE REPAIR SHOP - An establishment therein motorized vehicle repair, painting, and bodywork is conducted.

MULTI-FAMILY DWELLING - A single building or group of attached dwelling units intended and designed to be occupied by three (3) or more families living independently of each other as separate housekeeping units. The individual dwelling units share a common access and common yard area.

NONCONFORMING STRUCTURE - A structure or part of a structure manifestly not designed to comply with the applicable use provisions of this Chapter or amendments 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 of a structure, which does not comply with the applicable use provisions in this Chapter or amendments 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.

NURSING HOME - A premises providing nursing care and related medical or other health services for a period exceed twenty-four (24) hours for two (2) or more individuals because of age, illness, disease, injury, convalescence, or physical or mental infirmity, who needs such care.

PARKING AREA - A lot or part thereof used for the storage or parking of motor vehicles, with or without the payment of rent or charges in money or other consideration.

PARKING SPACE - A stall or berth which is arranged and intended for parking of one (1) motor vehicle in a garage or parking area.

PENNSYLVANIA DEPARTMENT OF HEALTH—For purposes of this ordinance shall be referred to as “DoH”.

PERSONAL CARE HOME—

1. Any premises in which food, shelter and personal assistance or supervision are provided for a period exceeding 24 hours, for four or more adults who are not relatives of the operator, who do not require the services in or of a licensed long-term care facility, but who do require assistance or supervision in activities of daily living or instrumental activities of daily living.

2. The term includes any premises that has held or presently holds itself out as a personal care home and provides food and shelter to four or more adults who need personal care services, but who are not receiving the services.

PERSONAL SERVICE STORE OR SHOP - An establishment not otherwise specifically listed in this Chapter primarily involved in providing services (rather than the sale of products) directly to the consumer, such as tailor shop, barber shop, travel agency.

PRINCIPAL USE OR BUILDING - The main or most important use or building on a lot.

PUBLIC NOTICE - Notice published once each week for two (2) successive weeks in a newspaper of general circulation in the Borough. 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. [Ord. 594]

RECLAMATION OF ABANDONED OR DILAPIDATED LOTS—The reclamation or restoration to a permitted use, as defined by the zoning district in which the lot is located, of an existing lot, in which the original use has ceased operation for a period greater than twelve (12) months and the condition of the property, in general, is in an abandoned and dilapidated condition; abandoned and dilapidated lots shall be defined as lots which contain dilapidated structures, which are so structurally deficient, so as not to be useful for their original intended purpose; and/or the lot itself has severe environmental concerns existent on the property, based upon the prior usage of the property which created the environmental concern; or severe environmental concerns which have been created by lack of use and maintenance of the property and need to be addressed prior to any permitted use of the property; that all of the existing conditions of the abandoned or dilapidated lot are so severe that the lot's condition, in its present state, is not fit for a majority of the permitted uses allowed in the zoning district in which the property is located, without substantial financial cost, to clean up the environmental concerns or to restore or remove the dilapidated structures located on the lot.

REGISTRY—The registry established by the DoH for all medical marijuana organizations and practitioners.

REPAIR SERVICE - An establishment involved primarily with fixing or repairing goods, rather than with the retail sales of goods. Repair services shall not be construed to include those relating to motorized vehicles unless explicitly so stated.

RESTAURANT, CARRY OUT - An establishment whose principal business is the sale of food or beverages to the customer in a ready-to-consume state on edible or disposable containers where no or limited seating is provided within the premises.

RESTAURANT, FAST FOOD - An establishment whose principal business is the sale of food or beverages to the customer in a ready-to-consume state on edible or disposable containers either within the restaurant building or for consumption off the premises.

RESTAURANT, STANDARD - An establishment whose principal business is the sale of food or beverages to the customer in a ready-to-consume state and whose principal method of operation includes one (1) of the following characteristics. Customers, normally provided with a menu, are served their foods and beverages by a restaurant employee at the same table or counter at which the items are consumed; or, a cafeteria-type operation where foods or beverages are generally consumed within the restaurant building.

RETAIL STORE - An establishment not otherwise specifically listed in this Chapter primarily involved in the sale of products directly to the consumer.

SERVICE STATION - An establishment engaged in the retail sale of gasoline and similar products to motorists and in the repair of motorized vehicles.

SEWAGE DISPOSAL SYSTEM, COMMUNITY - A system for collecting and treating waste water at a community facility operated by the Nazareth Borough Municipal Authority or its successor.

SIGN - A display, structure or device designed to attract attention and impart a message.

SIGN, ADVERTISING - A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the property and only incidentally upon the property if at all. A commercial billboard is an advertising sign.

SIGN, BILLBOARD/OUTDOOR ADVERTISING SIGN—

A. A permanent, large-scale, freestanding sign/structure which meets any one or more of the following criteria:

- (1) Is used as an off-premises sign;
- (2) Is used for rental advertising purposes;
- (3) Functions as a principal or separate principal use from the property on which it is located.

B. The term "billboard" applies to all physical parts of the sign, including display faces, structure, support poles, attached ladders and catwalks, appurtenant lighting systems, and visual display systems.

SIGN, BUSINESS IDENTIFICATION - A sign that directs attention to or identifies the business, profession, products or services conducted or sold upon the property where the sign is displayed.

SIGN, DIGITAL/ELECTRONIC—A sign that displays electronic, static images, static graphics or static pictures, with or without text information, defined by a small number of matrix elements using different combinations of light-emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices within the display area where the message change sequence is accomplished immediately. Digital/ electronic signs shall include computer programmable, microprocessor-controlled electronic or billboard digital displays.

SIGN, FLATWALL - A sign which is part of, attached directly to, supported by, or painted upon a building wall.

SIGN, FREESTANDING - A sign supported by, or suspended from, a freestanding column or other support located in or upon the ground surface.

SIGN, HOME OCCUPATION OR HOME PROFESSIONAL OFFICE - A sign on a residential building, which directs attention to a home professional office or home occupation, conducted in such residential building.

SIGN, OFF-PREMISES—A sign that directs attention to a person, profession, business, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located. This definition includes commercial advertising signs otherwise known as "billboards."

SIGN, ON-PREMISES—A sign which directs attention to a person, business, profession, or home occupation conducted on the same lot.

SIGN, TEMPORARY - A sign, constructed of cloth, canvas, fabric, wood, or other similar material, with or without a structural frame, and intended for a limited period of display. For purposes of this Chapter, real estate and construction signs are temporary signs.

SINGLE FAMILY ATTACHED DWELLING - A dwelling unit on a permanent foundation designed and occupied as a residence for one (1) family with direct outside access, which is part of a group of three (3) or more dwellings with one (1) or two (2) vertical walls in common with adjacent dwelling units. These dwelling units are commonly referred to as "town-houses" or "row homes."

SINGLE FAMILY DETACHED DWELLING - A dwelling unit on a permanent foundation designed and occupied as a residence for one (1) family, which does not have a vertical wall in common with another building.

SINGLE FAMILY SEMI-DETACHED DWELLING UNIT - A dwelling unit on a permanent foundation designed and occupied as a residence for one (1) family, which has one (1) vertical wall in common with the adjacent dwelling. These dwellings are commonly referred to as “twins” or “duplexes.”

SOLAR ENERGY: Means radiant energy (direct, diffuse, and reflected) received from the sun.

SOLAR ENERGY SYSTEM: An energy conversion system, including appurtenances, which converts solar energy to usable thermal, mechanical, chemical or electrical energy to meet all, or a significant part, of the energy requirements of the on-site residential or non-residential user and that may be mounted on the existing or proposed structures or on the ground.

SOLAR ENERGY COMMERCIAL SYSTEM: Systems which exist solely to generate energy for sale back into the energy grid system, rather than being consumed on-site.

SPECIAL EXCEPTION USE - Certain uses delineated in this Chapter, which are only permitted after the Zoning Hearing Board has made a determination that the standards and criteria as set forth in the Chapter, have been met.

SPECIFIED ANATOMICAL AREAS - Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the aorta and also human male genitals in a discernibly rigid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES - Human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse, or sodomy; or fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

STREET - includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct or any other ways used or intended to be used by vehicular traffic or pedestrians whether public or private. [Ord. 594]

STRUCTURE - Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land. [Ord. 594]

SWIMMING POOL, NONCOMMERCIAL - Any constructed body of water or structure to contain water, pursuant to the provisions of §502(6), and any accessory equipment pertaining thereto, used or intended to be used for swimming or bathing by a family or persons residing on the premises and their guests. Such noncommercial swimming pool shall not be operated for gain; and shall be located on a lot only as an accessory use to the dwelling or dwellings, hotel, motel or membership club thereon.

TAVERN - A duly licensed establishment primarily involved in serving alcohol and malt beverages to the public for consumption on the premises.

TRANSIENT OCCUPANCY - Occupancy, which occurs for a period of less than three (3) months in any twelve (12) month period. Occupancy for periods of three (3) months or greater in any twelve (12) month period shall be presumed to be permanent occupancy.

TWO FAMILY DETACHED DWELLING - Two (2) dwelling units in one (1) building and without the dwelling units being completely separated by a vertical firewall. [Ord. 594]

VARIANCE - relief granted pursuant to the provisions of this Chapter and Articles VI and IX of the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 et seq. [Ord. 594]

WATER SUPPLY SYSTEMS, PUBLIC - The system for supplying and distributing water from a common source to dwellings and other buildings, serving Nazareth, operated by the Blue Mountain Water Company and its successors.

YARD, FRONT - An open unoccupied space on the same lot with a building situated between the nearest roofed portion of the building and the front lot line of the lot and extending from side lot line to side lot line.

YARD, REAR - A space on the same lot with a building situated between the nearest roofed portion of the building and the rear lot line of the lot, and extending from side lot line to side lot line.

YARD, SIDE - An open unoccupied space on the same lot with a building situated between the nearest roofed portion of the building or of any accessory building and the side lot line of the lot, and extending through from the front yard or from front lot line where no front yard exists, to the rear yard, or to the rear lot line where no rear yard exists.

ZONING OFFICER - The duly constituted municipal official designated to administer and enforce the zoning ordinances of the Borough.

(Ord. 561, 6/6/1988, §300; as amended by Ord. 594, 1/7/1991; and by Ord. 606, 10/5/1992; as amended by Ord. 628, 10/2/1995; as amended by Ord. 633, 4/1/1996; as amended by Ord. 724, 10/2/2006; as amended by Ord. 724, 10/2/2006; as amended by Ord. 751, 2/2/2009; as amended by Ord. 773, 6/6/2011; as amended by Ord. 788, 6/10/2013; as amended by Ord. 804, 2/2/2015; as amended by Ord. 829, 8/7/2017; and as amended by Ord. 837, 11/5/2018)

Part 4

District Regulations

§401. Classes of Districts.

1. For the purposes of this Chapter, the Borough is hereby divided into the following classes of districts:

R-10	Low Density Residential
R-7	Medium Density Residential
R-5	High Density Residential
IC	Industrial Commercial
GC	General Commercial
LI	Light Industrial
EI	Extractive Industrial

2. Within any district only one (1) principal use shall be permitted on a lot whether that use is a listed permitted principal use or a listed special exception use. One (1) or more of the listed accessory uses may be permitted on the same lot as the one (1) principal or special exception use provided that the accessory use is incidental and subordinate to the principal or special exception use.

(Ord. 561, 6/6/1988, §410)

§402. District Boundaries.

1. Zoning Map. The boundaries of each district or zones are established as shown on the Official Zoning Map of the Borough dated December 2003, which accompanies this Chapter, and said map is declared to be a part of this Chapter. (Amended by Ord. 693, 3/1/2004)

2. Delineation of District Boundaries. The district boundary lines are intended generally to follow the boundary lines of streets and similar rights-of-way or lot lines, or straight line projections of such lines, or Borough boundary lines, all as shown on the Zoning Map; but where a district boundary line does not follow such a line, its position is shown on said Zoning Map by a specific dimension expressing its distance in feet from a street line or another boundary line as indicated.

3. Interpretation of District Boundaries. In case of uncertainty as to the true location of a district boundary line in a particular instance, the determination thereof shall be made by the Zoning Officer. An appeal may be taken to the Zoning Hearing Board, as provided in §703.

(Ord. 561, 6/6/1988, §420)

§403. R-10 District; Low Density Residential. The purpose of this zoning district is to create a pleasant, low-density area for residential development, free from intrusions by industrial and commercial uses.

1. Permitted Principal Uses.

- A. Single family detached dwelling.
- B. Public and private nonprofit outdoor recreation areas such as parks, playgrounds, picnic grounds, swimming pools, golf courses.
- C. Church, Sunday school or other place of worship, parish house, convent, rectory.

D. Cemetery.

2. Permitted Accessory Uses.

A. Private garage or private parking area, pursuant to §§502(1) and 503.

B. Customary accessory structure and use.

C. Sign, pursuant to §505.

D. Private noncommercial swimming pool, pursuant to §502(6).

E. Home occupation pursuant to §502(7).

F. Accessory uses and structures customarily incidental to a permitted outdoor recreation use such as parking areas, refreshment stands, concessions, fireplaces, pavilions and picnic tables; provided that such accessory uses are operated only when the main use is open and are being used in conjunction with the main use.

3. Special Exception Use.

A. Nursing home or life care retirement center, but not including a hospital.

B. Private or public school approved by the Department of Education, but not including correctional institutions.

C. Cellular communications towers and antennas.

D. Personal Care Home or Assisted Living Residence, when developed as an independent and stand-alone use, and neither as a part of a Life Care Retirement Center (as defined in section 302 of this Chapter), nor as part of a continuing care retirement community, nor as part of any other use which combines residences for persons of retirement age, ancillary health care services, assisted living, and skilled and intermediate nursing care.

4. Dimensional Requirements.

	<u>Mini- mum Lot Area</u>	<u>Mini- mum Lot Width</u>	<u>Maximum Building Coverage of Lot</u>	<u>Maximum Building Height</u>	<u>Front Yard</u>	<u>Side yard (not Abutting Street)</u>	<u>Side yard (Abutting Rear Street)</u>	<u>Yard</u>
Single Family Detached Dwelling	10,000 sq. ft.	80'	30%	35'	25'	15'	25'	30'
All Other Permitted Principal or Special Exception Uses	30,000 sq. ft.	150'	30%	35'	30'	20'	25'	40'

5. Sewer Connection. All permitted principal and special exception uses in this district shall be connected upon construction to the community sewer system.

6. Impervious Cover.

<u>Use</u>	<u>Maximum Impervious Cover</u>
Single Family Detached Dwelling	40%
All Other Principal or Special Exception Uses	45%

(Ord. 561, 6/6/1988, §430; as amended by Ord. 594, 1/7/1991; as amended by Ord. 666, 8/7/2000; as amended by Ord. 724, 10/2/2006; as amended by Ord. 788, 6/10/2013; and as amended by Ord. 856, 3/2/2020.)

§404. R-7 District; Medium Density Residential. The purpose of this zoning district is to create a medium density area where different housing needs can be satisfied by permitting a variety of housing types. This area is to minimize the intrusion of industrial and commercial uses beyond those, which presently exist.

1. Permitted Principal Uses.

- A. Single family detached dwelling.
- B. Single family semi-detached dwelling (duplex).
- C. Single family attached dwellings (townhouses).
- D. Two-family detached dwelling. [Ord. 594]
- E. Multi-family dwelling.
- F. Public and private nonprofit outdoor recreation area such as parks, playgrounds and picnic grounds, but not including swimming pools and golf courses.
- G. Church, Sunday school or other place of worship, parish house, convent, rectory.
- H. Cemetery.
- I. Library.
- J. Emergency Services Station

2. Permitted Accessory Uses.

- A. Private garage or private parking area, pursuant to §§502(1), or 502(2) and 503.
- B. Customary accessory structure and use.
- C. Sign, pursuant to §505.
- D. Private noncommercial swimming pool, pursuant to §502(6).
- E. Home occupation, pursuant to §502(7).

F. Accessory uses and structures customarily incidental to a permitted outdoor recreation use such as parking areas, refreshment stands, concessions, fire places, pavilions and picnic tables; provided that such accessory uses are operated only when the main use is open and are being used in conjunction with the main use.

3. Special Exception Uses.

A. Private or public school approved by the Department of Education, but not including correctional institutions.

B. Membership club.

C. Personal Care Home, Assisted Living Residence and Group Care Facility.

D. Day care facility.

E. Cellular communications towers and antennas.

4. Dimensional Requirements. See following table:

R-7 District: Dimensional Requirements

	<u>Mini- mum Lot Area</u>	<u>Mini- mum Lot Width</u>	<u>Maximum Building Coverage of Lot</u>	<u>Maximum # Units per Gross Acre</u>	<u>Maximum Building Height</u>	<u>Front Yard</u>	<u>Side Yard (not abut- ting St.)</u>	<u>Side Yard Abut- ting St.</u>	<u>Rear Yard</u>
Single Family Detached Dwelling and Group Care Facility	7,000 sq. ft.	60'	30%	----	35'	20'	10'	20'	30'
Single Family Semi-detached Dwelling	10,000 sq. ft.	80'	30%	----	35'	20'	10'	20'	30'
Single Family Attached Dwelling	3,630 sq.ft. per dwelling unit	20'	35%	12	35'	25'	15'	25'	25'
Two Family Detached Dwelling – same as Single Family Semi-Detached Dwelling. (See above)									
Multi-Family Dwelling	3,630 sq. ft. per dwelling unit	none	30%	12	35'	25'	15'	25'	30'

All Other Permitted Principal Or Special Exception Uses 25,000 sq.ft. 120' 30% ---- 35' 20' 15' 20' 30'

5. Sewer Connection. All permitted principal and special exception uses in this district shall be connected upon construction to the community sewer system.

6. Impervious Cover.

<u>Use</u>	<u>Maximum Impervious Cover</u>
Single Family Detached Dwelling & Group Care Facility	40%
All Other Principal or Special Exception Uses	45%

(Ord. 561, 6/6/1988, §440; as amended by Ord. 594, 1/7/1991; as amended by Ord. 666, 8/7/2000; as amended by Ord. 724, 10/2/2006; as amended by Ord. 804, 2/2/2015; as amended by Ord 804, 2/2/2015; and as amended by Ord. 856, 3/2/2020.)

§405. R-5 District; High Density Residential. The purpose of this zoning district is to create medium-high density areas, which reflect the existing character and uses of the areas. Limited commercial development is to be permitted in character with the existing area. A variety of housing needs can be satisfied by permitting a variety of housing types.

1. Permitted Principal Uses.

- A. Single family detached dwelling.
- B. Single family semi-detached dwellings (duplex).
- C. Single family attached dwellings (townhouses).
- D. Two-family detached dwelling. [Ord. 594]
- E. Multi-family dwelling.
- F. Mobile home in conformance with the standards of §502(5).
- G. Public and private, non-profit and outdoor recreation areas such as parks, playgrounds, picnic grounds, but not including swimming pools or golf courses.
- H. Church, Sunday school or other place of worship, parish house, convent, rectory.
- I. Retail food stores not to exceed one thousand (1,000) sq. ft. of floor space and permitted in residential buildings only.
- J. Restaurants, excluding fast food and carryout restaurants.
- K. Small-scale business office, studio or agency such as insurance or real estate office, not to exceed two thousand (2,000) sq. ft. of floor space.

L. Professional office.

M. Bed and Breakfast Inn. [Ord. 606]

2. Permitted Accessory Uses.

A. Private garage or private parking area, pursuant to §§502(1) or 502(2) and 503.

B. Customary accessory structure and use.

C. Sign, pursuant to §505.

D. Private noncommercial swimming pool, pursuant to §502(6).

E. Home occupation, pursuant to §502(7).

F. Accessory uses and structures customarily incidental to a permitted outdoor recreation use such as parking areas, refreshment stand concessions, fire places, pavilions and picnic tables; provided that such accessory uses are operated only when the main use is open and are being used in conjunction with the main use.

3. Special Exception Uses.

A. Private or public school approved by the Department of Education, but not including correctional institutions.

B. Membership.

C. Personal Care Home, Assisted Living Residence and Group Care Facility.

D. Day care facility.

E. Conversions of existing dwelling into apartments.

F. Service station.

G. Cellular communication towers and antennas.

H. Mixed Use

I. Conversions of existing permitted uses into mixed uses, including commercial and residential combinations.

4. Dimensional Requirements. See following table.

R-5 District Dimensional Requirements

	<u>Mini- mum Lot Area</u>	<u>Mini- mum Lot Width</u>	<u>Maximum Building Coverage of Lot</u>	<u>Maximum # Units per Gross Acre</u>	<u>Maximum Building Height</u>	<u>Front Yard</u>	<u>Side Yard (not abut- ting St.)</u>	<u>Side Yard (Abut- ting St.)</u>	<u>Rear Yard</u>
Single Family Detached Dwelling and Group Care Facility	5,000 sq. ft.	50'	40%	-----	35'	20'	7'	20'	20'
Single Family Semi-Detached Dwelling	8,000 sq. ft.	70'	40%	-----	35'	20'	10'	20'	20'
Single Family Attached Dwelling	3,630 sq. ft.	20'	35%	12	35'	20'	15'	25'	20'
Two Family Detached Dwelling – <u>same</u> as Single Family Semi Detached Dwelling. (See above)									
Multi-Family Dwelling	2,904 sq. ft.	none	40%	15	35'	20'	7'	20'	20'
Conversions of Existing Dwelling into Apartments	2,000 sq. ft. per dwelling unit	existing	existing	-----	existing	existing	existing	existing	existing
All Other Permitted Principal or Special Exception Uses	5,000 sq. ft.	50'	40%	-----	35'	20'	7'	20'	20'

Reclamation of Abandoned or Dilapidated Lots

<u>Minimum Lot Area</u>	<u>Minimum Lot Width</u>	<u>Maximum Building Coverage of Lot</u>	<u>Maximum No. of Units Per Gross Acre</u>	<u>Maximum Building Height</u>	<u>Front Yard</u>	<u>Side Yard</u>	<u>Side Yard (Abutting Street)</u>	<u>Rear Yard</u>
1,600 sq. ft. per dwelling unit	Existing	40%	27	35' **	20'	7'	20'	20'

**This height may be increased to 43' in the event that the first floor of the proposed new structure contains parking to serve the use which complies with all of the provisions of the zoning ordinance; however, no area for residency or tenancy purposes shall exist above a 35' level.

5. Sewer Connection. All permitted principal and special exception uses in this district shall be connected upon construction to the community sewer system.

6. Impervious Cover.

<u>Use</u>	<u>Maximum Impervious Cover</u>
Single Family Detached Dwelling	50%
All Other Principal or Special Exception Uses	55%
Conversion of Existing Dwellings into Apartments	Existing

(Ord. 561, 6/6/1988, §450; as amended by Ord. 594, 1/7/1991; and by Ord. 606, 10/5/1992; as amended by Ord. 666, 8/7/2000; as amended by Ord. 724, 10/2/2006; as amended by Ord. 744, 7/7/2008; as amended by Ord. 751, 2/2/2009; and as amended by Ord. 856, 3/2/2020.)

§406. IC District; Industrial-Commercial District. The purpose of this zoning district is to provide opportunities for the continuing industrial, wholesaling and commercial development of the area of Nazareth proximate to Route 248. The availability of access from Routes 248 and 191, and centralized utilities makes the area well suited for either industrial or commercial development.

1. Permitted Principal Uses.

- Chapter.
- A. Any manufacturing or assembly operation meeting the performance standards of this Chapter.
 - B. Research institute, laboratory meeting the performance standards of this Chapter.
 - C. Wholesale establishment, warehouse, storage and distribution establishment.
 - D. Office, office building.
 - E. Automobile sales with accessory service facilities, including outdoor storage of non-junked automobiles for sale, farm and other machinery sales and service, and automobile and machinery repair shops.

- F. Service station.
- G. Motorized vehicle repair shop.
- H. Building and construction materials sales and storage yard.
- I. Standard restaurant.
- J. Fast-food restaurant.
- K. Carry out restaurant.
- L. Tavern.
- M. Hotel, motel.
- N. Retail store or shop.
- O. Buildings and facilities for municipal use.
- P. General servicing or repair shop.
- Q. Personal service store or shop.
- R. Commercial recreation area or use.
- S. Single family detached dwelling.
- T. Single family semi-detached dwelling.
- U. Single family attached dwelling.
- V. Two-family detached dwelling. [Ord. 594]
- W. Multi-family dwelling.
- X. Bed and breakfast inn. [Ord. 606]
- Y. Academic Clinical Research Centers.
- Z. Medical Marijuana Dispensaries.

2. Permitted Accessory Uses.

- A. Private garage or private parking area, pursuant to §§502(1) or 502(2) and 503.
- B. Customary accessory structure and use.
- C. Signs, pursuant to §505.
- D. Private non-commercial swimming pool, pursuant to §502(6).
- E. Home occupations, pursuant to §502(7).

F. Parking and loading areas, pursuant to §503.

3. Special Exception Uses.

A. Drive-in banks.

B. Adult bookstores, adult motion picture theaters, and adult mini-motion picture theaters.

C. Game arcade.

D. Controlled substance paraphernalia establishment.

E. Conversions of existing dwelling into apartments.

F. Conversions of existing store or office to apartments or apartments in combination with store or office.

G. Mixed use.

H. Conversions of existing permitted uses into mixed uses, including commercial and residential combinations, provided the following are applied:

i. The entire first floor street frontage(s) of the building shall be reserved and developed as a permitted non-residential use as allowed within this zoning district.

ii. Entryways leading to stairways or hallways for residential uses within the building will be permitted on the first floor street frontage.

iii. The minimum square footage of the first floor non-residential uses shall be based on the use proposed and the current International Building Code requirements.

iv. Conversions and Mixed Uses shall follow the special exception use requirements in Section 601 of this Chapter.

v. The requirements in Section 603(2) of this Chapter shall be followed for all Conversions and Mixed Use proposals.

vi. A minimum of fifty (50%) percent of the first floor building area or the minimum as required in Section 603(2)(A)(1), whichever is greater, shall be reserved for commercial/business use. (as amended by Ord. 818, 6/6/2016)

4. Dimensional Requirements. See following table.

IC District Dimensional Requirements

	<u>Minimum Lot Area</u>	<u>Minimum Lot Width</u>	<u>Maximum Building Coverage of Lot</u>	<u>Maximum # Units per Gross Acre</u>	<u>Maximum Building Height</u>	<u>Front Yard</u>	<u>Side Yard (not abutting St.)</u>	<u>Side Yard (Abutting St.)</u>	<u>Rear Yard</u>
Single Family Detached Dwelling	5,000 sq. ft.	50'	40%	----	35'	20'	7'	20'	20'
Single Family Semi-detached Dwelling	8,000 sq. ft.	70'	40%	----	35'	20'	10'	20'	20'
Single Family Attached Dwelling	2,500 sq.ft. per dwelling unit	20'	35%	12	35'	20'	15'	25'	20'

Two Family Detached Dwelling – same as Single Family Semi-Detached Dwelling. (See above)

Multi-Family Dwelling	2,904 sq. ft. per dwelling Unit	none	40%	15	35'	20'	7'	20'	20'
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	<u>Minimum Lot Area</u>	<u>Minimum Lot Width</u>	<u>Maximum Building Coverage of Lot</u>	<u>Maximum # Units per Gross Acre</u>	<u>Maximum Building Height</u>	<u>Front Yard</u>	<u>Side Yard (not abutting St.)</u>	<u>Side Yard (Abutting St.)</u>	<u>Rear Yard</u>
Conversions of existing dwelling into apartments & conversions of stores or offices to apartments or apartments in combination with stores or offices	2,000 sq. ft. per unit (dwelling, store or unit)	existing	existing	-----	existing	existing	existing	existing	existing
Hotel, Motel	1,000 sq. ft. per bedroom	100'	50%	-----	35'	25'	20'	25'	20'

All Other Permitted Principal Or Special Exception Uses	7,500 sq.ft.	75'	30%	----	35'	25'	10'	25'	20'
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Reclamation of Abandoned or Dilapidated Lots

<u>Minimum Lot Area</u>	<u>Minimum Lot Width</u>	<u>Maximum Building Coverage of Lot</u>	<u>Maximum No. of Units Per Gross Acre</u>	<u>Maximum Building Height</u>	<u>Front Yard</u>	<u>Side Yard</u>	<u>Side Yard (Abutting Street)</u>	<u>Rear Yard</u>
1,600 sq. ft. per dwelling unit	Existing	40%	27	35' **	20'	7'	20'	20'

**This height may be increased to 43' in the event that the first floor of the proposed new structure contains parking to serve the use which complies with all of the provisions of the zoning ordinance; however, no area for residency or tenancy purposes shall exist above a 35' level.

5. Sewer Connection. All permitted principal and special exception uses in this district shall be connected upon construction to the community sewer system.

6. Impervious Cover.

<u>Use</u>	<u>Maximum Impervious Cover</u>
All Residential Uses	50%
Conversions within this District	Existing
All Other Uses within the IC District	60%

(Ord. 561, 6/6/1988, §460; as amended by Ord. 594, 1/7/1991; and by Ord. 606, 10/5/1992; as amended by Ord. 628, 10/2/1995; as amended by Ord. 744, 7/7/2008; as amended by Ord. 751, 2/2/2009; as amended by Ord. 829, 8/7/2017; and as amended by Ord. 856, 3/2/2020.)

§407. GC District; General Commercial. The purpose of this zoning district is to continue the use and reuse of the existing building stock, to recognize the pattern of mixed commercial and residential uses in the center of Nazareth's business activity and to promote the preservation of the historical setting in the portion of the district which overlaps the historic district.

1. Permitted Principal Uses.

A. Automobile or machinery sales with accessory service facilities, exclusive of unroofed storage of motor vehicles or machinery.

B. Standard restaurant.

- C. Carry out restaurant.
- D. Tavern.
- E. Hotel, motel.
- F. Retail store or shop.
- G. Buildings and facilities for municipal use.
- H. Personal service store or shop.
- I. Commercial recreation area or use.
- J. Business office or office building, studio or agency, such as insurance or real estate office, bank or other financial institution.
- K. Professional office.
- L. Membership club.
- M. Church, Sunday school or other place of worship, parish house, convent, rectory.
- N. Printing or publishing establishment.
- O. Parks and recreation areas, non-profit.
- P. Funeral home.
- Q. Community center.
- R. Single-family detached dwellings.
- S. Single-family semi-detached dwelling (duplex).
- T. Single-family attached dwelling (townhouses).
- U. Two-family detached dwelling. [Ord. 594]
- V. Multiple family dwellings.
- W. Bed and breakfast inn. [Ord. 606]
- X. Laundromat
- Y. Self-Storage
- Z. Emergency Services Station

2. Permitted Accessory Uses.

- A. Private garage or private parking area, pursuant to §§502(1) or 502(2) and 503.
- B. Customary accessory structure and use.

- C. Signs, pursuant to §505.
- D. Private non-commercial swimming pool, pursuant to §502(6).
- E. Home occupations, pursuant to §502(7).
- F. Parking and loading facilities, pursuant to §503.

3. Special Exception Uses.

A.. Nursing home, personal care home, assisted living residence or life care retirement center, but not including a hospital.

B. Service station.

C. Motorized vehicle repair shops.

D. Art gallery, museum.

E. Bus passenger station, taxi station.

F. Conversions of existing dwelling into apartments.

G. Conversions of existing permitted uses into mixed uses, including commercial and residential combinations or conversions of any non-residential use into a residential use, provided the following are applied:

i. The entire first floor street frontage(s) of the building shall be reserved and developed as a permitted non-residential use as allowed within this zoning district.

ii. Entryways leading to stairways or hallways for residential uses within the building will be permitted on the first floor street frontage.

iii. The minimum square footage of the first floor non-residential uses shall be based on the use proposed and the current Borough Property Maintenance Code requirements.

iv. Conversions and Mixed Uses shall follow the special exception use requirements in Section 601 of this Chapter.

v. The requirements in Section 603(2) of this Chapter shall be followed for all Conversions and Mixed Use proposals.
(as amended by Ord. 818, 6/6/2016)

H. Game arcade.

I. Day care facility.

J. Cellular communications towers and antennas.

K. Mixed use.

L. Conversions of existing commercial uses into apartments.
(as amended by Ord. 818, 6/6/2016)

4. Dimensional Requirements. See following table.

GC District Dimensional Requirements

	<u>Mini- mum Lot Area</u>	<u>Mini- mum Lot Width</u>	<u>Maximum Building Coverage of Lot</u>	<u>Maximum # Units per Gross Acre</u>	<u>Maximum Building Height</u>	<u>Front Yard</u>	<u>Side Yard (not abut- ting St.)</u>	<u>Side Yard (Abut- ting St.)</u>	<u>Rear Yard</u>
Single Family Detached Dwelling	5,000 sq. ft.	40'	40%	----	35'	10'	5'	10'	10'
Single Family Semi-detached Dwelling	8,000 sq. ft.	70'	40%	----	35'	10'	5'	10'	10'
Single Family Attached Dwelling	2,500 sq.ft. per dwelling unit	20'	35%	12	35'	10'	5'	12'	10'
Two Family Detached Dwelling – <u>same</u> as Single Family Semi Detached Dwelling. (See above)									
Multi-Family Dwelling	2,904 sq. ft. per dwelling unit	none	40%	15	35'	15'	5'	12'	20'
Conversions of existing dwelling into apartments & conversions of stores or offices to apartments or apartments in combination with stores or offices	2,000 sq. ft. per unit (dwelling, store or unit)	existing	existing	----	existing	existing	existing	existing	existing
Hotel, Motel	1,000 sq. ft. per bedroom	100'	50%	----	35'	25'	5'	25'	20'
Parks and Recreation Areas	2,000 sq. ft.	none	none	----	35'	15'	5'	15'	10'

All Other none 40' 60% ---- 35' 15' 5' 15' 10'
 Permitted
 Principal
 Or Special
 Exception Uses

5. Sewer Connection. All permitted principal and special exception uses in this district shall be connected upon construction to the community sewer system

6. Impervious Cover.

<u>Use</u>	<u>Maximum Impervious Cover</u>
All Residential Uses	100%
Conversions within this District	Existing
Park and Recreation Areas	100%
All Other Uses within the GC District	100%

(Ord. 561, 6/6/1988, §470; as amended by Ord. 594, 1/7/199]; and by Ord. 606, 10/2/1992; as amended by Ord. 628, 10/2/1995; as amended by Ord. 666, 8/7/2000; amended by Ord. 667, 11/6/2000; as amended by Ord. 724, 10/2/2006; as amended by Ord. 744, 7/7/2008; as amended by Ord. 763, 9/7/10; as amended by Ord. 804, 2/2/2015; and as amended by Ord. 856, 3/2/2020.)

§408. LI District; Light Industrial. The purpose of this zoning district is to provide an area suitable for manufacturing uses relative to utility availability, adjoining land uses and access.

1. Permitted Principal Uses.

- Chapter.
- A. Any manufacturing or assembly operation meeting the performance standards of this Chapter.
 - B. Research institute or laboratory meeting the performance standards of this Chapter.
 - C. Wholesale establishment, warehouse, storage and distribution establishment.
 - D. Office, office building.
 - E. Automobile sales with accessory service facilities, including outdoor storage of non-junked automobiles for sale, farm and other machinery sales and service, and automobile and machinery repair shops.
 - F. Building and construction materials sales and storage yard.
 - G. General servicing or repair shop.
 - H. Commercial recreation area or use.
 - I. Dry cleaning plant, laundry.
 - J. Parks and recreation areas, non-profit.
 - K. Industrial park.

L. Medical Marijuana Grower/Processors.

2. Permitted Accessory Uses.

- A. Customary accessory structures and uses.
- B. Signs, pursuant to §505.
- C. Parking and loading facilities, pursuant to §503
- D. Storage facilities.

3. Special Exception Uses.

- A. Transportation terminals.
- B. Mixed use.
- C. Cellular communication towers and antennas.

D. Conversions of existing permitted uses into mixed uses, including commercial and residential combinations, provided the following are applied:

i. The entire first floor street frontage(s) of the building shall be reserved and developed as a permitted non-residential use as allowed within this zoning district.

ii. Entryways leading to stairways or hallways for residential uses within the building will be permitted on the first floor street frontage.

iii. The minimum square footage of the first floor non-residential uses shall be based on the use proposed and the current Borough Property Maintenance Code requirements.

iv. Conversions and Mixed Uses shall follow the special exception use requirements in Section 601 of this Chapter.

v. The requirements in Section 603(2) of this Chapter shall be followed for all Conversions and Mixed Use proposals.
(as amended by Ord. 818, 6/6/2016)

4. Dimensional Requirements. See following table.

	<u>Mini- mum Lot Area</u>	<u>Mini- mum Lot Width</u>	<u>Maximum Building Coverage of Lot</u>	<u>Maximum Building Height</u>	<u>Front Yard</u>	<u>Side Yard (not abut- ting St.)</u>	<u>Side Yard (Abut- ting St.)</u>	<u>Rear Yard</u>
Parks and Recreation Areas	2,000 sq. ft.	none	none	50'	15'	10'	15'	10'

All Other Permitted Principal Or Special Exception Uses
 30,000 125' 30% 50' 25' 25' 25' 25'

(Amended by Ord. 594, 1/7/1991; as amended by Ord. 628, 10/2/1995; as amended by Ord. 666, 8/7/2000)

5. Sewer Connection. All permitted principal and special exception uses in this district shall be connected upon construction to the community sewer system.

6. Impervious Cover.

<u>Use</u>	<u>Maximum Impervious Cover</u>
Park and Recreation Areas	20%
All Other Uses within the LI District	65%

(Ord. 561, 6/6/1988) §480; as amended by Ord. 594, 1/7/1991; as amended by Ord. 628, 10/2/1995; as amended by Ord. 744, 7/7/2008; as amended by Ord. 829, 8/7/2017; and as amended by Ord. 856, 3/2/2020.)

§409. EI District; Extractive Industrial. The purpose of this zoning district is to provide an area for the continued operation of the limestone quarrying and cement producing industry and to provide for other opportunities for industrial development.

1. Permitted Principal Uses.

- Chapter.
- A. Any manufacturing or assembly operation meeting the performance standards of this
 - B. Research institute, laboratory meeting the performance standards of this Chapter.
 - C. Wholesale establishment, warehouse, storage and distribution establishment.
 - D. Office, office building.
 - E. Building and construction materials sales and storage yard.
 - F. General servicing or repair shop.
 - G. Commercial recreation area or use.
 - H. Parks and recreation areas, non-profit.
 - I. Industrial park.
 - J. Mining, quarrying and earth extraction industries pursuant to §502(8).
 - K. Agriculture, horticulture and forestry.
 - L. Cellular communication towers and antennas.

2. Permitted Accessory Uses.

- A. Customary accessory structure and use.
- B. Signs, pursuant to §505.
- C. Parking and loading facilities, pursuant to §503.
- D. Storage facilities.
- E. Cellular communication towers and antennas.

3. Special Exception Uses. Transportation terminals.

4. Dimensional Requirements. See following table.

	<u>Mini- mum Lot Area</u>	<u>Mini- mum Lot Width</u>	<u>Maximum Building Coverage of Lot</u>	<u>Maximum Building Height</u>	<u>Front Yard</u>	<u>Side Yard (not abut- ting St.)</u>	<u>Side Yard (Abut- ting St.)</u>	<u>Rear Yard</u>
Agricultural, Horticultural and Forestry	none	none	none	50'	30'	25'	30'	30'
Parks and Recreation Areas	2,000 sq. ft.	none	none	35'	15'	10'	15'	10'
All Other Permitted Principal Or Special Exception Uses	40,000 sq. ft.	100'	40%	50'	30'	25'	30'	30'

5. Sewer Connection. All permitted principal and special exception uses in this district, except agricultural, horticultural and forestry shall be connected upon construction to the community sewer system.

6. Impervious Cover.

<u>Use</u>	<u>Maximum Impervious Cover</u>
Agricultural, Horticultural and Forestry	5%
Park and Recreation Areas	20%
All Other Uses within the EI District	70%

(Ord. 561, 6/6/1988, §490; as amended by Ord. 594, 1/7/1991; as amended by Ord. 666, 8/7/2000; as amended by Ord. 788, 6/10/2013; and as amended by Ord. 856, 3/2/2020.)

Part 5

Supplemental Regulations

§501. General Regulations Applying to All Districts and Uses.

1. Prohibited Uses. In addition to the requirements of Part 4, specifying permitted and special exception uses allowable in each district, the following uses are listed to further describe the nature, character and type of uses not included as a permitted use, and therefore prohibited in any district in the Borough.

A. Sky rides, ferris wheels, roller coasters, shooting galleries and similar recreation center devices, not including such devices associated with transient fairs, carnivals, circuses, or other similar traveling amusements.

B. Rendering plants for animal products.

C. Manufacture or storage of explosives or fireworks in violation of acts of State Legislature or local ordinances.

D. Junkyard.

E. Dumps.

F. Hazardous waste treatment, storage or disposal facilities.

G. Any trade, industry or use which is deemed to be noxious or offensive by reason of the omission of smoke, noise, gas, odor, dust, radiation or excessive light beyond the limits of its lot, so as to be dangerous or prejudicial to the public health, safety or general welfare.

2. Placement of Accessory Uses and Structures. The placement of a private garage, accessory parking area or other accessory structure, building or use, except fences, shall be subject to the following requirements:

A. No parking area or other accessory structure shall be constructed within five (5) feet of any rear lot line, which does not abut a street. No parking area or other accessory structure shall be constructed within fifteen (15) feet of any rear lot line, which abuts a street. [Ord. 594]

B. Nothing contained herein shall prevent the construction of a private garage as a structural part of a main dwelling, provided that when so constructed, the exterior garage walls shall be regarded as the walls of the main dwelling in applying the front, rear and side yard regulations of this Chapter.

C. No accessory structure or unroofed parking area for five (5) or more vehicles shall be located within a required front or side yard setback area within any district and no unroofed parking area for four (4) or less vehicles shall be constructed within five (5) feet to any front or side lot line within any district, except that in commercial and industrial districts unroofed parking areas are permissible in required front yards and in portions of side yards not otherwise required for a planting screen, provided that the parking area is of sufficient size for vehicle storage and maneuvering and provided that ingress and egress points are clearly established for the safe channelization of traffic to and from the adjacent streets.

D. Any access driveway for a parking area of four (4) or less parking spaces may be located within a required yard. In residential districts, all access driveways for parking areas of five (5) or more parking spaces shall be located at least five (5) feet from any side or rear lot line.

E. Any accessory structures and uses shall be on the same lot with the main building or buildings, or on an immediately adjacent lot in the same ownership, or within the site limits approved by the Zoning Hearing Board. (Ord. 594)

F. Required accessory parking areas and truck loading spaces shall have safe and adequate access to a public street by a driveway on the same lot or by means of a permanent easement across an adjoining lot.

G. No required accessory parking area or off-street truck loading space shall be encroached upon by buildings, open storage, or any other use.

H. Accessory private garages may be constructed within or under any portion of a main building.

3. Height.

A. Nothing herein contained shall restrict the height of a church spire, cupola, dome, mast, belfry, clock tower, radio or transmission line, tower, flagpole, chimney flue, water tank, elevator or stair bulkhead, stage tower, scenery loft, smoke stack, silo, or similar structure. No such structure shall:

(1) Have lot coverage at the base in excess of ten percent (10%) of the lot area.

(2) Be used for residency or tenancy purposes.

(3) Have any advertising sign or device inscribed upon or attached to such structure.

B. No private garage or other accessory structures shall exceed twenty (20) feet in height.

4. Yards.

A. Front Yard. The space in a required front yard shall be open and unobstructed except for an unroofed balcony or terrace projecting not more than eight (8) feet, or steps giving access to a porch or first floor entry door.

B. All Yards. Every part of a required yard shall be open to the sky unobstructed by structures except for any access driveway, retaining walls and except for the ordinary projections of sills, belt courses, and for ornamental features projecting not in excess of six (6) inches.

C. Open or Lattice Enclosed Fireproof Fire Escapes. When required for emergency access purposes, fire escapes may project into a required yard area by no more than four (4) feet. The fire escape must be no closer than three (3) feet to a property line. The ordinary projection of chimneys and pilasters shall be permitted when placed so as not to obstruct light and ventilation.

D. Front Yard Exemptions. The front yard requirements shall not apply to a lot where the buildings on the lots to both sides of the lot in question are nonconforming relative to the front yard setback requirements. In such cases, the front yard requirements shall be reduced to the setback of the adjoining building, which is lesser in degree of nonconformity.

E. Side Yard Exemptions. Side yard requirements in a General Commercial District shall not apply to a lot where the proposed building will include a party wall to an adjoining building whose existing boundary line coincides with the building line.

5. Through Lots. Where a lot extends through from street to another street with both streets having right-of-way in excess of twenty (20) feet, the applicable front yard regulations shall apply on both street frontages.

6. Environmental Protection. All structures, buildings and uses shall comply with the provisions of the Borough's flood control regulations [Chapter 8], and any amendments or revisions thereto.

(Ord. 561, 6/6/1988, §510; as amended by Ord. 594, 1/7/1991; as amended by Ord. 667, 11/6/2000; and as amended by Ord. 741, 2/5/2008)

§502. Regulations Applying to Certain Uses and Districts.

1. Private Garages or Private Parking Areas Accessory to Residences. A private garage or private parking area may be utilized only as an accessory to the main use, except that no more than two (2) parking spaces in a private garage accessory to a single family detached or single family semi-detached dwelling may be rented to a person who isn't a resident of the main building.

2. Private Garage Accessory to a Multi-Family Dwelling. A private garage accessory to a multi-family dwelling shall conform in exterior architectural style and treatment to the architecture of the main building, and shall be of similar materials.

3. Waiver of Yard and Lot Requirements for an Industrial Park. The interior lot and yard requirements for individual sites located in an industrial park may be waived when the overall development is based on an overall site plan. However, main buildings shall not be placed closer together than the height of the higher building; front yard requirements along public streets and rights-of-way shall be observed. Minimum lot and yard requirements may be waived for individual sites provided the average area of all sites in the industrial park is not less than the minimum area requirements of the district in which it is located, and no single lot shall be less than one-half the minimum requirement. Average areas shall be computed and based on the complete final plan.

4. Fences. Fences are exempt from front, side and rear yard setbacks established for other accessory structures. Fences shall not be constructed of materials such as barbed wire or have features such as spikes, which render the fence potentially dangerous. In the R-5, R-7 and R-10 districts, the maximum height of fences located in the side or rear yard areas shall be six (6) feet. In the R-5, R-7 and R-10 districts, the maximum height of fences located in the front yard area shall be four (4) feet. [Ord. 595]

5. Mobile Home Sitting. All mobile home placements shall occur in accord with the following provisions:

A. The area of the mobile home stand shall be improved to provide an adequate foundation for the placement of the mobile home.

B. The stand shall be constructed from material sufficient to adequately support the mobile home and to prevent abnormal settling or heaving under the weight of the home. The corners of the mobile home shall be anchored to prevent wind overturn and rocking with tie-downs such as concrete "dead men," screw augers, arrowhead anchors, or other devices suitable to withstand a tension of at least two thousand eight hundred (2,800) pounds.

C. After a mobile home has been anchored to the mobile home stand, the hitch which is employed for the transportation of the unit shall be removed if not of bolted construction, and there shall be a decorative skirt installed around the base of the unit.

6. Noncommercial Swimming Pool.

A. A noncommercial swimming pool which is designed to contain a water depth of twenty-four (24) inches or more shall not be located, constructed or maintained on any lot or land area, except in conformity with the requirements of these regulations. A permit shall be required to locate, construct, or maintain a noncommercial swimming pool.

B. Such pool shall be located in a rear yard only.

C. Such pool shall not be located less than fifteen (15) feet from any lot line.

D. Such pool shall not occupy more than twenty-five percent (25%) of the rear yard area, including all private garages or other accessory buildings or structures.

E. If the water for such pool is supplied from a private water supply system, there shall be no cross connection with the public water supply system.

F. If the water for such pool is supplied from the public water supply system, the inlet shall be above the overflow level of said pool.

G. No permit shall be granted for the installation or construction of such swimming pool with a capacity of ten thousand (10,000) gallons or greater unless the plans shall meet the minimum construction requirements of the Borough and unless the Borough Engineer, or a licensed professional engineer of the State of Pennsylvania has certified that the drainage of such pool is adequate and will not interfere with the public water supply system, with existing sanitary facilities or with the public streets.

H. No loudspeaker or amplifying device shall be permitted which will project sound beyond the bounds of the property or lot where such pool is located.

I. No lighting or spot lighting shall be permitted which will shine directly beyond the bounds of the property or lot where such pool is located.

7. Home Occupations. Home occupations shall be allowed based upon compliance with the following criteria:

A. A home occupation shall occupy a space, which constitutes less than twenty-five percent (25%) of the floor area of the dwelling. The area of garages or other accessory buildings shall not be used for the computation of the floor area, although the home occupation may be located therein.

B. Outside Employees.

(1) A maximum of two (2) persons not residing at the dwelling may be employed if the home occupation is a professional occupation (an occupation, which involves specialized knowledge and intensive academic preparation, for instance, medical doctor or lawyer).

(2) Only persons residing at the dwelling may be employed if the home occupation is not a professional occupation.

C. The exterior design of any structural alteration to the existing building made to accommodate a home occupation shall be similar to the existing building and compatible with an overall appearance that the principal use of the building is a residence.

D. Signs associated with the home occupation shall conform to the provisions of §505.

E. The parking needs of the home occupation shall be met through the use of off-street parking areas according to the provisions of §503.

F. The home occupation shall not create noise, vibration, glare, odors, fumes, or electrical interference beyond the bounds of the property to any extent greater or more frequent than ordinarily associated with a single-family dwelling.

G. All storage of materials associated with the home occupation shall be in enclosed buildings.

8. Mixed Uses. Any existing mixed use or previously approved special exception mixed use containing permitted principal uses within the appropriate zoning district may propose a change of use which shall be permitted provided the proposed use is a permitted principal use within the subject zoning district.

9. Academic Clinical Research Center.

A. Parking requirements will follow the table found in Part 5, Section 503 of the Borough Zoning Ordinance, Off Street Parking requirements and/or as listed for research institutes or laboratories.

B. An academic clinical research center may only grow medical marijuana in an indoor, enclosed, and secure building which includes electronic locking systems, electronic surveillance, and other features required by the DoH. The grower/processor facility shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle, or other motor vehicle.

C. All external lighting serving an academic clinical research center must be shielded in such a manner to not allow light to be emitted skyward or onto adjoining properties.

10. Medical Marijuana Grower/Processor.

A. A medical marijuana grower/processor must be legally registered in the Commonwealth and possess a current valid Medical Marijuana Permit from the DoH.

B. A medical marijuana grower/processor may only grow medical marijuana in an indoor, enclosed, and secure building which includes electronic locking systems, electronic surveillance and other features required by the DoH. The grower/processor facility shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle, or other motor vehicle.

C. The floor area of a medical marijuana grower/processor shall not exceed twenty thousand (20,000) square feet and shall include space for production, secure storage of marijuana seeds, related finished product, and marijuana related materials and equipment used in production and cultivation or for required laboratory testing.

D. There shall be no emission of dust, fumes, vapors, odors, or waste into the environment from any facility where medical marijuana growing, processing or testing occurs.

E. Marijuana remnants and byproducts shall be secured and properly disposed of in accordance with the DoH Policy and shall not be placed within any unsecured exterior refuse containers.

F. The grower/processor shall provide only wholesale products to other medical marijuana facilities. Retail sales and dispensing of medical marijuana and related products is prohibited at medical marijuana grower/processor facilities.

G. Grower/processors may not be located within one thousand (1,000) feet of the property line of a public, private, or parochial school or daycare center.

H. Parking requirements will follow the table found in Part 5, Section 503 of the Borough Zoning ordinance, Off Street Parking requirements or as listed for manufacturing.

11. Medical Marijuana Transport Vehicle Service.

A. All external lighting serving a medical marijuana transport vehicle service must be shielded in such a manner to not allow light to be emitted skyward or onto adjoining properties.

B. If for some reason a medical marijuana product is to be temporarily stored at a medical transport vehicle service facility, the facility must be secured to the same level as a medical marijuana grower/processor and dispensary.

C. Loading and off-loading areas within the structure are preferred. If an external loading dock arrangement is designed, it should be from within a secure environment.

12. Medical Marijuana Dispensary.

A. A medical marijuana dispensary must be legally registered in the Commonwealth and possess a current valid Medical Marijuana Permit from the DoH.

B. A medical marijuana dispensary may only dispense medical marijuana in an indoor, enclosed, permanent, and secure building and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle, or other motor vehicle.

C. A medical marijuana dispensary may not operate on the same site as a facility used for growing and processing medical marijuana.

D. Medical marijuana dispensaries shall have a single secure public entrance and shall implement appropriate security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing medical marijuana.

E. Permitted hours of operation of a dispensary shall be no earlier than 8:00 a.m. to no later than 8:00 p.m. (of the same calendar day).

F. A medical marijuana dispensary shall be no greater than three thousand (3,000) gross square feet, of which no more than five hundred (500) square feet shall be used for secure storage of product, and shall have an interior customer waiting area equal to a minimum of twenty-five (25%) percent of the gross floor area.

G. A medical marijuana dispensary shall:

- i. Have no drive-through service;
- ii. Not have outdoor seating areas;
- iii. Not have outdoor vending machines;
- iv. Prohibit the administering of, or the consumption of medical marijuana on the premises; and
- v. Not offer delivery service.

H. A medical marijuana dispensary may dispense only medical marijuana to certified patients and caregivers and shall comply with all lawful, applicable health regulations.

I. A medical marijuana dispensary may not be located within one thousand (1,000) feet of the property line of a public, private or parochial school or a daycare center. This distance shall be measured in a straight line from the closest exterior wall of the building or portion thereof in which the business is conducted or proposed to be conducted, to the closest property line of the protected use, regardless of the municipality in which it is located.

J. A medical marijuana dispensary shall be a minimum of one thousand (1,000) feet from the next nearest medical marijuana facility. This does not include complementing or supporting business covered by different definitions. This distance shall be measured in a straight line from the closest exterior walls of the buildings or portions thereof in which the businesses are conducted or proposed to be conducted, regardless of the municipality in which it is located. This separation distance does not apply to the distance between the grower/processor or academic clinical research centers and the specific dispensary they serve, or with which they partner.

K. Any medical marijuana facility lawfully operating shall not be rendered in violation of these provisions by the subsequent location of a public, private, or parochial school or a daycare center.

L. All external lighting serving a medical marijuana dispensary must be shielded in such a manner to not allow light to be emitted skyward or onto adjoining properties.

M. Parking requirements will follow the table found in Part 5, Section 503 of the Borough Zoning Ordinance, Off Street Parking requirements and/or as listed for personal service store or a retail store or a controlled substance paraphernalia establishment.

N. Loading and off-loading areas within the structure are preferred. If an external loading dock arrangement is designed, it should be from within a secure environment.

(Ord. 561, 6/6/1988, §520; as amended by Ord. 595, 10/7/1991; as amended by Ord. 667, 11/6/2000; as amended by Ord. 744, 7/7/2008; and as amended by Ord. 829, 8/7/2017)

§503. Parking and Loading Requirements.

1. Off-Street Parking. Off-street parking spaces for the parking of automobiles shall be provided pursuant to the provisions of this Section.

A. The off-street parking and loading provisions of this Section shall apply as follows:

(1) For all buildings and structures erected after the effective date of this Chapter, accessory parking and loading facilities shall be provided as required by this Section.

(2) When the degree of non-conformity of the existing use of any building, structure or premises shall be increased through the addition of dwelling units, gross floor area, seating capacity or other units of measurement specified herein for required parking and loading facilities, parking and loading facilities shall be provided for such increase in degree of non-conformity of use.

(3) Whenever the existing use of a building, structure or lot shall hereafter be changed to a new use, parking and loading facilities shall be provided as required for such new use. However, if the existing use of a building, structure or lot was established prior to the effective date of the Official Borough Use Classification List, circa 1992, additional parking and loading facilities are mandatory only in the amount by which the requirements for the new use exceed those for the existing use as if the existing use were subject to the parking and loading provisions of this Chapter. Properties that were

granted a variance for parking shall be required to provide additional parking and loading facilities in the amount by which the requirements for the new use exceed those for the variance previously granted.

(4) Off-street parking is not required to be provided for permitted principal uses or previously approved special exception uses within the GC (General Commercial) District except for residential and/or mixed uses consisting of three (3) or more dwelling units. Special exception uses not previously approved or residential and/or mixed uses consisting of three (3) or more dwelling units are subject to off-street parking requirements.

The number of parking spaces established in the Official Borough Use Classification list will only be reduced by the action of the Zoning Hearing Board.

B. Each parking space, except parking spaces for the handicapped, shall contain a minimum area of one hundred seventy-one (171) square feet and shall be a minimum of nine (9) feet in width and nineteen (19) feet in length. Parking spaces for the handicapped shall contain a minimum area of two hundred twenty-eight (228) square feet and shall be a minimum of twelve (12) feet in width and nineteen (19) feet in length. Areas of traffic movement such as parking lot aisles shall not be measured as part of a parking space.

C. Parking spaces shall be delineated through clearly marked or painted lines.

D. The minimum number of off-street parking spaces required shall be calculated on the basis of the following table:

<u>Use</u>	<u>Requirement</u>
Single family detached dwelling	2 spaces for each dwelling unit
Single-family semi-detached dwelling	2 spaces for each dwelling unit
Single family attached dwelling	2 spaces for each dwelling unit
Multi-family dwelling	2 spaces for each dwelling unit
Home occupation	1 space for every 100 sq.ft. devoted to home occupation
Conversions--efficiency or 1 bedroom	1.5 spaces for each dwelling unit
Conversions--2 or more bedrooms	2 spaces for each dwelling unit
Parish house	2 spaces for each dwelling unit
Church or other place of worship	1 space for every 10 seats, (20" of bench space is one seat), plus 1 space for each full-time employee
Sunday school	2 spaces for each classroom school
Nursery, elementary, junior, high or middle	
Senior high school	1 space for each classroom, plus 1 space for every 5 students
Commercial school	1 space for every 5 enrollees, plus 1 space for each full-time employee
Personal care homes	1 space for every 4 beds
Life care retirement facility	1 space for every 2 dwelling units, plus 1 space for each employee on the largest shift, plus 1 space for every 4 beds in the nursing home
Boarding house	1 space for each guest bedroom plus 2 spaces for the resident family
Library, art gallery, museum, community center	1 space for every 400 sq.ft. of gross floor area
Building or facilities for governmental use	1 space for every 200 sq.ft. of floor area
Theater, auditoriums, and similar places of public assembly	1 space for every 3 seats
Bowling alley	4 spaces for each lane

Membership clubs	1 space for every 6 persons of total membership
Game arcades	1 space for every 2 coin-operated amusement devices
Video game arcade	1 space for every 2 machines
Restaurant, standard	2 spaces for every 100 sq.ft. of gross floor area
Carryout restaurant	4 spaces for every 100 sq.ft. of floor space
Fast-food restaurant	1 space for every 3 seats, plus 1 space for every 2 full-time employees
Retail food store in residential building	1 space for every 250 sq.ft. of floor area serving customers
Repair and personal services	1 space for every 100 sq.ft. of floor area serving customers, and 1 space for every 2 full-time employees
Retail stores, adult bookstores	1 space for every 100 sq.ft. of floor area serving customers and 1 space for every 2 full-time employees
Controlled substance paraphernalia customers establishment	1 space for every 100 sq. ft. of floor area serving and 1 space for every 2 full-time employees
Drive-in bank	1 space for each employee
Medical and dental offices	7 spaces for each doctor or dentist
Funeral home	1 space for every 100 sq. ft. of gross floor area
Hotel, motel	1 space for every rentable guest bedroom, plus 1 space for every 3 employees
Automobile sales	1 space for every 300 sq.ft. of sales floor area and 1 space for each full-time employee
Motorized vehicle sales	3 spaces for every bay, plus 1 space for each full-time employee
Motorized vehicle repair shop	3 spaces for every bay, plus 1 space for each full-time employee
Bed and breakfast	1 space per 1½ rental units
Bus station	5 spaces per loading/unloading stall for busses
Laundromat	1 space per 3 washing machines plus 1 for each employee
Adult day care center	1 space for each employee
Child day care center	1 space for each employee
Family day care center	1 space for each employee
Personal care home	1 space for every 3 beds, plus 1 space for each employee on the largest shift
Day care facility	
Service station	3 spaces for every bay, plus 1 space for each full-time employee
Taxi station	1 space for each vehicle used in the business
Bus passenger station	1 space for every 100 sq.ft. of floor area serving customers
Building materials sales	1 space for each employee on the largest shift plus 1 space for each vehicle used in the business
Offices, business offices and professional offices (excluding medical and dental offices). [Ord. 594]	1 space for every 350 sq.ft. of gross floor area
Manufacturing, warehousing, wholesaling, transportation terminals, printing or publishing facility, dry-cleaning plant, laundry, research institute or laboratory, resource recovery plant, and mining, quarrying and earth extraction operation.	2 spaces for every 3 employees on the largest shift, plus 1 space for each company vehicle, plus 1 visitor space for every 10 managers.
Agriculture, horticulture, forestry	none

[Ord. 594; as amended by Ord. 856, 3/2/2020.]

E. For those uses not specifically listed, the requirements of the most similar use listed in §503(1)(D) shall be applied.

F. Where the uses are mixed, the total requirements shall be the sum of the requirements of the component uses computed separately.

G. In all districts, when the required parking spaces result in the requirements of fractional spaces, any fraction less than one-half ($\frac{1}{2}$) shall be disregarded and fractions of one-half ($\frac{1}{2}$) or greater shall be construed as requiring a full space.

2. Parking Area Design Standards.

A. All lighting fixtures used to illuminate parking areas shall be arranged to prevent glare into adjoining properties.

B. The number of off-street parking spaces provided for an existing use may not be reduced below the minimum standards of this Chapter.

C. No parking area shall be designed so as to require vehicles to back out of the area directly onto a street with a right-of-way width more than twenty (20) feet.

D. In parking areas for multi-family dwellings or single-family attached dwellings, the parking area design shall prevent through traffic between parking areas. For multi-family dwellings, a minimum of two (2) access points shall be required per street fronted excepting streets with rights-of-way less than twenty (20) feet wide. There shall be no limit as to the maximum number of access points along streets.

E. All off-street parking areas shall be graded and paved with a hard surface such as macadam or concrete. Provisions satisfactory to the Borough shall be made with regard to the management of storm water runoff.

F. Landscaping. All off-street parking areas, other than those for single-family residences, which are not contained in a garage, shall be landscaped according to the following standards:

(1) If the parking area abuts a residential lot, screening to prevent the glare of headlights from shining on the residential lot shall be provided.

(2) One (1) shade tree shall be planted within or adjacent to the parking area for each ten (10) parking spaces provided.

(3) The area between the parking area and a public street shall be landscaped with plantings at least fifty percent (50%) evergreen shrubbery and shall average at least one (1) plant for every ten (10) feet of frontage.

G. Parking areas shall provide spaces reserved for the handicapped in accordance with relevant Federal requirements and standards.

3. Off-Street Truck Loading Spaces.

A. Every structure or lot put into commercial or industrial use after the effective date of this Chapter, which contains a total floor area of five thousand (5,000) square feet, or more shall be provided with off-street truck loading spaces in accordance with the following schedule:

<u>Total Square Feet Devoted to Use</u>	<u>Required No. of Off-Street Truck Loading Spaces</u>
5,000 to 25,000 sq. ft.	1
25,001 to 40,000 sq. ft.	2
40,001 to 100,000 sq. ft.	3
each additional 50,000 sq. ft.	1 additional

B. Dimensions of Individual Truck Loading Space. The minimum width of each truck loading space shall be twelve (12) feet. The minimum length of the truck loading space shall be fifty (50) feet.

C. All truck loading spaces shall be designed so that maneuvering of trucks to reach the loading dock shall not preempt the use of required off-street parking space or intrude into the street right-of-way.

(Ord. 561, 6/6/1988, §530; as amended by Ord. 594, 1/7/1991; as amended by Ord 741, 2/5/2008; as amended by Ord. 744, 7/7/2008; as amended by Ord. 763, 9/7/10; and as amended by Ord. 561, 6/6/1988, §540)

§504. Signs.

1. Applicability of Sign Regulations.

A. All signs which can be seen off the premises on which they are located, unless they are listed below under §505(1) C), shall comply with any applicable provisions of this Chapter, regardless of whether a permit is required or not. Signs, which cannot be seen off the premises on which they are located, need not comply and do not require a permit.

B. A zoning permit shall be required for all business identification signs, advertising signs, temporary signs, bulletin boards, and home occupation or professional office signs which will be seen off the premises on which they are located before erection or replacement. No permit shall be required for normal maintenance of existing signs.

C. No permit shall be required for, and the regulations of this Section shall not be applicable to, the following types of signs:

(1) Signs not exceeding two (2) square feet in area and bearing only property numbers, post office box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.

(2) No trespassing signs and other signs indicating the private nature of a road, driveway or premises, which do not exceed two (2) square feet in area.

(3) Flags and insignias of any government except when displayed in connection with commercial promotion.

(4) Legal notices; identification, informational or directional signs erected or required by governmental bodies; official traffic signs and signals; other state, county, school district or municipal government signs.

(5) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.

(6) Signs, not exceeding six (6) square feet in area and bearing no advertising matter, which direct and guide traffic and parking on private property.

(7) Signs, not exceeding two (2) square feet in area and bearing no advertising matter, which give information on location of such things as rest rooms, telephones, offices or the functional subdivision of the premises.

2. Prohibited Signs. The following types of signs shall not be permitted or erected in any district, notwithstanding any other provision of this Chapter.

A. Signs which make use of words such as "stop," "look," "one-way," "danger," "yield," or any similar words, phrases, symbols, lights or characters, in such manner as to interfere with, mislead, or confuse traffic.

B. Signs of which all or any part is in motion by any means, including fluttering, rotating, revolving or other moving devices. Units, which alternately display time and temperature, shall be permitted.

3. Surface Area Limitations, Number of Signs and Sign Setbacks.

A. Surface Area Limitations. The maximum surface area for each type of sign for which a permit is required shall not exceed the Schedule of Sign Regulations set forth in §505(3)(D). The maximum surface area shall also be subject to the following standards:

(1) The total area of any flat-wall sign shall not exceed twenty percent (20%) of the area of the building face (including window and door-area cornices) to which it is attached, up to the maximum surface area stipulated for each district in the Schedule of Sign Regulations.

(2) Permanent window signs shall be considered flat-wall signs and included in computations of the maximum surface area, but shall nevertheless not exceed thirty percent (30%) of the total window area on each street.

B. Number of Signs. The maximum number of signs allowed for each type of sign for which a permit is required shall be subject to the Schedule of Sign Regulations in §505(3)(D). For purposes of determining the number of signs permitted, a sign shall be considered to be a single entity organized, related and composed to form a unit. Where the organization, relationship, or composition of a number of elements is not readily discernible as a single sign, each element shall be considered to be a single sign.

C. Sign Setbacks. Signs for which a permit is required are subject to the setback requirements set forth in the Schedule of Sign Regulations in §505(3)(D).

D. Schedule of Sign Regulations. See following table.

Schedule of Sign Regulations

	<u>Business Identification</u>					
	Flat Wall	Free-standing	Advertising	Temporary	Bulletin Bd.	Home Occup. Prof. Office
Maximum Surface Area in Square Feet	10	X	X	6	20	3
R10 Maximum Number Per Property	1/Street Fronted	X	X	1	20	1
Setback from Street	—	X	X	15'	15'*	15'*
Maximum Surface Area in Square Feet	20	32	X	6	20	3
R7 Maximum Number Per Property	1/Street Fronted	1	X	1	1	1
Setback from Street Right-of-Way	—	10'	X	10'	10'*	10'*

Schedule of Sign Regulations

	<u>Business Identification</u>					
	Flat Wall	Free-standing	Advertising	Temporary	Bulletin Bd.	Home Occup. Prof. Office
Maximum Surface Area in Square Feet	40	32	X	6	20	3
R5 Maximum Number Per Property	2	1	X	1	1	1
Setback from Street Right-of-Way	—	10'	X	10'	10'*	10'*
Maximum Surface Area in Square Feet	150	80	X	32	20	3
GC Maximum Number Per Property	2	1	X	1	1	1
Setback from Street Right-of-Way	—	5'	X	5'	5'*	5'*
Maximum Surface Area in Square Feet	150	80	672 per sec.	32	20	3
IC Maximum Number Per	2	2	775	1	1	1

Property Setback from Street Right-of-Way	—	15'	25'	15'	15*	15**
Maximum Surface Area in Square Feet	150	100	X	32	X	X
EI Maximum Number Per Property	1/Street Fronted	1/Street Fronted	X	1	X	X
Setback from Street Right-of-Way	—	15'	X	15'	X	X
Maximum Surface Area in Square Feet	150	100	672	32	X	X
LI Maximum Number Per Property	2	1/Street Fronted	per Sec. 775	1	X	X
Setback from Street Right-of-Way	—	15'	25'	15'	X	X

*If Freestanding

E. Surface Area Calculation. The size of any sign shall be completed by multiplying its greatest height by its greatest length, exclusive of supporting structures. In the case of signs that have no definable edges, such as raised letters attached to a building facade, the sign size shall be that area within a single continuous perimeter enclosing the extreme limits of the actual message or copy area. In computing the surface area of a multi-faced sign, only one (1) side shall be considered, provided all faces are identical. If the interior angle formed by the two (2) faces of a double-faced sign is greater than forty-five (45°) degrees, then both sides of such sign shall be considered in calculating the sign area. Structural members not bearing advertising matter or not in the form of a symbol shall not be included in the computation of surface area.

4. Sign Placement, Height, Clearance, Projections from Wall, and Illumination.

A. Sign Placement. Sign placement shall be subject to the following requirements:

(1) No sign shall be so located or arranged that it interferes with traffic through glare, through blocking of reasonable sight lines for streets, sidewalks, or driveways, through confusion with a traffic control device (by reason of color, location, shape or other characteristics), or through other means.

(2) No sign shall be erected, attached or displayed within twenty-five (25) feet of the point of the intersection of the street right-of-way lines at a street corner, except for flat-wall signs. [Ord. 595]

B Sign Height.

(1) Free-standing signs shall not exceed eighteen (18) feet in height in any direction.

(2) No flat wall sign shall be erected upon the roof of a building or extend above the height of the building.

C. Clearance. All wall signs, which project more than ten (10) inches from the building, shall have a minimum of ten (10) feet of clear space between the sign and the ground. This clear space shall not include any support structures for the sign.

D. Projections from Walls.

(1) Flat wall signs shall not project more than four (4) feet from the building.

(2) Bulletin boards attached to a building wall shall not project more than eighteen (18) inches from the building.

(3) Home occupations or professional office signs shall not project more than twelve (12) inches from the building.

E. Illumination. All signs may be illuminated by shielded flood lights; provided, however, that no red or green lights shall be permitted within seventy-five (75) feet of the point of intersection of the street right-of-way lines at a street corner. All light sources shall be properly diffused as needed and no lighting source shall spillover a property line in such a way as to create a nuisance to reasonable persons in adjacent properties. [Ord. 594]

5. Advertising Signs. There shall be a minimum distance of one hundred (100) feet between advertising signs. Advertising signs shall not be permitted within one hundred (100) feet of the R-5, E-7 and R-10 districts, unless the advertising surface of such sign is not visible there from, in which instance they shall be no closer than fifty (50) feet to those districts. Advertising signs shall not be permitted within fifty (50) feet of any residential use, no matter in which district it is located.

6. Temporary Signs. The following types of temporary signs shall be permitted.

A. Temporary signs which advertise the prospective or completed sale or rental of the premises upon which it is located are permitted, provided that it shall be maintained and removed within ten (10) days after the execution of a lease or an agreement of sale.

B. Temporary signs indicating the contractors, consultants, mechanics and artisans performing work or services on the premises, provided they shall be removed within ten (10) days after completion of the service or work and not more than one (1) sign shall be placed on each street fronted by the site.

C. Temporary signs appertaining to campaigns, drives or events of political, civic, philanthropic, educational or religious organizations shall be removed within twenty – one (21) days of the completion of the campaign, drive or event. (Amended by Ord. 694, (5/4/2004))

7. Signs for Specific Uses. Signs for the following uses shall be permitted according to the listed standards. These signs shall be allowed in addition to those set forth in §505(1).

A. In the case of a shopping center, office building, or similar structure with multiple commercial or business occupants on a lot held in single and separate ownership, the provisions of §505(3)(D) relating to the maximum number of maximum surface area signs permitted on a property shall not apply. Instead, each such store, office, or other business use on the property shall be permitted to have one (1) sign per exposed exterior wall. The surface area of each sign shall not exceed twenty-five percent (25%) of the surface area of the exposed exterior wall up to a maximum of two hundred (200) square feet. No more than two (2) free-standing signs indicating the name of the shopping center, office building or similar group of stores, offices or other business uses shall be permitted in conformance with other applicable provisions of this Chapter. Each store, office or other business use may have one (1) business identification sign, not to exceed six (6) square feet in area, located on the underside of walkway overhangs. All other provisions of this Chapter shall apply.

B. An entrance to an industrial or office park serving five (5) or more tenants may have a single sign indicating the name of the park and listing each tenant and having a maximum area of one hundred fifty (150) square feet.

C. One (1) sign may be erected to identify a major subdivision, land development, or apartment complex, providing that such sign is located at a main entrance and has a maximum area of fifty (50) square feet. In addition to permitted sign(s) at entrances from public streets a Life Care Retirement Center may also have a reasonable number of signs to direct traffic and pedestrians to facilities within the site. These signs shall have a maximum sign area of twenty (20) square feet on each of two (2) sides.

D. Billboards.

(1) Billboards are permitted subject to the following regulations:

(a) District. A billboard is only permitted in the Industrial Commercial (IC), Extractive Industry (EI) and Light Industry (LI) Zoning Districts on properties with frontage along PA Route 248.

(b) Location. A billboard shall only be located within 100 linear feet of the existing right-of-way of PA Route 248 as identified by the Pennsylvania Department of Transportation. Placement of billboard shall not adversely impact the right-of-way of any other roadway nor be located within the ultimate right-of-way of any other roadway. Billboards may be located within the front, side or rear yard, provided that they are set back a minimum distance that equals the total height of the billboard.

(c) Size. The Maximum surface area for a billboard shall be 150 square feet. A billboard may be double-sided provided that; (i) the sign faces are less than 18 inches apart and of equal height and (ii) that each sign face has a maximum sign area of 150 square feet inclusive of any border and trim. Extension, projections, and add-ons beyond the perimeter face of the sign are prohibited.

(d) Illumination. Billboards may be illuminated in a manner such that no direct rays of light are visible elsewhere on the property on which the billboard is located. In addition, rays of light shall not be permitted to spill onto any adjacent roadway.

(e) Spacing. A billboard shall not be located closer than 1,000 feet on the same side of the roadway or 1,000 feet on the opposite side of the roadway from another billboard, as measured along the right-of-way line. A billboard shall be located a minimum of 100 feet from an existing dwelling or 200 feet from a residential zoning district.

(f) The maximum height of any billboard shall be 20 feet above the center line of the adjacent roadway. No part of any billboard shall extend less than 10 feet above the center line of the adjacent roadway.

(g) A billboard shall be located, constructed and maintained in accordance with all applicable Pennsylvania Department of Transportation regulations.

(h) An engineering certificate shall accompany any application for a billboard. The certification shall indicate under seal of a professional engineer licensed in the Commonwealth of Pennsylvania that the sign has been designed in accordance with acceptable engineering practices. All billboards shall be subject to the design and construction requirements of the Pennsylvania Uniform Construction Code.

(i) Audio or pyrotechnics. Audio speakers and/or any form of pyrotechnics is prohibited.

(j) Wood and beam frame structures are prohibited. All billboard structures shall be constructed of steel.

(k) Billboard structures shall be located in accordance with all other regulations of Borough of Nazareth.

(2) Billboard digital displays are permitted subject to the following regulations in addition to those contained in Subsection (1) above:

(a) Message Duration. Any portion of the message must have a minimum duration of eight seconds and must be a static display. Messages may change immediately. No portion of the message may flash, scroll, swirl, twinkle, oscillate, rotate, blink, change color, or in any manner imitate movement.

(b) Default Mechanism. All signs must be equipped with a properly functioning default mechanism that causes the sign to go dark and return to a solid black display should a malfunction occur.

(c) Brightness (Luminance). The illumination and/or intensity of the display shall be controlled so as to not create glare, hazards or nuisances. Such signs shall have a maximum nits level of 5,000 nits during daylight hours and a maximum of 200 nits in the evening, provided that the brightness of the digital billboard does not exceed 0.3 footcandle of light above the normal ambient light levels. Such signs shall be equipped with automatic dimming technology which automatically adjusts the sign's brightness based on ambient light conditions.

i. The billboard luminance specification shall be determined by a footcandle metering device held at a height of five feet and aimed towards the billboard from a distance of 175 feet.

ii. The metering device should be at a location perpendicular to the billboard center (as seen in plain view) as this angle has the highest luminance.

iii. This check shall include the measurement of an all-white image displayed by the billboard to evaluate the worst case condition.

iv. If the difference in luminance between the billboard-on and the billboard-off conditions is 0.3 footcandle or less, then the billboard luminance is in compliance.

(d) Spacing. Any billboard digital display shall be separated by a minimum of 2,500 feet from any other billboard digital display and shall be located a minimum of 500 feet from an existing dwelling or residential zoning district.

(e) Applicants shall be required to coordinate/permit message access for local, regional, state and national emergency services during emergency situations. Emergency messages are not required to conform to message standards listed herein.

(3) In the event there is conflict between the provisions of this section, §504.7D. Billboards., and any other Borough ordinance, including any other provision of §504, the provisions of this section, §504.7D. Billboards., shall control.

(Ord. 561, 6/6/1988, §550; as amended by Ord. 594, 1/7/1991; as amended by Ord. 595, 10/7/1991; as amended by Ord. 633, 4/1/1996; and as amended by Ord. 837, 11/5/2018.)

§505. Nonconforming Uses and Structures.

1. Unlawful Uses or Structures Not to be Construed as Nonconforming. An unlawful use or unlawful structure existing at the effective date of this Chapter shall not be deemed to be a nonconforming use or structure.

2. Continuation of Nonconforming Uses and Structures. Any lawful use or lawful structure at the effective date of this Chapter, or any amendments thereto, but which does not comply with the use regulations or dimensional regulations of the district in which it is situated after the effective date of this Chapter, or any amendment thereto, may be continued as a nonconforming use or a nonconforming structure subject to the provisions regulating nonconforming uses and structures as contained in this Section.

3. Change of Use. A nonconforming use may not be changed except to a conforming use. The use of a nonconforming structure may not be changed except to a conforming use, which does not increase the degree of nonconformity of the existing structure.

4. Expansion. A nonconforming use may not be enlarged or extended except as a result of the natural expansion of that use up to fifty percent (50%) of its existing floor area, providing that all proposed structures are in conformance with the provisions of this Chapter, and providing that no conforming use is displaced. A nonconforming structure may not be enlarged or extended unless such expansion is in conformance with the provisions of this Chapter and does not increase the degree of nonconformity of the existing structure.

5. Repairs and Maintenance. Only normal maintenance and repairs of a nonconforming structure or a structure containing a nonconforming use are permitted.

6. Reconstruction. If a structure containing a nonconforming use or a nonconforming structure is damaged by fire or other casualty, it may be reconstructed and used as before, provided that in the case of a nonconforming use, the floor area of such structure shall not exceed the floor area which existed prior to such damage and the reconstruction be completed within one (1) year of the occurrence of the damage, and provided further that, in the case of a nonconforming structure, if the damage or destruction exceeds seventy-five percent (75%) of the market value of the property at the time of the occurrence of the damage, then any said reconstruction shall be such as to bring the structure into conformance with this Chapter.

7. Termination. A nonconforming use shall be deemed to have been terminated and shall not thereafter be reinstated:

A. When it is changed to a conforming use.

B. When it has been involuntarily discontinued for a period of twenty-four (24) consecutive months.

C. When it has been voluntarily discontinued for a period of twelve (12) consecutive months.

8. Registration of Nonconforming Uses and Structures. The Zoning Officer shall identify and register nonconforming uses and structures in the Borough. The failure by the Zoning Officer to identify and register a nonconforming use or structure shall not be construed as recognition that a use or structure is in conformance with this Chapter.

(Ord. 561, 6/6/1988, §560)

§506. Bed and Breakfast Special Conditions.

1. Bed and Breakfast Homestead. The following requirements shall be met:

A. No more than three (3) rooms may be offered for rent.

B. The bed and breakfast must be an existing structure and not a new structure or outbuilding.

C. The only meal to be served is breakfast and to lodgers of the bed and breakfast exclusively.

D. No exterior structural alteration of the building shall be made, except as may be necessary for purposes of sanitation or safety.

E. The maximum uninterrupted length of stay shall be fourteen (14) days.

F. The residence shall contain a minimum floor area of three thousand (3,000) square feet of habitable space as defined in the BOCA National Building Code.

G. There shall be a fifteen thousand (15,000) square foot minimum lot size.

H. In addition to the requirements of §503 of this Chapter for the principal use, off-street parking shall be provided on the subject property for a number of parking spaces equal to the number of rooms designated for rental use within the bed and breakfast homestead.

I. Off-street parking shall be separated from adjoining properties by live evergreen screening where deemed necessary and appropriate by the Zoning Officer.

J. Signs shall comply with §505(1)(C)(1) of this chapter.

2. Bed and Breakfast Inn. The following requirements, shall be [met]:

A. At least four (4) rooms, but not more than ten (10) rooms may be offered for rent.

B. The bed and breakfast must be an existing structure, but may include outbuildings or additions and alterations to the existing structure.

C. The only meal to be served is breakfast and to lodgers of the bed and breakfast exclusively.

D. The maximum uninterrupted length of stay shall be thirty (30) days.

E. The dwelling shall contain a minimum floor area of three thousand (3,000) square feet of habitable space as defined in the BOCA National Building Code.

F. There shall be a minimum of five thousand (5,000) square feet lot size.

G. The principal use for off-street parking under §503(1)(D) shall be as a hotel or motel.

H. Off-street parking shall be separated from adjoining properties by live evergreen screening where deemed necessary and appropriate by the Zoning Officer.

I. Signs shall comply with §505(1)(C)(1) of this Chapter. (Ord. 561, 6/6/1988, §507; as added by Ord. 606, 10/5/1992)

§507. Minimum Area Requirements for Residential Dwelling Units.

1. Living and Dining Space Minimum Area (Square Feet)

<u>Space</u>	<u>1-2 Occupants</u>	<u>3-5 Occupants</u>	<u>6 or more Occupants</u>
Living Room	120	120	150
Dining Room (Ord. 818, 6/6/2016)	80	80	100

2. Bedroom Areas. Every bedroom shall contain a minimum of 70 square feet for a single occupant. Bedrooms occupied by more than one person shall contain a minimum of 50 square feet of additional floor area for each occupant thereof.

Part 6

Special Exception Uses

§601. Procedure for Special Exception Uses.

1. The Zoning Hearing Board shall make a determination that the proposed special exception use will or will not be permitted pursuant to the procedures set forth in §603. The use shall be permitted if the relevant standards and criteria set forth in this Part are met. The use shall not be permitted if the relevant standards and criteria set forth in this Part are not met.

2. All applications for a special exception shall be submitted to the Borough Planning Commission for their review and submission of an advisory recommendation to the Zoning Hearing Board. The intent of this requirement is to allow an additional review for proposed uses that would have Borough-wide effects.

3. The Board shall not decide the case without reviewing any reports received from the Zoning Officer and Planning Commission. If the Zoning Officer and Planning Commission do not submit written reports or comments, the Board may still hold the hearing and decide the request.

4. The Board shall hear and decide such requests for a special exception use under the procedures of §702 of this Chapter and the Pennsylvania Municipalities Planning Code.

5. The Zoning Hearing Board may attach reasonable conditions and safeguards, which are necessary for the protection of the public health, safety, general welfare or morals of the community, in the permitting of a special exception use.

6. Any granting of a special exception shall not relieve the applicant of any other requirements of this Chapter.
(Ord. 561, 6/6/1988, §610; as amended by Ord. 818, 6/6/2016)

§602. General Standards. These standards are applicable to all special exception uses.

1. Access. For every special exception use, the Board shall determine that there is appropriate provision for access facilities adequate for the estimated traffic from public streets and sidewalks, so as to assure the public safety and to avoid traffic congestion. Vehicular entrances and exits shall be designed in accordance with relevant standards contained in this Chapter and the Subdivision and Land Development Ordinance [Chapter 22] in effect in the Borough.

2. Parking. For every special exception use, the Board shall determine that there are adequate parking areas and off-street truck loading spaces, in conformity with this Chapter, for the anticipated number of occupants, employees and patrons, and that the layout of the parking spaces, truck loading berths, and interior driveways is convenient and conducive to safe operation.

3. Buffers. For every special exception use, the Board may require a protective planting strip on all lots proposed for non-residential use along the property lines of the lot which are directly contiguous to an R-5, R-7, or R-10 zone, or an existing residential lot. Where the Board requires a protective planting strip, a solid and continuous landscape screen shall be planted and maintained, which strip shall be not less than twenty (20) feet nor more than thirty (30) feet in width, situate within any required yard, designed and laid out with suitable evergreen plant material which will be planted at a minimum height of four (4) feet, and will attain and shall be maintained at a height of not less than eight (8) feet, so as to provide an effective natural screen between the nonresidential and residential districts or uses. A planting plan specifying type, size and location of existing and proposed plant materials shall be required.

4. Lighting. For every special exception use where the installation of outdoor flood or spot lighting is intended, the Board shall determine that such lighting will not shine directly upon any abutting property, nor upon the street. No unshielded lights shall be permitted.

5. Storm Drainage. For every special exception use, the Board shall determine that adequate provisions will be made for collection and disposal of storm water runoff from the site.

6. Use and Character. For every special exception use, the Board shall determine that said use is specifically authorized as a special use in the district within which such particular site is located, and that such use will not be prejudicial to the character of the neighborhood.

(Ord. 561, 6/6/1988, §620)

§603. Standards Relevant to Certain Special Exception Uses. These standards are applicable to certain special exception uses and are to be applied in addition to those set forth in §702.

1. Adult Bookstores, Adult Motion Picture Theater, Adult Mini-Motion Picture Theater. These uses shall not be established within five hundred (500) feet of a residence, a church, or place of worship, a school, or park unless the applicant presents a petition to the Board which indicates approval of the proposed use by fifty-one percent (51%) of the persons owning, residing or doing business within a radius of five hundred (500) feet of the location of the proposed use. The applicant shall have attempted to contact all eligible locations within this radius, and must supply a list of all addresses at which no contact was made. The circulator of the petition shall have subscribed to an affidavit attesting to the fact that the circulator personally witnessed the signatures on the petition and that the same were affixed to the petition by the persons whose names appear thereon.

A. All building openings, entries and windows for adult mini-motion and motion picture theaters shall be located, covered or screened in such manner as to prevent a view into the interior from any public or semi-public area.

B. Advertisements, displays or other promotional materials shall not be exhibited so as to be visible to the public from public or semi-public areas.

2. Conversions and Mixed Use. Conversions of existing, non-conforming, abandoned or dilapidated buildings no longer used for their original purpose into a mixed use or more than one dwelling unit or mixed uses shall be permitted provided:

A. All parking requirements of §503, et seq.:

1. Each use must include the following number of square feet of interior space exclusive of common areas.

For any permitted business use in the district -	400 square feet.
Efficiencies -	400 square feet.
1 Bedroom -	500 square feet.
2 Bedrooms -	650 square feet.
3 Bedrooms -	800 square feet.
Each additional bedroom -	150 square feet of additional space

2. Each dwelling unit must provide complete, independent living facilities for one (1) or more persons, including permanent provision for living, sleeping, eating, cooking and sanitation.

3. Exit ways shall provide safe and continuous means of egress to a street or to an open space with direct access to a street. Each dwelling unit shall be provided with direct and continuous access to such an exit way. All required exit ways should be so located as to be discernible and accessible without obstruction and so arranged as to lead directly to the street or to an area of safety with supplemental means of egress that will not be obstructed or impaired by fire, smoke or other cause.

4. Conversions may be accomplished with the construction of building additions as long as the addition is within the original footprint of the building or within existing building density requirements and the height of the building does not exceed the height provision for a building within the district in which it is located. Any additions proposed as part of the conversion or mixed use development shall comply with the parking requirements in §503. Any building addition required by the International Building Code, as amended, shall not be subject to this restriction.
(as amended by Ord. 818, 6/6/2016)

5. The minimum lot area for any mixed use shall be one thousand (1,000) square feet per unit.

B. Conversions, which fail to comply with the parking requirements stated in §503, et seq., are permitted provided:

1. Each use must include the following number of square feet of interior space, exclusive of common areas:

For any permitted business use in the district -	400 square feet.
Efficiencies -	400 square feet.
1 Bedroom -	500 square feet.
2 Bedrooms -	650 square feet.
3 Bedrooms -	800 square feet.
Each additional bedroom -	150 square feet of additional space

2. Each dwelling unit must provide complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating cooking and sanitation.

3. Exit ways shall provide safe and continuous means of egress to a street or to an open space with direct access to a street. Each dwelling unit shall be provided with direct and continuous access to such an exit way. All required exit ways shall be so located as to be discernible and accessible without obstruction and so arranged as to lead directly to the street or to an area of safety with supplemental means of egress that will not be obstructed or impaired by fire, smoke or other cause.

4. Conversions shall be accomplished without the construction of building additions except those required by the International Building Code, as amended.
(Amended by Ord. 628, 10/2/1995; and as amended by Ord. 818, 6/6/2016)

3. Art Gallery, Museum.

A. The facility shall be operated by a governmental unit or by a non-profit foundation, a non-profit corporation or a non-profit institution.

B. The sale of objects shall be clearly secondary and incidental to the display and educational functions of the facility.

4. Buildings or Facilities for Municipal Use. The building or facilities shall be exclusively occupied by the Borough of Nazareth, an instrumentality thereof, or the Nazareth Area School District.

5. Bus Passenger Station, Taxi Station.

A. Adequate street area for the loading, unloading and stacking of the buses or taxis shall be available. The traffic movements necessary for the operation of the facility shall be arranged so as not to create traffic congestion and to maintain traffic safety.

B. Vehicle storage shall not be permitted in the areas of the site used for discharge or pick-up of passengers, or for the dispatching of vehicles.

6. Controlled Substances Paraphernalia Establishment. These uses shall not be established within five hundred (500) feet of a residence, a church or place of worship, a school or park unless the applicant presents a petition to the Board which indicates approval of the proposed use by fifty-one percent (51%) of the persons owning, residing or doing business within a radius of five hundred (500) feet of the location of the proposed use. The applicant shall have attempted to contact all eligible locations within this radius, and must supply a list of all addresses at which no contact was made. The circulator of the petition shall have subscribed to an affidavit attesting to the fact that the circulator personally witnessed the signatures on the petition and that the same were affixed to the petition by the persons whose names appear thereon.

7. Drive-in Banks.

A. Drive-in windows shall be so arranged that sufficient area exists for the expected lines of vehicles. The area set aside for the lines shall not be used for other internal traffic circulation.

B. Directions for the internal movement of traffic shall be clearly marked.

8. Game Arcade.

A. At least one (1) supervisory employee eighteen (18) years or older shall be in attendance at the game arcade during the hours of operation.

B. Use of the coin-operated amusement devices by persons under sixteen (16) years of age shall not be permitted during normal school hours.

C. Bicycle racks shall be provided within twenty-five (25) feet of the game arcade. There shall be two (2) bicycle stalls for each coin-operated amusement device within the arcade. The bicycle racks shall not be located in any required landscaped areas, entrances, exits, walkways, driveways, parking space, public street or sidewalk, or in such fashion as to obstruct any entrances or exit to any premises.

D. Adequate space shall be provided for each machine so as to allow its use without overcrowding. A minimum width of two (2) feet shall be provided per machine where the machine is designed for use by one (1) player and three and one-half (3½) feet where the machine is designed for use by two (2) or more players. The depth of space in front of the machine shall be at least five (5) feet, and there shall be a minimum aisle width beyond these five (5) feet of an additional three (3) feet.

E. Wagering or gambling shall not be permitted at the game arcade.

9. Day Care Facility.

A. It shall be demonstrated that the facility has obtained the licenses and permits required by any Federal, State or local regulatory body relevant to this type of facility.

B. There shall be adequate facilities for the picking up and discharging of children or adults in a safe manner.

C. There shall be a minimum floor area devoted to the day care facility of one thousand (1,000) square feet.

D. If the facility is for six (6) or less children, it may be operated as a home occupation provided that the requirements of §502(7), except for §502(7)(A) are met. [Ord. 594]

E. The facility is for two (2) or less adults and may be operated as a home occupation provided that the requirements of 502(7), except for 502 (7)(A), are met.

(As amended by Ord. 724, 10/2/2006)

10. Group Care Facility.

A. It shall be demonstrated that the facility has obtained any and all licenses and permits required by the Federal, State or local government relevant to the particular type of facility.

B. In order to prevent excessive concentration of group care facilities in a particular neighborhood:

(1) The number of persons living in such facilities shall not exceed three percent (3%) of the population of the ward in which it is located; and,

(2) Group care facilities shall not be located adjoining another facility, unless the two (2) are to be in common ownership.

C. Minimum Floor Area. For group care facilities, a minimum floor area of one thousand (1,000) square feet shall be provided.

(As amended by Ord. 724, 10/2/2006)

11. Membership Club. It shall be demonstrated to the Board that such membership club will serve a purely social, athletic or community service purpose; that it will be operated on a membership basis and not conducted as a business; and, that the nature of such membership club will not cause or create a nuisance to adjoining properties or to its general neighborhood.

12. Motorized Vehicle Repair Shop.

A. All painting and repair work shall be performed in an enclosed building.

B. All parts and dismantled vehicles shall be enclosed so as not to be visible outside the property.

C. Outdoor vehicle storage areas shall be paved.

D. Inoperative motor vehicles shall not be stored outside of a building except as follows:

(1) Motor vehicles, which are currently under servicing, may be stored for a period not to exceed four (4) weeks.

(2) Motor vehicles, which have been towed from the scene of an accident, may be stored for a period not to exceed three (3) days.

13. Nursing Home and Life Care Retirement Center.

A. Nursing Home and Life Care Retirement Centers. These facilities shall be licensed by the Pennsylvania Department of Health, or the Pennsylvania Department of Welfare, or the Pennsylvania Department of Insurance, as appropriate.

B. Life Care Retirement Center. The following uses are permitted in such facilities:

(1) Dwelling units in a single-family attached, single-family detached, single-family semi-detached and multifamily configuration, which may include community buildings, dining and recreational facilities, facilities that provide services and health care for the primary use and benefit of the residents of the center.

(2) A nursing home, a group care facility, adult day care facility, a medical and dental clinic, which shall be available to residents of the center and to the public.

(3) The density of dwellings shall not exceed twelve (12) units per acre. All square footage of floor area defined as a dwelling unit shall be considered residential measured from the center line of the interior wall of the hallway to the outside of the exterior wall.

(4) The amount of non-residential square footage of floor area in a life care retirement center shall not exceed fifty-five (55%) percent of the total floor area square footage of the center. Square footage of floor area shall be measured based on the total of all structures on the site.

(5) The amount of non-residential square footage of floor area principally for the public shall not exceed ten (10%) percent of the total floor area square footage of the center. Square footage of floor area shall be measured based on the total of all structures on the site.

(Amended by Ord. 633, 4/1/1996; as amended by Ord. 724, 10/2/2006; and as amended by Ord. 788, 6/10/2013)

14. Private or Public School.

A. Applications for public schools shall include a letter from the Pennsylvania Department of Education stating that the requirements of the Department relating to siting have been met.

B. Private schools shall meet all requirements of the Pennsylvania Department of Education which pertain to the site, location and siting of such schools.

15. Service Station.

A. Spray painting or bodywork shall not be permitted.

B. All refuse shall be stored within an enclosed area. All parts and inoperable vehicles shall be stored in an enclosed structure.

C. Vehicles awaiting repair shall not be stored outside of enclosed areas for more than five (5) days.

D. The gasoline pumps shall be arranged so that sufficient area exists for the expected lines of vehicles waiting fueling within the property line.

E. In no case may the gasoline pump be located within twenty-five (25) feet of any property line.

F. When the rental of equipment such as automobiles, trucks and trailers is to be conducted, an additional one thousand (1,000) square feet of lot area shall be provided for each five (5) automobiles and trailers, and one thousand (1,000) square feet for each four (4) trucks.

G. Ancillary businesses such as car washes and convenience markets must provide sufficient parking and a clear, safe access arrangement.

H. All exterior lighting shall be directed away from residential properties.

16. Transportation Terminals.

A. All areas used for vehicle storage, loading, fueling or maneuvering shall be paved.

B. The parking area shall be arranged so that all internal traffic movements can be made without entering the public right-of-way.

C. All repair operations shall be conducted within enclosed buildings.

D. All storage shall be within enclosed structures.

(Ord. 561, 6/6/1988, §630; as amended by Ord. 594, 1/7/1991)

17. Cellular Communications Towers and Antennas

A. Purpose. The purpose of this special exception is to provide a uniform and comprehensive set of standards for the development and installation of new commercial communications towers and antennas. The standards contained herein are designed to protect and promote public health, safety, and the general welfare of the community while ensuring that new commercial towers will be safe and be placed in suitable locations and at the same time not unduly restricting the development of needed telecommunications facilities. These standards will also help in ensuring that municipal land use regulations are in compliance with the Federal Telecommunications act of 1996.

These standards should accomplish the following:

(1) Minimize adverse visual effects of commercial communications towers and antennas and related facilities through design and siting standards.

(2) Maintain and ensure that a non-discriminatory, competitive and broad range of telecommunications services and high quality telecommunications infrastructure consistent with the Federal Telecommunications Act of 1996 are provided to serve the Borough, as well as serve as an important and effective part of the Borough's emergency services network.

(3) Provide requirements necessary for obtaining approval to site and construct commercial communications towers and antennas while at the same time protecting the legitimate interests of the Borough's citizens.

(4) Protect environmentally sensitive areas of the borough by regulating the location design and operations of telecommunications facilities.

(5) Encourage the use of alternative support structures, co-location of new antennas on existing commercial communications towers, camouflaged towers, monopoles and construction of towers with the ability to locate three or more providers.

18. Personal Care Homes; Assisted Living Residences.

A. When developed as a stand-alone use pursuant to the regulations of 55 Pa. Code § 2600.11 (personal care homes) or 55 Pa. Code § 2800.11 (assisted living residences), the facility shall be licensed as a “Personal Care Home” or “Assisted Living Residence” by the Commonwealth of Pennsylvania Department of Public Welfare.

B. The facility shall be operated by a qualified and licensed staff, which is available to serve the needs of the residents of the facility.

C. When developed as an independent and stand-alone use, and neither as a part of a Life Care Retirement Center, as defined in section 302 of the Zoning Ordinance, nor as part of a continuing care retirement community, nor as part of any other use which combines residences for persons of retirement age, ancillary health care services, assisted living, and skilled and intermediate nursing care, the capacity of a Personal Care Home or Assisted Living Residence shall be measured on the basis of the number of licensed beds. The maximum capacity of a facility shall not exceed 48 beds per acre.

(Ord. 788, 6/10/2013)

B. Definitions

Alternative Tower Structure – Includes but is not limited to man-made trees, clock towers, bell steeples, light poles and similar alternative design mounting structures that camouflage or conceal the presence of commercial communications towers and antennas.

Cellular Communications Antenna – Any device used for the transmission or reception of radio, television, wireless telephone, pager, commercial mobile radio service or any other wireless communications signals, including, without limitation omni-directional or whip antennas and directional and panel antennas, owned or operated by any person or entity licensed by the Federal Communications Commission (FCC) to operate such device. This definition shall not include private residence mounted satellite dishes or television antennas or amateur radio equipment including, without limitation, ham or citizen band radio antennas.

Commercial Communications Tower – A structure other than a building, such as a monopole, self-supporting or guyed tower designed and used to support commercial communications antennas.

ANSI -- The American National Standards Institute, a non-profit, privately funded membership organization that coordinates the development of U.S. voluntary national standards and is the U.S. representative to non-treaty international standards setting entities including the International Organization for Standardization (ISO) and the International Electro-technical Commission.

Fall Zone – The area on the ground within a prescribed radius from the base of a Commercial Communications Tower. The fall zone is the area within which there is a potential hazard from falling debris or the collapsing of the commercial communications tower. The fall zone shall be determined by the applicant’s engineer and reviewed by the Borough engineer.

Height of Tower – The overall height of the tower from the base of the tower to the highest point of the tower, includes, but not limited to antennas, transmitters and satellite dishes of any other structures affixed to or otherwise placed on the tower. If the base of the tower is not on ground level, the height of the tower shall include the base of the building or structure to which the tower is attached.

Public Utility Transmission Tower – A structure, owned and operated by a public utility electric company regulated by the Pennsylvania Public Utility Commission, designed and used to support overhead electricity transmission lines.

C. District requirements.

(1) To the extent not identified in Part 4 of this ordinance, commercial communication towers are permitted in those areas designated on the overlay zoning map attached as Exhibit A of this subsection.

(2) Commercial communication antennas shall be a permitted use in all zoning districts if placed on an existing commercial communications tower, public utility transmission tower or alternative tower structure. Commercial communications antennas shall not be permitted on any residential structure. A visual impact analysis as described in §D.3 below shall be performed to ensure that any adverse impact created by the commercial communications antenna is mitigated.

D. Specific use and Special Exception Requirements.

(1) Site Plan. A site plan shall be prepared and submitted for any proposed commercial communications tower pursuant to applicable zoning ordinance requirements regarding preparation of a site plan. No site plan is required for commercial communications antennas, which are co-located on an existing commercial communications tower or structure as described in §C.5 above.

(2) Setback. A commercial communication tower, attached to the ground, shall be set back to the most restrictive of the following: a minimum distance equal to one-half its height from the nearest property or lease lot lines and existing street right-of-way lines, or the distance measured to the nearest property of lease line equal to the commercial communications tower fall zone.

(3) Visual Impact Analysis. The applicant shall be required to undertake a visual impact analysis on any proposed commercial communications tower, any alternative tower structure, or any proposed modification to an existing tower which causes said tower to exceed thirty (30) feet in height from its original permitted height. The visual impact analysis, in the form of a written report, shall assess the cumulative impacts of the proposed facility and other existing and foreseeable commercial communications towers in the area, and shall identify and include all feasible mitigation measures necessary to mitigate any negative visual impact by the visual impact by the proposed tower. Mitigation measures should be consistent with the technological requirements of the applicant. All costs for the visual impact analysis, and applicable administrative costs, shall be borne by the applicant.

The visual impact analysis report shall include but not be limited to the following:

- a. A photograph simulation of pre-development versus post-development views from key viewpoints, as established by the municipality, both inside and outside of the municipality;
- b. An analysis of the alternative tower structure design and color schemes;
- c. An analysis of the visual impact of the tower base, accessory buildings, and overhead utility lines from abutting properties and streets.

The Zoning Hearing Board shall review and consider all information presented in the report. Measures necessary to mitigate any negative visual impact created by the proposed tower shall be provided and implemented as required by the Zoning Hearing Board.

(4) National Environmental Policy Act (NEPA). The applicant shall demonstrate that all NEPA requirements, where applicable, for any proposed commercial communications tower, alternative tower structure and/or antenna facilities have been met. A copy of the NEPA required Environmental Assessment (EA) report shall be submitted when the proposed commercial communications tower, alternative tower structure and/or antenna falls into one or more of the following categories:

a. Facilities that may affect districts, sited, buildings, structures or objects significant in American History, architecture, archaeology, engineering or culture that are listed, or are eligible for listing in the National Register of Historic Places;

b. Facilities that may affect a Native American religious site;_

c. Facilities whose construction will involve significant change to surface features including but not limited to wetlands, deforestation or water diversion;

d. Facilities located within a flood plain;

e. Facilities that are to be equipped with high intensity white lights located in residential neighborhoods.

The applicant shall provide to the Zoning Hearing Board documentation demonstrating how any negative impact on the features noted above will be mitigated.

(5) Base. The base of a commercial communication tower shall be surrounded by a secure fence with a minimum height of eight (8) feet.

(6) Landscaping. The following landscaping shall be required to screen the fence surrounding the tower and any other ground level features such as a building. Any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping may be permitted if they achieve the same degree of screening as the required landscaping. If the antenna is mounted on an existing structure, and other equipment is housed inside an existing structure, landscaping shall not be required.

a. An evergreen screen shall be required to surround the site. The screen can be either a hedge (planted three [3] feet on center maximum) or a row of evergreen trees (planted ten [10] feet on center maximum). The evergreen screen shall be a minimum height of six (6) feet at planting, and shall grow to a minimum of fifteen (15) feet at maturity.

b. In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.

c. Commercial communications tower located in any extractive industrial zoning district shall be exempt from these landscaping provisions.

(7) Parking. A minimum of two (2) off-street parking spaces shall be provided for a commercial communications tower. There shall be no parking spaces required for alternative tower structures.

(8) Equipment Shelter. Information shall be provided detailing the contents of the proposed equipment shelter servicing the proposed commercial communications tower and/or antenna. The information shall include but not be limited to the type and quantity of oil, gasoline, batteries, propane, natural gas and any other fuel stored within the shelter. Information shall also be submitted which demonstrates that any hazardous materials stored on site, including but not limited to fuel sources, shall be housed to minimize the potential for any adverse impact on adjacent land uses. "Materials Safety Data Sheets" shall be submitted to the Borough Code Enforcement Officer for any hazardous material stored or utilized in the equipment shelter. The use of fuels and hazardous materials shall also be consistent with any borough requirements regarding the same.

(9) Wind Resistance. For any commercial communications tower or antenna higher than fifty (50) feet, the applicant shall provide certification from a registered professional engineer stating that

the commercial communications tower of antenna meets the wind resistance requirements stated in the latest version of the BOCA National Building Code. Alternately, the applicant shall provide certification from a registered professional engineer that the commercial communications tower or antenna is designed to withstand winds in accordance with ANSI/EIA/TIA 222 (latest revision) standards. The registered professional engineer shall also certify to the overall structural integrity of the commercial communications tower or antenna.

(10) Federal Aviation Administration (FAA).

a. Documentation of FAA approval for commercial communication towers or antennas exceeding two hundred (200) feet in height shall be provided. Commercial communication towers or antennas less than two hundred (200) feet in height shall meet the requirements of 14 Code of Federal Regulations Part 77.13(a), amended (copy attached).

b. No commercial communications tower or antenna shall be artificially lighted except when required and approved by the FAA.

(11) Airport Coordination. The applicant for a proposed commercial communications tower or antenna, located within a five (5) mile radius of an existing airport shall notify the airport of its intent to place such structure(s). Any comments received from the airport shall be considered by the Zoning Hearing Board in the processing of the application for the proposed commercial communications tower or antenna.

(12) Federal Communications commission (FCC).

a. Documentation that the commercial communications company is licensed by the FCC shall be provided.

b. Documentation of FCC approval for the proposed commercial communication tower or antenna shall be provided.

c. Documentation demonstrating that the proposed commercial communications tower or antenna complies with all applicable standards established by the FCC governing human exposure to electromagnetic or radio frequency radiation shall be provided within ninety (90) days of the facility becoming operational. Such documentation shall then be provided to the municipality on an annual basis from the date the facility becomes operational. The Borough may secure the services of a qualified independent radio frequency engineer to review the documentation and conduct tests as necessary to verify said documentation. The engineer shall state in a written report that the radio frequency radiation measurements are accurate and either conform or not conform to any and all FCC standards. Should the facility not meet FCC standards, the Borough may make a formal complaint, in writing, to the FCC. The applicant shall be copied on any complaint filed with the FCC by the Borough.

d. Any applicant for a proposed commercial communications tower and/or antenna site exceeding FCC standards regarding human exposure to electromagnetic of radio frequency radiation shall submit to the Borough a copy of the Environmental Assessment report required under NEPA prior to submitting to the FCC. The Borough may review the report and provide commentary to the FCC for its consideration.

(13) Documentation of Need.

a. The commercial communications company shall demonstrate, using technological evidence that the tower and/or antenna must go where it is proposed in order to satisfy its function pursuant to the company's technological requirements.

b. Prior to proposing the construction of a new commercial communications tower, the applicant shall demonstrate that it has made a reasonable effort to site the antenna on an alternative tower structure within close proximity of the chosen site.

(14) Removal of Commercial Communications Towers and Antennas. If a commercial communications tower and/or antenna remains unused for a period of twelve (12) consecutive months, the owner or operator shall dismantle and remove the tower and/or antenna within six (6) months of notice to do such by the Borough. The owner shall provide written notice when tower and/or antenna stops are used. Failure to provide notice will allow the Borough to proceed to dismantle without the necessity of notice to the owner or operator. Further, the owner or operator of the tower and/or antenna shall post security in a form acceptable to the Borough payable to the Borough in an amount to cover tower and/or antenna removal and site clean up. The security shall be utilized by the Borough in the event that the owner or operator of the tower and/or antenna fails to remove the tower and/or antenna within six (6) months of notification by the Borough.

(15) Annual Permit and Fee. Twelve (12) months after a commercial communications tower and/or antenna becomes operational, an inspection shall be performed by the Borough or its designated agent to verify that the proposed facility continues to meet the requirements found in this ordinance. The inspection shall consist of but not be limited to review of the developed site condition versus the requirements of this ordinance, preparation of the annual radio frequency analysis as described in §D.12.c+ above. Upon completion of the inspection, the Borough shall permit or not permit the facility to continue operation. The Borough may attach conditions to any permit. Said conditions shall be met within thirty (30) days of the issuance of a permit. Failure to meet the conditions within thirty (30) days of permit issuance shall result in revocation of the permit and closing of the facility.

(16) Exemptions.

a. A commercial communications tower or antenna necessary for and clearly primarily used for emergency communications by a police department, fire company, emergency medical service and other similar public safety organizations is exempt from these requirements.

b. The use of all television antennas and satellite dishes.

c. Amateur Radio and/or Receive Only Antennas. This ordinance shall not govern the installation of any antenna that is owned and/or operated by a federally licensed amateur radio operator or is used exclusively for receive only antennas.

d. Mobile services providing public information coverage of a news event of a temporary or emergency nature.

18. Solar Energy Systems

A. The purpose of this special exception is to promote the use of Solar Energy and to provide installation and construction of Solar Energy Systems in the Borough of Nazareth subject to reasonable conditions that will protect the public health, safety and welfare.

B. Solar Energy Systems shall be a permitted use in all zoning districts as an accessory to a residential or non-residential use herein and specific criteria as set forth below.

C. This ordinance applies to Solar Energy Systems to be installed and constructed after the effective date of the ordinance, and all applications for Solar Energy Systems on existing structures or property.

D. Solar Energy Systems constructed prior to the effective date of this ordinance shall not be required to meet the requirements of this ordinance; provided that any structural change, upgrade or modification to an existing Solar Energy System that materially alters the size or placement of the existing Solar Energy System shall comply with the provisions of this ordinance.

E. Design, Installation and Use Criteria

(1) A Solar Energy System shall not be used for the generation of power for the sale of energy to other users, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time to the local utility company.

(2) A Solar Energy System connected to the utility grid shall provide written authorization from the local utility company acknowledging and approving such connection.

(3) A Solar Energy System may be roof mounted or ground mounted.

(4) A roof mounted Solar Energy System may be mounted on a principal building or accessory building.

(5) The height of a Solar Energy System mounted on a pitched roof shall not exceed the height of the roof line. On a flat roof, the height of the Solar Energy System shall not extend more than three (3) feet above the finished roof to which it is mounted. In no instance shall any part of the Solar Energy System extend beyond the edge of the roof.

(6) The height of a ground mounted Solar Energy System shall not exceed six (6) feet.

(7) The surface area of a ground mounted Solar Energy System, regardless of the mounted angle, shall be calculated as part of the overall lot coverage. No more than twenty (20%) percent of a lot may be covered with a ground mounted Solar Energy System and total lot coverage must not exceed the maximum permitted within the underlying zoning district.

(8) A ground mounted Solar Energy System or a Solar Energy System attached to an accessory structure shall not be located within the required front yard setback, and no part thereof shall extend beyond the front wall of the principal building.

(9) The minimum Solar Energy System setback distance from the property lines shall be equivalent to the building setback or accessory building setback requirement of the underlying zoning district.

(10) The number of solar panels and supporting equipment shall be considered as one solar energy system.

(11) All mechanical equipment associated with and necessary for the operation of the Solar Energy System shall comply with the following:

a) Mechanical equipment shall be screened from any adjacent property. The screen shall consist of shrubbery, trees, or other plant materials which provide a visual screen. In lieu of a planting screen, a decorative fence, meeting the requirements of the Zoning Ordinance, may be used.

b) Mechanical equipment shall not be located within the minimum front yard setback of the underlying zoning district.

c) The Mechanical equipment shall be setback from the property lines, at a minimum, the distance equivalent to the building setback or accessory building setback requirement of the underlying zoning district.

(12) All power transmission lines from the ground mounted Solar Energy System to any building or other structure shall be located underground.

(13) Solar panels shall be placed and set such that concentrated solar radiation or glare shall not be directed onto nearby properties or roadways.

(14) A Solar Energy System shall not be constructed until a building permit has been approved and issued. Construction shall conform to the extent applicable, to the Pennsylvania Uniform Construction Code. The design of the Solar Energy System shall conform to applicable industry standards. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturers from a certifying organization and any such design shall be certified by an Engineer registered in the Commonwealth of Pennsylvania.

(15) The design of the Solar Energy System shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the system into the natural setting and existing environment.

(16) A Solar Energy System shall not be used to display advertising or have attached to it any type of signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners or similar materials except reasonable identification of the manufacturer of the system provided they comply with the sign regulations of the Zoning Ordinance.

(17) If the Solar Energy System is at the end of its useful life, abandoned or is in a state of disrepair such that it poses a threat to public health, safety or welfare, it shall be the responsibility of the property owner, at his expense, to remove or maintain the Solar Energy System within three (3) months. Such a facility will be presumed to be abandoned or at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.

a) If the property owner fails to remove or make the necessary repairs within the said three (3) month period, then the Borough shall give written notice to the property owner to accomplish such within thirty (30) days.

b) If removal or repair has not been completed within thirty (30) days of said written notice by the Borough, then Borough may accomplish said removal or repair and charge the property owner for all the costs and expenses, including reasonable attorney's fees for collection.

F. Solar Energy Commercial Systems are prohibited as a principal use in all zoning districts except in the Extractive Industrial Zoning District.

(Ord. 666, 8/7/2000; as amended by Ord. 773, 6/6/2011; and as amended by Ord. 788, 6/10/2013)

Part 7

Zoning Hearing Board

§701. Organization.

1. General Grant of Power. The Zoning Hearing Board shall perform all the duties and have all the powers prescribed by the Pennsylvania Municipalities Planning Code and as herein provided.

2. Membership of the Board. The membership of the Board shall consist of three (3) residents of the Borough appointed by the Borough Council. Their terms of office 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 Borough Council 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 the Borough. [Ord. 594]

3. Alternate Members. Borough Council may appoint, by resolution, at least one (1) but no more than three (3) residents of the Borough to serve as alternate members of the Board. The term of office of an alternate member shall be three (3) years. When seated pursuant to the provisions of Section 906 of the Municipalities Planning Code (hereinafter "MPC"), 53 P.S. §10906, an alternate member shall be entitled to participate in all proceedings and discussions of the Board to the same and full extent as provided by law for Board members including specifically the right to cast a vote as a voting member during the proceedings, shall have all the powers and duties set forth in this Chapter and as otherwise provided by law. Alternates shall hold no other office in the municipality, including membership on Planning Commission and Zoning Officer. Any alternate may participate in any proceeding or discussion of the Board but shall not be entitled to vote as a member of the Board nor be compensated pursuant to Section 909 of the MPC unless designated as a voting alternate member pursuant to Section 906 of the MPC, 53 P.S. §§10909, 10906. [Ord. 594]

4. Organization of Board.

A. 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 from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board as provided in Section 908 of the MPC, 53 P.S. §10908.

B. If, by reason of absence or disqualification of a member, a quorum is not reached, the Chairman of the Board shall designate as many alternate members of the Board to sit on the Board as may be needed to provide a quorum. Any alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which the alternate was initially appointed until the Board has made a final determination of the matter or case. Designation of an alternate pursuant to this Section shall be made on a case-by-case basis in rotation according to declining seniority among all alternates.

C. The Board may make, 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 public records of its business which records shall be the property of the Borough, and shall submit a report of its activities to the Borough Council as requested by the Borough Council. [Ord. 594]

5. Expenditures for Services. Within the limits of funds appropriated by the Borough Council, 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 Council, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the Borough Council. Alternate members of the Board may receive compensation, as may

be fixed by the Borough Council, for the performance of their duties, but in no case shall such compensation exceed the rate of compensation authorized to be paid to the members of the Borough Council. [Ord. 594]

(Ord. 561, 6/6/1988, §710; as amended by Ord. 594, 1/7/1991)

§702. Procedure.

1. Rules of Procedure. The Board may make, alter and rescind rules and forms for its procedure consistent with the Pennsylvania Municipalities Planning Code and this Chapter, as it may deem necessary for the proper performance of its duties and the proper exercise of its powers.

2. Notice of Hearings. Public notice of the hearing shall be given and written notice shall be given to the applicant, the Zoning Officer, those property owners within two hundred (200) feet, and to any person who has made a timely request for the same. Written notices shall be given by such time and in such manner as shall be prescribed by the rules of the Zoning Board. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing. Borough Council may establish reasonable fees for said hearings within the guidelines as set forth in Section 908 of the MPC, 53 P.S. §10908. [Ord. 594]

3. Conduct of Hearings.

A. All hearings shall be held in sixty (60) days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of the time.

B. Hearings shall be conducted by the Board or the Board may appoint any member as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Board; however, the appellant or the applicant, as the case may be, in addition to the Borough, may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.

C. The parties to the hearing shall be the 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.

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

E. 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.

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

G. 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 event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

H. The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

4. Decision of the Board. 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 finding of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found.

A. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within forty-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.

B. Where the Board fails to render the decision within the period required by this subsection, 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 enter a decision as hereinabove provided, the Board shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided in §702(4)(A) above. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

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

(Ord. 561, 6/6/1988, §720; as amended by Ord. 594, 1/7/1991)

§703. Jurisdiction of the Zoning Board.

1. General Grant of Jurisdiction. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

A. Substantive challenges to the validity of any land use ordinance except those brought before the Borough Council pursuant to Sections 609.1 of the MPC, 53 P.S. §10609.1, and §703(7)(A).

B. Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption, which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said ordinance. Where the ordinance appealed from is the initial zoning ordinance of the Borough and a Zoning Hearing Board has not been previously established, the appeal raising procedural questions shall be taken directly to court.

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 therefore, 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 Borough Engineer or the Zoning Officer, with reference to the administration of any flood plain 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 §703(2).

F. Applications for special exceptions under the zoning ordinance or floodplain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to §703(3).

G. Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of this Chapter.

H. Appeals from the Zoning Officer's determination under §703(8).

I. Appeals from the determination of the Zoning Officer or Borough Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving MPC Articles V or VII applications.

2. Variances. The Board shall hear requests for variances where it is alleged that the provisions of this Chapter 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:

A. 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 Chapter in the neighborhood or district in which the property is located.

B. 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 Chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

C. That such unnecessary hardship has not been created by the appellant.

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

E. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue. In granting any variance, the Board may attach such reasonable conditions and safeguards, as it may deem necessary to implement the purposes of the Municipalities Planning Code and this Chapter.

F. All applications for a Zoning Variance shall be submitted to the Borough Planning Commission for its review and submission of an advisory recommendation to the Zoning Hearing Board. The intent of this requirement is to allow the Planning Commission the opportunity to comment on a matter that may have Borough-wide impacts.

G. The Zoning Hearing Board shall not decide on a variance application prior to receipt of a written advisory opinion from the Planning Commission. The Planning Commission shall have 45 days to submit an opinion after receipt of an application. If the Planning Commission fails to timely submit a written opinion, the Zoning Hearing Board may, at its discretion, hold a hearing on the application and render a decision. (Ord. 856, 3/2/2020)

3. Special Exceptions. Where this Chapter has provided special exceptions to be granted or denied by the Board pursuant to express standards and criteria, the Board shall hear and decide requests for such special exceptions in accordance with such standards and criteria. In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Chapter, as it may deem necessary to implement the purpose of this Chapter.

4. Parties Appellant Before Board. Appeals under §§703(1)(A), 703(1)(B), 703(1)(C), 703(1)(D), 703(1)(G), 703(1)(H), and 703(1)(I) may be filed with the Board in writing by the landowners affected, any officer or agency of the Borough, or any person aggrieved. Requests for variance under §703(2) and for special exception under §703(3) may be filed with the Board by any landowner or any tenant with the permission of such landowner.

5. Time Limitations.

A. 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 municipal officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, - he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision by a Zoning Officer on a challenge to the validity of an ordinance or map pursuant to Section 916.2 of the MPC, 53 P.S. §10916.2, shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

B. All appeals from determinations adverse to the landowner shall be filed by the landowner within thirty (30) days after notice of the determination is issued.

6. Stay of Proceedings.

A. Upon filing of any proceeding referred to in §703(4) and during its pendency before the Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action there under, shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals on petition, after notice to the Zoning Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Board.

B. After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee but such waiver may be revoked by him if an appeal is taken from a final decision of the court.

C. The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the responding party to post bond shall be interlocutory.

D. If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond and the appellate court sustains the order of court below to post a bond, the respondent to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals, shall be liable for all reasonable costs, expenses and attorney fees incurred by the petitioner.

7. Validity of Ordinance; Substantive Questions.

A. A landowner who, on substantive grounds, desires to challenge the validity of an ordinance or map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest shall submit the challenge either:

(1) To the Zoning Hearing Board under §703(1); or,

(2) To the Borough Council under Section 909.1(b)(4) of MPC together with a request for a curative amendment under Section 609.1 of MPC, 53 P.S. §§10909.1(b) (4) 10609.1.

B. Persons aggrieved by a use or development permitted on the land of another by an ordinance or map, or any provision thereof, who desires to challenge its validity on substantive grounds shall first submit their challenge to the Zoning Hearing Board for a decision thereon under §703(1)(A).

C. The submissions referred to in §§703(7)(A) and 703(7)(B) shall be governed by the following:

(1) In challenges before the Zoning Hearing Board, the challenging party shall make a written request to the Board that it holds a hearing on its challenge. The request shall contain the reasons for the challenge. Where the landowner desires to challenge the validity of such ordinance and elects to proceed by curative amendment under Section 609.1 of the MPC, 53 P.S. §10609.1, and his application to the Borough Council shall contain in addition to the requirements of the written request hereof, the plans and explanatory materials describing the use or development proposed by the landowner in lieu of the use or development permitted by the challenged ordinance or map. Such plans or other materials shall not be required to meet the standards prescribed for preliminary, tentative or final approval or for the issuance of a permit, so long as they provide reasonable notice of the proposed use or development and a sufficient basis for evaluating the challenged ordinance or map in light thereof. Nothing herein contained shall preclude the landowner from first seeking a final approval before submitting his challenge.

(2) If the submission is made by the landowner to the Borough Council under §703(7)(A)(2), the request also shall be accompanied by an amendment or amendments to the ordinance proposed by the landowner to cure the alleged defects therein.

(3) If the submission is made to the Borough Council, the Borough Solicitor shall represent and advise it at the hearing or hearings referred to in §702.

(4) The Borough Council may retain an independent attorney to present the defense of the challenged ordinance or map on its behalf and to present their witnesses on its behalf.

(5) Based upon the testimony presented at the hearing or hearings, the Borough Council or the Zoning Hearing Board, as the case may be, shall determine whether the challenged ordinance or map is defective, as alleged by the landowner. If a challenge heard by Borough Council is found to have merit, the Borough Council shall proceed as provided in Section 609.1 of the MPC, 53 P.S. §10609.1. If a challenge

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

a. The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities.

b. If the proposal is for a residential use, the impact of the proposal upon regional housing need and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the ordinance or map.

c. The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources and other natural features.

d. The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts. [Ord. 595]

e. The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

(6) The Borough Council or the Zoning Hearing Board, as the case may be, shall render its decision within forty-five (45) days after the conclusion of the last hearing.

(7) If the Borough Council or the Zoning Hearing Board, as the case may be, fails to act on the landowner's request within the time limits referred to in §703(7)(F), a denial of the request is deemed to have occurred on the forty-sixth (46) day after the close of the last hearing.

D. The Zoning Hearing Board or Borough Council, as the case may be, shall commence its hearings within sixty (60) days after the request is filed unless the landowner requests or consents to an extension of time.

E. Public notice of the hearing shall include notice that the validity of the ordinance or map is in question and shall give the place where and the times when a copy of the request, including any plans, explanatory material or proposed amendments, may be examined by the public.

F. The challenge shall be deemed denied when:

(1) The Zoning Hearing Board or Borough Council, as the case may be, fails to commence the hearing within the time limits set forth in §703(7)(D),

(2) The Borough Council notifies the landowner that it will not adopt the curative amendment,

(3) The Borough Council adopts another curative amendment which is unacceptable to the landowner; or,

(4) The Zoning Hearing Board or Borough Council, as the case may be, fails to act on the request forty-five (45) days after the close of the last hearing on the request, unless the time is extended by mutual consent by the landowner and Borough.

G. Where, after the effective date of Act 170 of 1988, a curative amendment proposal is approved by the grant of a curative amendment application by the Borough Council pursuant to Section 909.1(b)(4) of MPC, 53 P.S. §10909.1(b)(4), or a validity challenge is sustained by the Zoning Hearing Board pursuant to §703(7)(C)(1), or the court acts finally on appeal from denial of a curative amendment proposal or a validity challenge; and, the proposal or challenge so approved requires a further application for subdivision or land development, the developer shall have two (2) years from the date of such approval to file an application for preliminary or tentative approval. Within the two (2) year period, no subsequent change or amendment in the zoning, subdivision or other governing ordinance or plan shall be applied in any manner, which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge. Upon the filing of the preliminary or tentative plan, the provisions of §703(7) shall apply. Where the proposal appended to the curative amendment application or the validity challenge is approved but does not require further application under any subdivision or land development ordinance, the developer shall have one (1) year within which to file for a building permit. Within the one (1) year period, no subsequent change or amendment in the zoning, subdivision or other governing ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge. During these protected periods, the court shall retain or assume jurisdiction for the purpose of awarding such supplemental relief as may be necessary.

8. Procedure to Obtain Preliminary Opinion. In order not to unreasonably delay the time when a landowner may secure assurance that the ordinance or map under which he proposes to build is free from challenge, and recognizing that the procedure for preliminary approval of his development may be too cumbersome or may be unavailable, the landowner may advance the date from which time for any challenge to the ordinance or map will run under §703(5) by the following procedure:

A. The landowner may submit plans and other materials describing his proposed use or development to the Zoning Officer for a preliminary opinion as to their compliance with the applicable ordinances and maps. Such plans and other materials shall not be required to meet the standards prescribed for preliminary, tentative or final approval or for the issuance of a building permit so long as they provide reasonable notice of the proposed use or development and a sufficient basis for a preliminary opinion as to its compliance.

B. If the Zoning Officer's preliminary opinion is that the use or development complies with the ordinance or map, notice thereof shall be published once each week for two (2) successive weeks in a newspaper of general circulation in the Borough. Such notice shall include a general description of the proposed use or development and its location, by some readily identifiable directive, and the place and times where the plans and other materials may be examined by the public. The favorable preliminary approval under §703(5) and the time therein specified for commencing a proceeding with the Board shall run from the time when the second notice thereof has been published.

(Ord. 561, 6/6/1988, §730; as amended by Ord. 594, 1/7/1991; and by Ord. 595, 10/7/1991)

Part 8

Administration and Enforcement

§801. Zoning Officer.

1. Appointment. A Zoning Officer shall be appointed by the Borough Council to administer and enforce this Chapter. The Zoning Officer shall not hold any elective office in the Borough. The Zoning Officer shall meet qualifications established by the Borough Council and shall be able to demonstrate to the satisfaction of the Borough Council and working knowledge of municipal zoning. [Ord. 594]

2. Power of Zoning Officer. The Zoning Officer shall administer this Chapter in accordance with its literal terms. He shall not have the power to permit any construction of any use or change of use, which does not conform to this Chapter. He may be authorized to institute civil enforcement proceedings as a means of enforcement when acting within the scope of his employment. Should the Zoning Officer be in doubt as to the meaning or intent of any provision of this Chapter, or as to the location of any district boundary line on the official zoning map, or as to the propriety of issuing a building permit in a particular case, he may appeal the matter to the Zoning Hearing Board for its interpretation and decision. [Ord.594]

3. Inspection of Premises. The Zoning Officer shall have the right and authority, at any reasonable hour, to enter any building, structure, premises, lot or land, whether already erected or in use, or under construction, for the purpose of determining whether or not the provisions of this Chapter are being complied with.

4. Complaints Regarding Violations. Any person may file a written complaint with the Zoning Officer. Such complaint shall state fully the basis of any alleged violation of this Chapter. The Zoning Officer shall investigate the complaint and take appropriate action thereon as provided by this Chapter. The Zoning Officer shall provide a written response to the complaint stating his factual findings regarding the alleged violation and the actions taken.

5. Violations. If the Zoning Officer shall find, through his independent investigation or through the complaint process, that any of the provisions of this Chapter are being violated, he shall notify in writing the person responsible for such violations by issuing the enforcement notice set forth in §805(2). Said notice may include an order to discontinue the unlawful use of land or structures, to removal unlawful structures or unlawful additions and alterations, to discontinue any unlawful work being done, or to take such other action as is deemed necessary to correct the violation. The Zoning Officer shall, with the approval of the Borough Council or when directed by them, institute appropriate action or proceeding in the name of the Borough as set forth in this §805 to prevent, restrain, correct or abate the violations set forth in the enforcement notice. [Ord. 594]

(Ord. 561, 6/6/1988; as amended by Ord. 594, 1/7/1991)

§802. Building Permits.

1. No building permit shall be issued for the erection, construction, reconstruction, structural alteration, or moving of any building, structure or part thereof, unless the plans and intended use indicate that such building or structure is designed and intended to conform in all respects to the provisions of this Chapter or unless a variance has been granted by the Zoning Hearing Board.

2. Application for Building Permit. All procedures with respect to applications for building permits shall be made in conformity with the provisions of the BOCA National Building Code [Chapter 5, Part 1]. All applications shall include such additional information as is reasonably necessary to enable the Zoning Officer to determine the applicability of any provisions of this Chapter.

3. Use to be as Provided in Application and Plans. A building permit issued on the basis of an application and plans shall authorize only the use set forth in the application and plans. Substantial variation in use from the submitted applications and plans shall be deemed a violation of this Chapter. Where substantive changes in use are requested following construction not yet completed, a new building permit shall be required.

4. Expiration of Building Permit. Building permits shall expire in accordance with the provisions of the BOCA National Building Code [Chapter 5, Part 1] then in effect.

5. Building and Zoning Permits/Approvals for Medical Marijuana Facilities.

A. A zoning permit shall be required prior to obtaining a building permit for the construction or erection of a building; the alteration of a building or portion thereof; the use or change in use of a building or land; or any adjustments to a nonconforming use.

B. The municipal zoning permit application must be completed.

C. Permit fees shall be as stipulated in the fee schedule adopted by resolution of the municipal governing body in effect at the time of application.

D. Permits may be denied if the applicant, in the reasonable opinion of the municipal governing body or its appointed designee, fails to comply with any state or local law or regulation.

E. In the case of new construction, meeting the Pennsylvania Municipalities Planning Code definition land development plan application is required to be submitted and an approval secured prior to establishment of use.

F. If the application is to change the use of the building, or needs to demonstrate allocation of space within a structure, the applicant shall provide architectural drawings prepared by an architect registered in the Commonwealth of Pennsylvania.

G. A medical marijuana grower/processor must be legally registered in the Commonwealth and possess a current valid Medical Marijuana Permit from the DoH.

(Ord. 561, 6/6/1988, §820; as amended by Ord. 829, 8/7/2017)

§803. Certificate of Occupancy.

1. When Required. A certificate of occupancy shall be required whenever there is a change in the use of the lot or land or structures erected thereon, or at the completion of any structure or improvements for which a building permit has been issued or is required. No certificate of occupancy shall be issued for any building, structure, premises, lot or land unless said buildings or structures or parts thereof and the intended use thereof are in conformity in all respects with the provisions of this Chapter.

2. Relationship to Zoning Hearing Board Functions. In all matters where a decision of the Zoning Hearing Board is required under this Chapter, the decisions and findings of the Zoning Hearing Board shall direct the actions of the Zoning Officer.

3. Existing Uses. Upon written application by the owner or his authorized agent, the Zoning Officer shall issue a certificate of occupancy for any building or structure, lot or land, existing and in use at the effective date of this Chapter, provided that the Zoning Officer shall find that such building or structure, lot or land, is in conformity with the appropriate provisions of this Chapter and with all other Borough ordinances. (Ord. 561, 6/6/1988, §830)

§804. Fees. Fees for building permit and certificate of occupancy applications and for the issuance of building permits and a certificate of occupancy shall be as provided by Borough Council, from time to time, by resolution. (Ord. 561, 6/6/1988, §840; as amended by Ord. 595, 10/7/1991)

§805. Remedies.

1. 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 Chapter, the Zoning Officer, 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 of 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 that action shall be served upon the Borough at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the Borough Council. No such action may be maintained until such notice has been given.

2. Enforcement Notice.

A. If it appears to the Borough that a violation of any zoning ordinance enacted under the MPC or prior enabling laws has occurred, the Borough shall initiate enforcement proceedings by sending an enforcement notice as provided in this Section.

B. 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 that parcel, and to any other person requested in writing by the owner of record.

C. An enforcement notice shall state at least the following:

(1) The name of the owner of record and any other person against whom the Borough intends to take action.

(2) The location of the property in violation.

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

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

(5) 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 Chapter.

(6) 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.

3. Enforcement Remedies.

A. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Chapter shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than five hundred dollars (\$500.00) plus all court costs, including reasonable attorneys fees incurred by the 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 Justice. If the defendant neither pays nor timely appeals the judgment, the 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 Justice 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 (1) such violation until the fifth day following the date of the determination of a violation by the District Justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorneys' fees collected for the violation of this Chapter shall be paid over to the Borough.

B. Any person, partnership or corporation who or which has violated the provisions of the Subdivision and Land Development Ordinance [Chapter 22] of the Borough upon being found liable therefore in a civil enforcement proceeding commenced by the Borough pay a judgment of not more than five hundred dollars (\$500.00) plus all court costs, including reasonable attorney fees incurred by the 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 Justice. If the defendant neither pays nor timely appeals the judgment, the 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 Justice 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 (1) such violation until the fifth day following the date of the determination of a violation by the District Justice and thereafter each day that a violation continues shall constitute a separate violation.

C. The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.

D. Nothing contained in this Section shall be construed or interpreted to grant to any person or entity other than the Borough the right to commence any action for enforcement pursuant to this Section.

(Ord. 561, 6/6/1988; as amended by Ord. 594, 1/7/1991)

§806. Public Records. Duly certified copies of this Chapter and of the Zoning Map which forms a part hereof, together with copies of any amendments later made hereto, shall be filed in the Borough Secretary's Office and in the Zoning Officer's Office and shall be open to public inspection. (Ord. 561, 6/6/1988, §870)

§807. Exemptions.

1. This Chapter shall not apply to any existing or proposed building, or extension thereof, used or to be used by a public utility corporation if, upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public. It shall be the responsibility of the Pennsylvania Public Utility Commission to insure that both the corporation and the municipality in which the building or proposed building is located, have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties, and otherwise exercise the rights of a party to the proceedings.

2. This Chapter shall also not apply to any existing or proposed building, or extension thereof, used or to be used by the Borough of Nazareth or the Nazareth Borough Municipal Authority.

(Ord. 561, 6/6/1988; as amended by Ord. 594, 1/7/1991; and as amended by Ord. 770, 3/7/2011)