

ZONING ORDINANCE
FOR THE
BOROUGH OF MONTROSE, PENNSYLVANIA

MONTROSE BOROUGH, SUSQUEHANNA COUNTY, PENNSYLVANIA

FEBRUARY 1978

THE BOROUGH OF MONTROSE ZONING ORDINANCE

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ZONING ORDINANCE FOR THE BOROUGH OF
MONTROSE, PENNSYLVANIA

An Ordinance dividing the Borough of Montrose into districts and regulating the use of land and the location, use and density of buildings within these districts and providing for the administration and enforcement of this Ordinance.

The Borough Council of the Borough of Montrose hereby ordains and enacts as follows:

ARTICLE I - GENERAL PROVISIONS

1.100 SHORT TITLE

This Ordinance shall be known and cited as the "Borough of Montrose Zoning Ordinance".

1.200 APPLICATION OF ORDINANCE

No building, structure or land shall be used or occupied and no building or part thereof shall be erected, moved, enlarged or structurally altered unless in conformity with the regulations of this Ordinance, except that any existing building or use may be continued, maintained or repaired.

1.300 PURPOSE OF THE ORDINANCE

This Ordinance is hereby adopted in accordance with a comprehensive plan which is designed to promote public health, safety, morality and the general welfare, encourage the most appropriate use of land, conserve and stabilize the value of property, provide adequate open spaces for light and air, and to prevent the spread of fire, prevent undue concentrations of population, and lessen congestion of streets and highways.

1.400 COMMUNITY DEVELOPMENT OBJECTIVES

In pursuance to the Pennsylvania Municipalities Planning Code as amended, the following community development objectives have been established:

1. To stimulate economic growth within the community.
2. To conserve and promote the public health, safety and general welfare of the present and future inhabitants of the Borough of Montrose.
3. To provide for a variety of dwelling types and to provide housing opportunities for a side cross section of the population.
4. To sustain a high quality of neighborhoods and to protect individual property values.
5. To foster, provide and maintain a sound tax structure.
6. To preserve the natural, scenic, historic and aesthetic character of Montrose, while safeguarding it against adverse environmental impacts and controlling and regulating its orderly growth, development and maintenance.

1.500 INTREPRETATION

In the interpretation and the application of the provisions of this Ordinance, such shall be limited to the minimum requirements for the promotion of the health, safety, morals and general welfare. It is not intended to interfere with or abrogate or annul other rules, regulations or ordinances, provided that where this Ordinance imposes greater restrictions upon the use of buildings or premises, or upon the height or bulk of a building, or requires larger open spaces, the provisions of this Ordinance shall prevail.

1.600 EFFECTIVE DATE

This Ordinance shall take effect immediately subsequent to the enactment hereof.

1.700 SUPPLEMENTAL LEGISLATION

PLANNING CODE

This Ordinance hereby adopts Articles I, VI, IX, X of the Pennsylvania Municipalities Planning Code, Act 247 of 1968 as amended by Act 93 of 1972 and Acts 194 and 272 of 1974, hereinafter referred to as the Planning Code. Where any portion of the Planning Code is in conflict with any portion of this Ordinance, that portion of the Planning Code shall prevail.

CODES

The existence of a Building Code, a Property Maintenance Code, a Plumbing Code, a Fire Prevention Code, an Electrical Code, and a Code Enforcement Ordinance with existing and future amendments is hereby acknowledged.

1.800 SAVING CLAUSE AND CONFLICTS

SAVING CLAUSE: That nothing in this Ordinance hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquitted or existing under any act or ordinance hereby repealed or cited in this ordinance, nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this Ordinance.

CONFLICTS: In any case where a conflict exists between any portion of this Ordinance and any other portion of this Ordinance or of any other Ordinance, the more restrictive portion shall have precedence and shall prevail.

1.900 REPEALER

All prior ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency. In addition, the provisions of the former Zoning Ordinance adopted March 1, 1965, and all

amendments thereto, are hereby specifically repealed in their entirety; provided, however, that such repeal will in no way serve to validate as a nonconforming building or use, as defined in this ordinance, any building or use of property which was unlawful under the provisions of any former Zoning Ordinance in effect for the Borough of Montrose; and provided further that should this ordinance or any portion thereof be declared invalid for any reason, such declaration shall serve to make this repealer of no effect with regard to the provisions of said former Zoning Ordinance corresponding to the provisions declared invalid, so that said provisions of the former Zoning Ordinance shall be deemed in full force and effect.

ARTICLE 2 - DEFINITIONS

.100 APPLICABLE DEFINITIONS

Except where specified in the following definitions, all words used in this Ordinance shall carry their customary meanings. Words used in the present tense include the future; the singular number shall include the plural, and the plural the singular; the word "building" shall include the word "structure"; and the word "occupied" or "used" shall include "arranged, designed, constructed, altered, converted, rented, leased, or intended to be used"; the word "shall" is intended to be mandatory; the word "abut" shall include the words "directly across from".

Accessory Use or Structure. A use or building structure subordinate to and located on the same lot as the principal use or building and serving a purpose customarily incidental to the use of the principal building.

Alley. A public or private way affording only secondary means of access to abutting property.

Apartment. A general term referring to a multi-family dwelling.

Board. The Zoning Hearing Board of the Borough of Montrose, hereinafter referred to as "Board".

Building. Any structure having a roof supported by columns or walls, used for the shelter, housing or enclosure of persons, animals or property.

Building Height. The vertical distance of a building measured from the average level of the highest and lowest portion of the building site covered by the building to the ceiling of the uppermost story, unless otherwise specified in this Ordinance.

Building, Principal. A building in which is conducted the main or principal use of the lot on which it is situated.

Commission. The Planning Commission of the Borough of Montrose.

Condominium. An ownership arrangement with the following characteristics:

1. The unit (the interior and associated exterior areas designated for use in the development plan) is owned by the occupant.
2. The unit may be any permitted type of structure.
3. All or a portion of the exterior open space and any community interior spaces are owned and maintained in accordance with the Pennsylvania Unit Property Act of July 3, 1963 P.L. 196 and in accordance with provisions for open space, roads or other development features in the Zoning Ordinance and Subdivision and Land Use Regulations.

Council. The Borough Council of the Borough of Montrose.

District or Zone. A portion of the territory of the Borough within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

Dwelling. Any building, vehicle or portion thereof designed or used primarily as the residence or sleeping place of one or more persons. The term dwelling shall not be deemed to include an automobile court, rooming house, tourist home, hotel, hospital or nursing home.

- a. Dwelling, Single-Family. A detached building, designed for or occupied exclusively by one family.
- b. Dwelling, Two-Family. A detached or semi-detached building where not more than two individual families or dwelling units are entirely separated by vertical walls or horizontal floors, unpierced except for access to the outside or to a common cellar.

- c. Dwelling, Mobile Home. A vehicle, or part thereof, used for permanent living or sleeping quarters and standing on wheels or on rigid supports, except for a travel trailer as defined herein, and containing not more than one dwelling unit, but excluding prefabricated homes or sections thereof.
- d. Dwelling, Multi-Family. A building designed for occupancy by three (3) or more families living independently of each other, and containing three (3) or more dwelling units.

Such buildings shall consist of the following types:

1. Limited Apartments. A multi-family dwelling containing 3 to 5 dwelling units and not exceeding $2\frac{1}{2}$ stories in height.
2. Row Houses. A multi-family dwelling containing 3 to 6 dwelling units, and not exceeding $2\frac{1}{2}$ stories in height, having a solid masonry fire wall between each unit and individual separate access from the outside to each unit.
3. Garden Apartment. A multi-family dwelling containing 6 or more dwelling units and not exceeding 3 stories in height.
4. Mid-rise Apartment. A multi-family dwelling originally designed or altered for use primarily or exclusively as a residence for more than ten (10) dwelling units and being not less than four (4) stories in height.

Dwelling Unit. One (1) or more rooms, including a kitchen (or kitchenette) and sanitary facilities in a dwelling structure, designed as a unit for occupancy by not more than one (1) family for living and sleeping purposes.

Essential Services. Essential services are public utility facilities that do not require enclosure in a building, including gas, electrical, steam, telephone, or water dist-

tribution systems; and including related equipment such as poles, towers, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment.

Exception. A use which because of its unique characteristics requires individual consideration in each case by the Board and by the Commission before a zoning permit may be issued.

Family. Either an individual, or two or more persons living together as a household in a dwelling unit.

Garage, Private Parking. A building or portion thereof used for the storage of automobiles by the families resident upon the premises or by individuals residing in the immediate vicinity of such storage facilities.

Garage, Public Parking. A structure or portion thereof, other than a private garage, used for the storage, sale, hire, care, repair or refinishing of automobiles.

Home Occupation. An activity for gain customarily carried on in a dwelling or in a building or structure accessory to a dwelling, such activity being clearly incidental and secondary to the use of the dwelling for residential purposes.

Junk. Junk shall include any automobile, truck, or trailer unless within the preceding twelve months said automobile, truck or trailer did have a valid inspection sticker, and mined, processed, or manufactured goods that are worn, deteriorated, discarded or obsolete as to be unusable in their existing condition, but may be subject to being dismantled and salvaged.

Junk Yard. A place where waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packaged, disassembled or handled, including auto wrecking yards, house wrecking yards, used lumber yards and places in yards for use of salvaged house wrecking and structural steel materials and equipment, but excluding such uses when conducted entirely within a completely

enclosed building, and excluding pawn shops and establishments for the sale, purchase or storage of used cars in operable condition, salvaged machinery, used furniture and household equipment and the processing of used, discarded or salvaged materials as part of manufacturing operations.

Lot or Zone Lot. A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or utilized for a principal use and uses accessory or incidental to the operation thereof, together with such open spaces as required by this Ordinance, and having frontage on a public street.

- a. Lot, Corner. A lot situated at and abutting the intersection of two (2) streets having an interior angle of intersection not greater than one hundred thirty-five (135) degrees.
- b. Lot, Depth. The mean horizontal distance between the front and the rear lot lines.
- c. Lot Lines. The property lines bounding the lot.
 1. Lot Line, Front. The property boundary line separating the lot from the street legal right-of-way line.
 2. Lot Line, Rear. The lot line opposite and most distant from the front lot line.
 3. Lot Line, Side. Any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a side street lot line.
 4. Lot Line, Street or Alley. A lot line separating the lot from a street or alley.
- d. Lot Width. The average horizontal distance as measured between the side lot lines and parallel to the front lot line.
- e. Lot Area. The computed area contained within the lot lines.

Nonconforming Lot. Any zone lot which does not conform with the minimum width, depth or area dimensions specified for the district in which said lot is situated.

Nonconforming Use or Building. A building, structure or use existing at the effective date of this Ordinance which does not conform to the requirements of this Ordinance but which is otherwise legally existing; or a building, structure or use, planned and with construction started in compliance with existing laws prior to the effective date of this Ordinance and completed within one year following the effective date of this Ordinance, and which does not conform with the use regulations of the district in which located. No existing use or building shall be considered a nonconforming use if only the yards, area, height, coverage dimensions, or off-street parking or loading do not conform with the regulations of this Ordinance.

Nursing Home. Any governmentally-licensed premise containing sleeping rooms used by persons who are lodged and furnished with meals and nursing care.

Parking Area, Private. An open area for the same uses as a private garage.

Parking Area, Public. An open area, other than a street or other public way, used for the parking of vehicles and available to the public whether for a fee, free or as an accommodation to clients or customers.

Permitted Use. Any use which does not require special action by the Board and by the Commission before a zoning permit may be granted by the Zoning Officer.

Person. Any natural person, association, partnership, firm, corporation, society or club, whether profit or non-profit.

Professional Office. The use of office and related space for such professional services as are provided by physician, dentist, optometrist, clergyman, lawyer, teacher, author, realtor, insurance agent, accountant or other professions of like character.

Right-of-Way. Any road, street, alley, sidewalk, passageway, porch or entrance intended, regardless of ownership, to serve as an area to be utilized by the general public, either vehicular or pedestrian, providing that this area is

not enclosed within the main sidewalls and roof of a structure.

Sidewalk. A passageway for pedestrians along the side of a street.

Sign, Advertising. A sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the premises where such sign is located.

Sign, Business. A sign which identifies a business or profession conducted or a commodity, service, or entertainment sold or offered upon the premises where such sign is located.

Sign, Gross Surface Area of. The entire area within a single continuous perimeter enclosing the extreme limits of such sign and in no case passing through or between any adjacent elements of same. However, such perimeter shall not include any structural or framing elements lying outside the limits of such sign and not forming an integral part of the display. The gross surface area of any multiple face sign shall include the sum of all faces excepting in the case of a double face sign with the two faces opposite to each other. Then only one face shall be included in the computation of gross surface area.

Story. That portion of a building which is included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and ceiling next above it.

a. Story, Half. A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four (4) feet above the floor of such story.

b. Story, First. The lowest story or the ground story of any building, the floor of which is not more than twelve (12) inches below the average contact ground level at the exterior walls of the building.

Street. A public or private thoroughfare which affords the principal means of vehicular access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road and any other such thoroughfare except an alley.

Structure. Any building or facility constructed, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground, including stationary and portable carports and swimming pools.

Structural Alteration. Any change in the structural members of a building, such as walls, columns, beams or girders, except for repairs or maintenance, or any addition to any structure.

Swimming Pool. Any excavation or enclosure of other than unprocessed earthen materials which is intended or utilized for the storage of water for bathing or swimming purposes in which the depth of water stored therein exceeds two (2) feet.

Travel Trailer. A vehicle, less than 30 feet in length and customarily used for temporary living or sleeping purposes, and designed to be transported on directly-attached wheels.

Yard. An open space, as may be required by this Ordinance, on the same lot with a building, unoccupied and unobstructed from the ground upward except as herein permitted.

- a. Yard, Front. An open space extending the full width of the lot between a building and the front lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this Ordinance.
- b. Yard, Side. An open space extending from the front yard to the rear yard between a building and the nearest side lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this Ordinance.
- c. Yard, Rear. An open space extending the full width of the lot between a building and the rear lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this Ordinance.

Variance. The Board's authorized departure from the text of this Ordinance in direct regard to a hardship peculiar to an individual lot in accordance with the procedures set forth in this Ordinance.

Zoning Officer. The administrative officer charged with the duty of enforcing the provisions of this Ordinance or a duly authorized deputy.

ARTICLE 3 - ESTABLISHMENT OF ZONING DISTRICTS

3.100 Names of Zoning Districts.

The Borough of Montrose is divided into the following districts:

- R-1 Residential
- C-1 Commercial
- I-1 Industrial
- M-1 Medical
- D-1 Redevelopment
- X-1 Office, Institutional, Professional

3.200 Zoning Map.

The location and boundaries of these districts are established as shown on the attached Zoning Map of the Borough of Montrose, dated February, 1978. The Zoning Map is hereby made a part of this Ordinance, together with all future notations, references, and amendments.

3.300 Interpretation of Boundaries.

If uncertainty exists as to the boundary of any district shown on the Zoning Map, the Zoning Hearing Board shall determine the location of such boundary.

ARTICLE 4 - BASIC DISTRICT REGULATIONS

4.100 Basic Regulations.

The basic regulations governing the use of land, the size of lots, yards and buildings within each Zoning District are established in this Article. For certain specific uses or exceptional situations, these basic regulations are supplemented by other provisions of this Ordinance.

Regulations Governing The Use of Land. Regulations governing the use of land within the various Zoning Districts shall be as set forth in Schedule I.

Regulations Governing the Size of Lots, Yards and Buildings. Regulations governing the size of lots, yards, and buildings in the various Zoning Districts for Permitted Uses shall be as set forth in Schedule II.

4.200 Uses In Zoning Districts.

Permitted Uses. Uses listed as "Permitted Uses" in Schedule I shall require no special action by the Board or by the Commission before a zoning permit may be granted by the Zoning Officer.

Exceptions. Uses listed as "Exceptions" in Schedule I shall require individual consideration in each case because of their unique characteristics. Such "Exceptions" may be permitted only upon authorization by the Board, subject to certain conditions and safeguards, as provided for herein and after review by the Commission.

SCHEDULE I

REGULATIONS GOVERNING THE USE OF LAND

<u>USE CLASS</u>		<u>ZONING DISTRICT</u>					
		R-1	C-1	I-1	M-1	D-1	X-1
Permitted Uses	1. Residential	x				x	x
	2. Light Commercial		x	x		x	
	3. Heavy Commercial and Limited Industrial			x			
	4. General Industrial			x			
	5. Customary Accessory Uses and Essential Services	x	x	x	x	x	x
	10. Medical Services				x		
	11. Office Services		x	x		x	x
Exceptions	6. Mobile Home Park			x			
	7. Apartments and Conversions	x	x			x	x
	8. Related Residential Uses	x	x			x	x
	9. Appropriate Public Uses	x	x	x	x	x	x

Note: "x" indicates that the Use Class is permitted in the District.

SCHEDULE II

REGULATIONS GOVERNING THE SIZE OF
LOTS, YARDS AND BUILDINGS FOR PERMITTED USES

<u>TYPE OF REGULATION</u>	<u>ZONING DISTRICT</u>					
	<u>R-1</u>	<u>C-1</u>	<u>I-1</u>	<u>M-1</u>	<u>D-1</u>	<u>X-1</u>
<u>Minimum Lot Size</u>						
Area (Sq. Ft.)	15,000	4,000	10,000	4,000	2,000	2,000
Width (Ft.)	100	40	100	40	40	40
Depth (Ft.)	150	100	100	100	50	50
<u>Minimum Yards</u>						
Front (Ft.)	25	10	25	10	10	25
Rear (Ft.)	30	20	20	20	10	20
Each Side (Ft.)	15	0	15	0	0	10
Side abutting R-1 (Ft.)	-	10	-	-	0	-
<u>Maximum Height</u>						
No. of Stories	2½	3	3	3	5	3
Feet	35	40	35	35	55	35
Maximum Building Coverage (%)	40	60	50	60	60	60

4.300 Use Classes.

"Use Classes" are hereby established as shown in Schedule I. The specific uses included in each Use Class are outlined below. None of these uses shall be permitted in any district if it is to be operated in such a manner so as to create any dangerous, injurious, noxious or otherwise objectionable, fire, explosive, radioactive or other hazard; noise or vibration; smoke, dust, dirt, air or other form of pollution; electrical, glare or other disturbance which will adversely affect the surrounding area or premises.

Use Class 1. Residential. Includes single family detached and two family dwellings.

Use Class 2. Light Commercial. Includes retail business establishments, customer service establishments, commercial recreation entertainment establishments and commercial education establishments serving the entire Borough. Such establishments shall be carried on in a completely enclosed building except for off-street parking and loading facilities and auto service stations.

Retail business establishments include shops selling food, drugs, cigars, candy, clothing and clothing accessories, newspapers, books, stationery, dry goods, hardware, paint, variety goods, household goods and appliances, flowers, agricultural nurseries and greenhouses, package liquor, photo supplies, garden supplies, artist and hobby supplies and sporting goods, specialty and gift items, furniture, and office supplies.

Customer service establishments include shops engaged in the repair of household, clothing and appliance items, barber and beauty shops, tailor shops, pick-up stations and self service establishments for the dry cleaning and laundering of clothes, business offices, and eating and drinking establishments, gymnasiums and physical health salons, photographic studios, medical centers, banks and financial institutions, hotels and motels, auto supply stores, auto service stations, funeral homes, and rooming houses.

Commercial recreation and entertainment establishments include theaters, cultural establishments, bowling alleys, skating rinks, billiard parlors, social halls, clubs and lodges.

Commercial education establishments include schools for the study of business, technical trades, art, music, dancing and photography.

Use Class 3. Heavy Commercial and Limited Industrial.

Includes heavy commercial and limited industrial uses serving the entire Borough.

Heavy Commercial Uses, which shall be carried on in a completely enclosed building, except for off-street parking and loading facilities include wholesale business, storage and warehousing establishments, truck and freight terminals, delivery and distribution centers, wholesale produce and meat markets, mechanical and vehicle equipment repair establishments, dry cleaning and dyeing plants, carpet and rug cleaning establishments, laundries, sign painting, automatic car wash, blue-printing, and graphic reproduction shops, printing and publishing establishments, radio and television studios and transmission or receiving towers, animal hospital and veterinary clinics and animal kennels.

Heavy Commercial uses which do not require complete or partial enclosure in a building include building materials and fuel storage, new and used machinery storage and sales, vehicle and trailer sales and storage, farm equipment and construction machinery establishments, monument works, auto service stations.

Limited Industrial Uses which shall be operated by less than 50 employees and which shall be carried on in a completely enclosed building, except for off-street parking and loading facilities include woodworking, furniture and upholstery shops, machine and sheet metal shops, welding and electrical shops, plumbing and other similar shops.

Use Class 4. General Industrial. Includes general industrial uses which shall be carried on in a completely enclosed building and which include the storage, manufacture, assembly, packing or testing of products from raw materials and from other previously prepared materials.

Use Class 5. Customary Accessory Uses and Essential Services.

Includes accessory uses which are customarily subordinate to the principal use of a building located on the same lot, and which serve a purpose customarily incident to the use of the principal building shall be permitted in each District. Such uses allowed include home occupations, home gardening, keeping of household pets, nurseries and greenhouses and professional offices of persons residing on the premises, private garages or parking areas, signs, off street parking and loading, temporary tract offices, travel trailers and buildings and other uses customarily appurtenant to other permitted uses or exceptions.

Uses not permitted are the raising or keeping of livestock, poultry or other animals for any commercial purpose or the outdoor storage of equipment or refuse.

Also includes essential services for public utilities that do not require enclosure in a building including gas, electrical, steam, telephone, or water distribution systems; and including related equipment such as poles, towers, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment. The utilities that apply should conform to the height regulations of the zoning district in which they are proposed.

Use Class 6. Mobile Home Parks. Includes the development of mobile home courts planned as a unit.

Use Class 7. Apartments and Conversions. Includes the conversion of buildings or portions of buildings into dwellings; new multi-family dwelling structures.

Use Class 8. Related Residential Uses. Includes funeral homes, nursing and convalescent homes, rooming houses and nurseries for the day care of young children.

Use Class 9. Appropriate Public Uses. Includes public and quasi-public uses of a welfare, educational, religious, recreation and cultural nature, and religious homes accessory to such uses.

Use Class 10. Medical Services. Includes hospitals, nursing homes, extended care units, doctors' offices, clinics, laboratories, direct supportive and similar services, and parking facilities for vehicles.

Use Class 11. Office Services. Includes offices for: business, professional, governmental, civic, social, fraternal, political, private clubs, lodges, religious and charitable organizations; libraries; medical and dental offices, clinics and laboratories, and customary accessory uses to the above.

4.400 REGULATIONS GOVERNING EXCEPTIONS

Exceptions enumerated in this Ordinance and in Schedule I shall require individual consideration in each case and may be permitted only after review by the Commission and upon authorization by the Board.

Exceptions shall comply with the provisions of this section and may be permitted by the Board subject to any additional conditions and safeguards which may be warranted by the character of the area in which such uses are proposed or by other special factors.

Exceptions shall not cause substantial injury to the value of other property in the proximity of where it is to be located; shall conform with regulations applicable to the District where located; shall be compatible with adjoining development; shall provide adequate landscaping and screening; shall provide off-street parking and loading so as to minimize interference with traffic on the local streets and shall not jeopardize the public health, safety, welfare and convenience.

The following regulations shall apply to Exceptions which are authorized by the Board.

Mobile Home (Use Class 6)

All mobile home parks or courts shall be located on tracts of land at least six acres in size. Such mobile home parks shall comply with all the Ordinances of the Borough of Montrose.

Apartments and Conversions (Use Class 7)

All conversions shall have at least one off-street parking space per dwelling unit and each unit shall have adequate light, air, heating and plumbing facilities and shall have at least 3000 square feet of lot area and 600 square feet of floor area for each dwelling unit, but no converted building shall have more than a total of four dwelling units. All dwellings shall be served with public water and sewer facilities and all, excepting mid-rise apartments, shall have at least one and one-half off-street parking spaces per dwelling unit and shall comply with the following minimum requirements. Mid-rise apartments are hereby excepted from the above parking requirement.

REGULATIONS FOR MULTI-FAMILY DWELLINGS

TYPE OF REGULATIONS	LIMITED APARTMENTS OR ROW HOUSES	GARDEN APARTMENTS	MID-RISE APARTMENTS
<u>Minimum Lot Size</u>			
Area (Sq. Ft.)	7,500	12,000	12,000
Width (Ft.)	75	100	80
Depth (Ft.)	100	120	100
<u>Lot Area Per Dwelling Unit</u>			
Square Feet	2,500	2,000	400
<u>Minimum Yards</u>			
Front Yard (Ft.)	25	25	10
Rear Yard (Ft.)	30	30	10
Each Unattached Side Yard (Ft.)	10	15	0
<u>Maximum Height</u>			
No. of Stories	2½	3	5
Feet	35	40	55
<u>Maximum Building Coverage (%)</u>	60	50	60

Mid-rise apartments shall be located only in a D-1 district and may include within the structure, but limited to not more than 10% of the total floor area, retail business establishments or customer service establishments as set forth in Use Class 2, or office services as set forth in Use Class 11.

Related Residential Uses (Use Class 8)

Funeral homes, nursing and convalescent homes, rooming houses, day nurseries, nursery schools, pre-kindergarten or other activity providing care of young children shall comply with the following:

- a. Except for a sign, there shall be no external evidence of any gainful activity.
- b. Any such use shall have sufficient off-street parking to serve the anticipated number of users and employees and shall have suitable street access without causing congestion of traffic on local residential streets.
- c. All such buildings shall conform to the minimum Lot Size, Minimum Yards, Maximum Height and Maximum Building Coverage Regulations specified in Schedule II for Zone R-1.

Appropriate Public Uses (Use Class 9)

Any appropriate Public Use permitted by the Board as an Exception shall be appropriate to the character of the District in which it is proposed and to the area which it will serve. Such Appropriate Public Uses shall have adequate access, shall provide off-street parking and loading as specified herein and shall comply with the following lot, yard and building regulations:

REGULATIONS FOR APPROPRIATE PUBLIC USES

<u>REGULATION</u>	<u>APPROPRIATE PUBLIC USES</u>
Minimum Lot Size (Sq. Ft.)	10,000
Minimum Yards (Feet)	
Front Yard	25
Rear Yard	20
Each Side Yard	15
Maximum Height	
No. of Stories	3
Height in Feet	40
Maximum Building Coverage(%)	60

ARTICLE 5 - SUPPLEMENTARY DISTRICT REGULATIONS

5.100 PERMITTED DEVIATIONS FROM REQUIRED AREAS

The minimum lot, yard and height requirements of this Ordinance shall prevail in all cases, except as follows:

Height Limitations. District height limitations shall not apply to parapet walls extending not more than four (4) feet above the limiting height of the building, church spires, cupolas and domes, monuments, water towers, chimneys, smoke-stacks, silos, flag poles, utility poles, radio, television and utility towers, masts and aerials.

Front Yard Exception. When an unimproved lot is situated between two improved lots, each having a principal building within 20 feet of the side lot line of the unimproved lot, the front yard may be reduced to a depth equal to that of the greater front yard of the two adjoining lots; provided, however, that it may not be reduced to below 10 feet, and provided that no building shall be set closer than 25 feet from the center of any street.

Projections Into Yards. Projections into required yards shall be permitted as follows, except that in no case shall a structure or projection be located closer than 7 feet to any side or rear lot line or 10 feet to any front lot line.

- a. Bay windows, carports, fire places, fire escapes, chimneys, uncovered stairs and landings, and balconies and cornices, canopies, eaves, or other architectural features not required for structural support may project into the required front or rear yard not more than a total of three (3) feet.
- b. Porches may project into the required front and rear yards up to ten (10) feet.
- c. Patios may be located in the required side and rear yards not closer than seven (7) feet to any adjacent property line, and may project into front yards up to ten (10) feet.

5.200 UNIQUE LOTS AND BUILDING LOCATIONS

Two or More Buildings on a Lot. Two or more principal buildings located on a parcel in single ownership shall conform to all the requirements of this Ordinance which would normally apply to each building if each were on a separate zone lot.

Through Lots. Where a single lot under individual ownership extends from one street to another parallel or nearly parallel street or alley, the Commission shall decide which street will be considered as the front street. No principal structure shall be erected on the rear of the lot, except as specified herein this Ordinance.

Lots Fronting on an Alley. Individual lots, existing at the effective date of this Ordinance and fronting on an alley, shall comply with all the requirements of this Ordinance and the District in which said lots are located.

Side Yard of a Corner Lot. The side yard of a corner lot which abuts a street, shall be equal to the required front yard for that street.

Corner Lots. No obstruction to vision (other than an existing building, post, column, or tree) exceeding 30 inches in height shall be erected or maintained on any lot within the triangle formed by the street intersection, created by the maintenance right-of-way line of each street extended to a point, and a line drawn between two points each located 30 feet from the street intersection.

5.300 ACCESSORY STRUCTURES AND USES

Accessory Structures. All accessory structures shall conform with the minimum yard regulations established heretofore, except as permitted below:

a. Unattached Structures Accessory to Residential Buildings.

Structures accessory to residential buildings which are not attached to a principal structure may be erected within the required side and rear yards of a principal structure provided that they conform with the following:

1. Maximum Height - One and one-half stories or 15 feet in height.
2. Distance from Side Lot Line - Not less than 7 feet from the side lot line, except in the case of corner lots where the full side yard as specified above shall be maintained.
3. Distance from Rear Lot Line - No less than 7 feet from the rear lot line.
4. Distance from Principal Structure - Not less than 10 feet from a principal structure.

b. Unattached Structures Accessory to Non-Residential Buildings. Such accessory structures shall comply with front and side yard requirements for the principal structure and shall have a minimum rear yard of at least 10 feet.

Home Occupations. A home occupation shall conform to the following regulations;

- a. The home occupation shall be carried on wholly within the dwelling or other structure accessory thereto.
- b. The only external evidence of the home occupation shall be a sign not exceeding one and one-half (1½) square feet in area.
- c. The home occupation shall be carried on only by the members of the immediate family residing in the dwelling who may not employ more than two (2) additional non-resident persons to assist in the conduct of said home occupation.

- d. Home occupations shall not include the following; animal hospitals, pet shops, commercial stables, kennels, restaurants or tourist homes, rooming, boarding or lodging houses for more than two (2) persons.
- e. No exterior storage of merchandise, materials, equipment or supplies shall be permitted.
- f. No external alterations, additions or changes to the structure shall be permitted to accommodate or facilitate the home occupation.
- g. The floor area devoted to the home occupation shall not exceed 25% of the ground floor area of the principal residential structure or 400 square feet, whichever is less.
- h. No home occupation shall be permitted which alters the residential appearance of the area or creates any objectionable condition or any disturbance which may adversely affect the surrounding area or premises.

Private Parking Areas and Garages. Accessory off-street parking areas or garages serving the residential or non-residential parking demand created by the principal building are permitted in accordance with this article. Said parking areas may be located in any required front, side or rear yard. Accessory garages shall conform with requirements for accessory structures.

Home Gardening, Nurseries and Greenhouses. Home gardening and accessory structures used for agricultural nurseries or as greenhouses are permitted in residential areas, provided that they shall not include the outdoor storage of equipment or supplies or refuse.

Refuse. The storage of refuse, waste or garbage exterior to a structure for a period of more than 24 hours is hereby prohibited, excepting that the use of metal storage bins commercially designed and manufactured specifically for the mechanized handling of such materials shall be permitted.

5.400 SIGNS

General. Business and advertising signs are prohibited except as herein provided.

Business and Advertising Signs. One or more business or advertising signs in the commercial and industrial districts are permitted, provided that such signs shall not have a combined gross surface area in square feet exceeding two times the frontage of the lot on which they are located, and in no case shall any single sign exceed two hundred (200) square feet. In residential districts existing business or advertising signs shall not be enlarged or altered, but may be maintained.

Business Signs. Signs that primarily identify a business accessory to nonresidential uses located in R-1 or X-1 districts are permitted provided they do not exceed ten (10) square feet in size. The number of signs shall be restricted to one to each property or dwelling unit to which it pertains, except that properties located on corner lots may have one sign facing each street.

Location of Signs. Permitted signs may be located only in any required yard or on a structure wall, and shall conform to the height limitations of the District in which they are located. Signs in any District shall not project by more than 12 inches into or over any public right-of-way, sidewalk or street, nor from the face of the building by more than 12 inches.

Illumination. No illuminated sign shall create excessive glare or brightness which may adversely affect abutting properties or create a nuisance or hazardous condition. Flashing or rotating or moving signs, or signs designed to provide the effect of motion, movement or flashing are prohibited.

Temporary Signs. Any sign of a temporary nature, such as those advertising civil, social, political, religious or like activities or functions, including signs designed to advertise one or more political candidates, shall be permitted providing that the sign be removed by the installer

or those responsible for the erection of such sign within ten (10) days after the event on the sign occurs, providing that no such sign shall remain erected for more than 60 days. The advertising sign of any owner, realtor or agent indicating that any specific piece of real estate is for sale, lease or rent, providing that the sign be posted upon the same piece of real estate, shall be considered a temporary sign and is permitted. However, such sign shall include a notice indicating the zoning district in which the said real estate is included, such notice being provided by the Borough at no cost to the property owner or realtor or agent. The design, size and material of said notice shall be as determined by the Borough.

5.500 OFF-STREET PARKING AND LOADING

Off-Street Parking. Off-street parking spaces shall be provided as set forth in the following table whenever any building is erected or enlarged except in C-1 district where no off-street parking facilities are required. Such spaces shall have an area of at least 200 square feet and shall have adequate and well designed ingress and egress and shall be located on the same lot as the use to which they are accessory or within a radius of 400 feet therein.

REGULATION FOR OFF STREET PARKING SPACES

Type of Use	Provide Parking Spaces in Ratio of One Space to Each
1. Retail Store, Services, Offices	300.00 sq. ft. of gross bldg. floor area
2. Restaurants, Taverns, Night Clubs	2.5 seats
3. Medical or Dental Clinics	0.5 employees working at one time (max.)
4. Motels	1.0 room
5. Churches, Theaters, Auditoriums and places of assembly	6.0 seats
6. Manufacturing and Wholesale Establishments	2.0 employees
7. Public Schools	17.0 classroom seats
8. Bowling Alley	0.2 alleys

9.	Community Buildings and Social Halls	100.0	sq. ft. of bldg.
10.	Private or Commercial Schools	10.0	classroom seats
11.	Hospitals or Nursing Homes	2.0	beds
12.	Single-family Dwelling Units and conversions	1.0	dwelling unit
13.	Multi-family Dwelling Units-Non Elderly	0.66	dwelling unit
14.	Multi-family Dwelling Units-Elderly/Handi-capped	0.25	dwelling unit
15.	Rooming Houses	1.5	roomers
16.	Funeral Homes	0.2	parlors

Off-Street Loading. Every commercial or industrial building which requires the receipt or distribution by vehicles of material or merchandise shall provide one (1) off-street loading space for each 25,000 square feet of gross building floor area, and each such space shall be at least 250 square feet in area.

5.600 NONCONFORMING USES, BUILDINGS AND LOTS

Any legal nonconforming use or building may be continued, repaired, maintained, restored and rebuilt, and improved except as provided below;

- a. Such nonconforming use may not be enlarged more than 25 percent of the existing floor area and/or lot area, and only one such enlargement shall be permitted.
- b. If a nonconforming use of a building or land is abandoned for a continuous period of six (6) months, subsequent use of such shall be only in conformity with the provisions of this Ordinance. For the purposes of this Ordinance, abandonment shall begin when the nonconforming use ceases.

Existing Nonconforming Lots. In any zone where a non-conforming lot exists as a separate entity at the time of passage of this Ordinance, and where the owner of the nonconforming lot does not own an adjoining lot, then the following development is permitted:

- a. If the lot is located in an R-1 District, a single-family dwelling may be constructed on it as a permitted use, provided that the lot is in at least 50 percent compliance with each of the following requirements for the single-family dwelling, as specified in the District in which the lot is located: lot area, lot width, rear yard, side yard, and maximum building coverage.
- b. If the lot is located in the C-1, or I-1 district, then a structure not exceeding two stories in height may be constructed on it, for a use permitted in the District in which it is located, as shown on Schedule I, provided that the off-street parking and loading requirements of this Ordinance shall be complied with and that the front, side and rear yards are in keeping with the surrounding area, except that a side yard of at least 10 feet shall be required whenever such a use abuts an existing residential use or a residential district.

5.700 CONFORMING USES AND BUILDINGS

Any conforming use or building may be repaired, maintained, restored or rebuilt to the same dimensions existing at the time that the structure was originally constructed.

Any enlargement or addition to any conforming use must comply in all respects with the regulations of this Ordinance.

5.800 EXCAVATIONS

Any excavations for the removal of topsoil, gravel or mineral deposits of any kind, must be enclosed by a fence located at least ten (10) feet from the sides or perimeter of the excavation. All such excavations must be adequately drained to prevent the formation of pools of water. The side walls of all such excavations shall slope at an angle no steeper than one foot of vertical distance for each two feet of horizontal distance.

ARTICLE 6 - SWIMMING POOLS

6.100 ENCLOSURES

No person maintaining a swimming pool within the Borough shall continue to maintain such pool unless access to the same shall be restricted by protective fencing, as shall be approved by the Zoning Officer. The enclosure of existing facilities, as provided for herein shall be accomplished within sixty (60) days of the date of notification issued by the Zoning Officer.

Fencing Requirements.

No person shall henceforth construct a swimming pool or maintain a swimming pool constructed hereafter within the Borough unless the same shall be entirely surrounded by a substantial wire mesh or solid fence. Such fence shall be not less than forty-two (42) inches nor more than six (6) feet in height and shall contain no vertical interspace of more than two (2) inches and no horizontal rail or component on the outside usable as a footstep, and shall satisfy the following minimum requirements:

- a. Wood picket, three-fourths inch stock.
- b. Iron picket, one-half inch iron bar.
- c. Chain link, vertical chains shall be eleven-gauge minimum wire and a maximum of two (2) inches apart.
- d. Woven or other solid fence, strength shall be equivalent to one (1) of the foregoing, satisfactory to the Zoning Officer.
- e. All gates in such fence shall be secured by a lock when the owner or tenant is absent from the premises and by an effective safety latch at all other times.
- f. A dwelling or accessory building may be used as a part of the required enclosure.
- g. Any mechanical equipment, such as pumps, filters or electrical devices, which is part of a pool facility

shall be within the enclosure or shall be similarly enclosed so as to forestall persons from gaining access by climbing over such equipment.

6.200 LOCATIONS AND SETBACKS

- a. No swimming pool may be located in any required front yard nor shall it be less than ten (10) feet from:
 - (1) any main building, including any basement or cellar.
 - (2) any property line.
- b. A swimming pool may be located in the side yard, provided that the location meets the requirements for an accessory building. Accessory buildings, such as locker rooms, bathhouses, cabanas, shower rooms, toilets and other physical facilities or equipment incident to the operation of any private swimming pool, shall conform to the requirements of building, zoning and other applicable regulations.

6.300 SAFETY

- a. Every swimming pool shall be equipped with life rings, life preservers or other flotation devices readily available and functional for emergency use.
- b. Any mechanical equipment, such as pumps, filters and electrical devices, shall be adequately enclosed so as to protect all persons from electrical shock and physical injury.
- c. No exposed electrical wires shall be nearer than six (6) feet to the water's edge, nor shall any exposed and permanently installed electrical wire within twenty-five (25) feet from the water's edge of the pool be less than ten (10) feet above the ground, nor shall wires of any kind cross or be over the water surface unless otherwise approved by the Zoning Officer. Any underwater lighting shall be accomplished by the use of methods and materials approved for such purposes by the National Board of Fire Underwriters.

- d. The buildings, grounds, dressing rooms and all other swimming pool facilities shall be kept clean and in a sanitary condition and maintained free from garbage, trash and other refuse.

6.400 DRAINAGE AND DISCHARGES

- a. There shall be no discharge or drainage of water from a private swimming pool until the Zoning Officer has determined that the method or manner of emptying the pool is not contrary to the public interest or maintenance of the public sanitary sewer system or storm sewer system, or to the interests of other property owners.
- b. The discharge of water into a sanitary sewer system shall be prohibited.

6.500 GENERAL

- a. Location restrictions. No swimming pool shall be so located, designed, operated or maintained as to interfere unduly with the enjoyment of their property rights by occupants of property adjoining the swimming pool. The Zoning Officer may condition the issuance of a Zoning permit on such reasonable conditions as may be deemed proper on the location, design, operation and maintenance to effectuate the purposes of this Ordinance.
- b. Lighting restrictions. It shall be unlawful for any person to install, arrange, use or permit to be used any light to illuminate a swimming pool without arranging and shading such light so as to reflect such light away from neighboring premises so not to disturb the peace and comfort of the neighboring property owners or their property.
- c. Vacant residences. All swimming pools shall be drained and maintained free of water or safely covered during the period that the property is vacant or unoccupied. This subsection shall not be applicable during reasonable temporary absences by the owner or operator of any swimming pool.

- d. Polluted water. No body of water, whether it be a natural or artificial body of water, in the Borough shall be used for swimming or bathing purposes, by any person or persons, which contains sewage, waste or other contamination or polluting ingredients rendering the water hazardous to the health, safety or welfare of such person or persons.

ARTICLE 7 - ADMINISTRATION AND ENFORCEMENT

7.100 GENERAL PROCEDURE

General Sequence of Steps. All persons desiring to undertake any new construction, structural alterations or changes in the use of a structure, building or lot, including the construction of a swimming pool, shall apply to the Zoning Officer for a Zoning permit by filling out the appropriate application form and by submitting the required fee. The Zoning Officer will then either issue or refuse the Zoning permit or refer the application to the Board. After the Zoning permit has been received by the applicant, he may proceed to undertake the action permitted by the Zoning Officer and upon completion of such action shall apply to the Zoning Officer for an Occupancy Permit. If the Zoning Officer finds that the action of the applicant has been taken in accordance with the Zoning Permit, he will then issue an Occupancy Permit allowing the premises to be occupied.

Zoning Permit Types. Under the terms of this Ordinance the following classes of Zoning Permits may be issued:

- a. Permitted Uses. A Zoning Permit for a Permitted use may be issued by the Zoning Officer on his own authority.
- b. Exceptions. A Zoning Permit for an exception may be issued by the Zoning Officer only after review by the Commission and upon the order of the Board.
- c. Zoning Permit After an Appeal or a Request for a Variance. A Zoning Permit may be issued by the Zoning Officer upon the order of the Board and after a public hearing held by the Board for the purpose of deciding upon an appeal or a request for a variance.

7.200 ZONING OFFICER

Office of Zoning Officer Hereby Created. The appointment of a Zoning Officer and one or more Deputy Zoning Officers is hereby authorized. Any Deputy Zoning Officer shall have duties and powers of enforcement equivalent to the Zoning Officer, and herein may be referred to as the Zoning Officer.

This Ordinance shall be enforced by the Zoning Officer, or, in his unavailability or absence by one or more Deputy Officers. Borough Council shall appoint said Zoning Officer and Deputy Officers and shall determine their compensation.

Duties and Powers. The Zoning Officer shall receive and examine all applications required under the terms of this Ordinance and shall issue or refuse permits within five days of the receipt of the application. The Zoning Officer shall issue a written notice of violation to any person, firm, or corporation violating any provisions of this Ordinance. He shall keep records of applications, of permits or certificated issued, or variances granted, of inspections made, of reports rendered and of notice or orders issued, and shall make all required inspections and perform all other duties as called for in this Ordinance. The Zoning Officer shall also identify and register nonconforming uses and nonconforming structures.

7.300 ZONING HEARING BOARD

Board is Hereby Created. The Borough Council does hereby create a Zoning Hearing Board as provided for by the laws of the Commonwealth of Pennsylvania: the Act 247 as amended. Said Act, being herein adopted as a part of the Ordinance, provides also for functions and procedures of this Board.

Appointment of Members. The Board shall consist of three (3) members to be appointed by Council. The Board in existence at the adoption of this Ordinance shall continue to serve as the Board. An appointment to fill a vacancy caused by the failure of an appointee to complete a term of service shall be only for the unexpired portion of the term.

Duties and Powers. The Board shall be responsible for the interpretation of this Ordinance, and shall adopt, and make available to the public, rules for the exercise of its functions. The duties and powers of the Board shall be to hear and decide appeals where it is alleged that an error has been made in the enforcement of this Ordinance, hear and decide requests for exceptions or conditions and variances. The Board shall perform such other duties as may be provided or made necessary by this Ordinance including the interpretation of boundaries, the holding of public hearings, the referral of any pertinent matter to the Commission for review and recommendation, and the maintenance of records on all decisions and findings.

Referral to Commission. The Board shall refer to the Commission all applications or appeals which in the opinion of the Board, require review by the Commission. In its review, the Commission shall in the case of Exceptions, determine compliance with the standards set forth in this Ordinance, and in all cases shall report in writing its findings and recommendations to the Board within thirty (30) days.

7.400 ZONING AND OCCUPANCY PERMITS AND CERTIFICATES

Zoning Permits. The purpose of the Zoning Permit is to determine compliance with the provisions of this Ordinance and except for the repair or maintenance of any structure or use no person shall erect, alter or convert any structure, building, or part thereof, nor alter the use of any land until a Zoning Permit has been issued by the Zoning Officer. All applications for Zoning Permits shall be in writing on forms to be furnished by the Zoning Officer. Zoning Permits shall be issued in duplicate and one (1) copy shall be kept conspicuously on the premises and no person shall perform building operations of any kind unless the Zoning Permit is displayed as required by this Ordinance. The Zoning Officer or the Board may revoke a Zoning Permit at any time if it appears that the application is in any material respect false or misleading, or that work being done upon the premises differs materially from that called for in the application.

Life of a Permit. Any erection, construction, reconstruction, alteration or moving of a building or other structure including a sign which is authorized by a Zoning Permit shall be commenced and any change in use of a building on land authorized by a Zoning Permit shall be undertaken within six (6) months after the date of issuance of the permit; if not, the permit shall be considered null and void. However, in case of erection or construction of a building, the right to proceed with construction may be extended annually without additional fees for an aggregate period of not more than three (3) years, provided the construction pursuant to said permit has commenced within the first one (1) year period.

Occupancy Permits. The purpose of an Occupancy Permit is to certify that the premises comply with the provisions of this Ordinance and may be used for the purposes set forth in the Occupancy Permit. Prior to the use or occupancy for which a Zoning Permit is required, or for any change of use of any existing building or for any change of use of land, an Occupancy Permit shall be secured from the Zoning Officer. A copy of the Occupancy Permit shall be kept upon the premises, and shall be displayed upon request made by any officer of the Borough. All applications for Occupancy Permits shall be in writing on forms to be furnished by the Zoning Officer.

Certificate of Nonconforming Use. The owner of the premises occupied by a lawful nonconforming use or building may secure a Certificate of Nonconforming Use from the Zoning Officer. Such Certificate shall be authorized by the Board and shall be for the purpose of insuring to the owner the right to continue such nonconforming use.

VARIANCES

Board May Authorize Variance. Upon appeal, and after a public hearing, the Board may for a use permitted in the zone district, vary the strict application of any of the requirements of this Ordinance, provided that said variance shall be in the case of exceptionally irregular, narrow,

shallow, or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case. The sole purpose of any variance shall be to prevent discrimination, and no variance shall be granted which would have the effect of granting a special privilege not shared by other property in the same vicinity and zone.

Required Showing for Variances. No variance in the strict application of any provision of this Ordinance shall be granted by the Board unless it finds special circumstances or conditions, applying to the land or buildings in the neighborhood, that said circumstances or conditions are such that the strict application of the provisions of Ordinance would deprive the applicant of the reasonable use of such land or building, that the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board, is the minimum variance that will accomplish this purpose, and that the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and district in which the property is located.

7.600 APPEALS AND PUBLIC HEARINGS

Appeal from Decision of Zoning Officer. Any person, firm or corporation which deems itself aggrieved by any order of the Zoning Officer shall have the right to file a written appeal to the Board within twenty (20) days of the issuance of said order. The Board shall decide each appeal within 45 days, and shall give notice to all parties in interest. The Board's decision shall be immediately filed in its office and be a public record.

Expiration of Appeal Decision. Unless otherwise specified by the Board, a decision on any appeal or request for a variance shall expire if the applicant fails to obtain any necessary Zoning Permit, or comply with the conditions of said authorized permit within six (6) months from the date of authorization thereof.

Appeal from Decision of Board. In case of an appeal from the Board to the Court of Common Pleas, the Board shall make the return required by law, and shall promptly notify the Borough Solicitor of such appeal and furnish him with a copy of the return including transcript of testimony. Any order of the Board not appealed within 30 days shall be final.

Stay of Proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Officer certified to the Board, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate stay would, in his opinion, cause imminent peril to life of property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board after notice to the Zoning Officer.

Information Required on Appeals to the Board. All appeals from a decision of the Zoning Officer and applications to the Board shall be in writing on forms prescribed by the Board. Every appeal or application shall include the following:

- a. The name and address of the applicant, or appellant.
- b. The name and address of the owner of the zone lot to be affected by such proposed change or appeal.
- c. A brief description and location of the zone lot to be affected by such proposed change, or appeal.
- d. A statement of the present zoning classification of the zone lot in question, the improvements thereon and the present use thereof.
- e. A statement of the section of this Ordinance under which the appeal is made, and reasons why it should be granted, or a statement of the section of this Ordinance governing the situation in which the alleged erroneous ruling is being appealed, and the reasons for this appeal.

- f. A reasonably accurate description of the present improvements, and the additions or changes intended to be made under this application, indicating the size of such proposed improvements, material, and general construction thereof. In addition, there shall be attached a plot plan of the real property to be affected, indicating the location and size of the lot and size of improvements thereon and proposed to be erected thereon.
- g. Names and addresses of all those persons owning property adjoining or across adjoining streets from the property to which the appeal pertains.

Public Hearings to be Held by Board. Upon the filing with the Board of an appeal or a request for a variance as required by the terms of this Ordinance, or for such purposes as provided herein where the Board deems it in the public interest, the Board shall fix a time and place for a public hearing thereof as follows:

- a. Public Notice. By publishing a notice once each week for two successive weeks in a newspaper of general circulation in the Borough, such notice stating the time and place of the hearing and the particular nature of the matter to be considered at the hearing, with the first publication to be not more than thirty (30) days or less than fourteen (14) days from the date of the hearing.
- b. Notice to Appellant. By mailing a notice thereof by mail with returned receipt to the appellant.
- c. Notice to Local Officials. By mailing a notice to the President of Council, the Commission, and the Borough Secretary.
- d. Notice to Interested Parties. By mailing a notice thereof to every association of residents of the Borough, and any other interested party who shall have registered their names and addresses for this purpose with the Board and to those persons whose property or properties adjoin or are across rights-of-way from the property to which the hearing pertains.

- e. Nature of Notice. The notice shall state the location of the building or lot in question and the general nature of the question involved.

7.700 AMENDMENTS

The enactment of amending ordinances to this Zoning Ordinance and procedures for such enactment are provided for in Act 247 of 1968, as amended, said Act being adopted herein as a part of this Ordinance.

7.800 VIOLATIONS

Council May Initiate Appropriate Action. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of the Ordinance, or of any ordinance of regulation made under authority conferred hereby, the Borough Council, or, with its approval, the Zoning Officer, in addition to other remedies, shall institute any appropriate action of proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation within thirty (30) days and to prevent any illegal act, conduct, business, or use in or about such premises.

Violation Punishable. Any person, firm, or corporation, violating any provision of this Ordinance, after being served with 10 days written notice to abate such violation shall, upon conviction thereof, be sentenced to pay a fine of not more than \$500.00 and costs of prosecution for each and every offense, and in default of payment of such fine and costs to imprisonment for not more than sixty (60) days, or both. Each day's violation shall constitute a separate offense. Violations of this Ordinance shall not be limited to real estate owners, but shall include any contractor, excavator, builder or person, firm or corporation performing actual physical change in the real estate, property, structure, or sign. Said notice to abate may be served personally, by certified mail, or if said notice cannot be served by either of the above methods, service

may be made by posting the premises with one copy of said notice. All fines collected for the violation of this Ordinance shall be paid to the Borough of Montrose.

7.900 FILING FEES

The following fees shall be paid at the office of the Zoning Officer upon the filing of an application:

Zoning Permits for uses not requiring Board action.

Five (\$5.00) Dollars

Zoning Permits for uses requiring Board action.

Fifteen (\$15.00) Dollars

Variance or Appeal Application Thirty-Five(\$35.00) Dollars

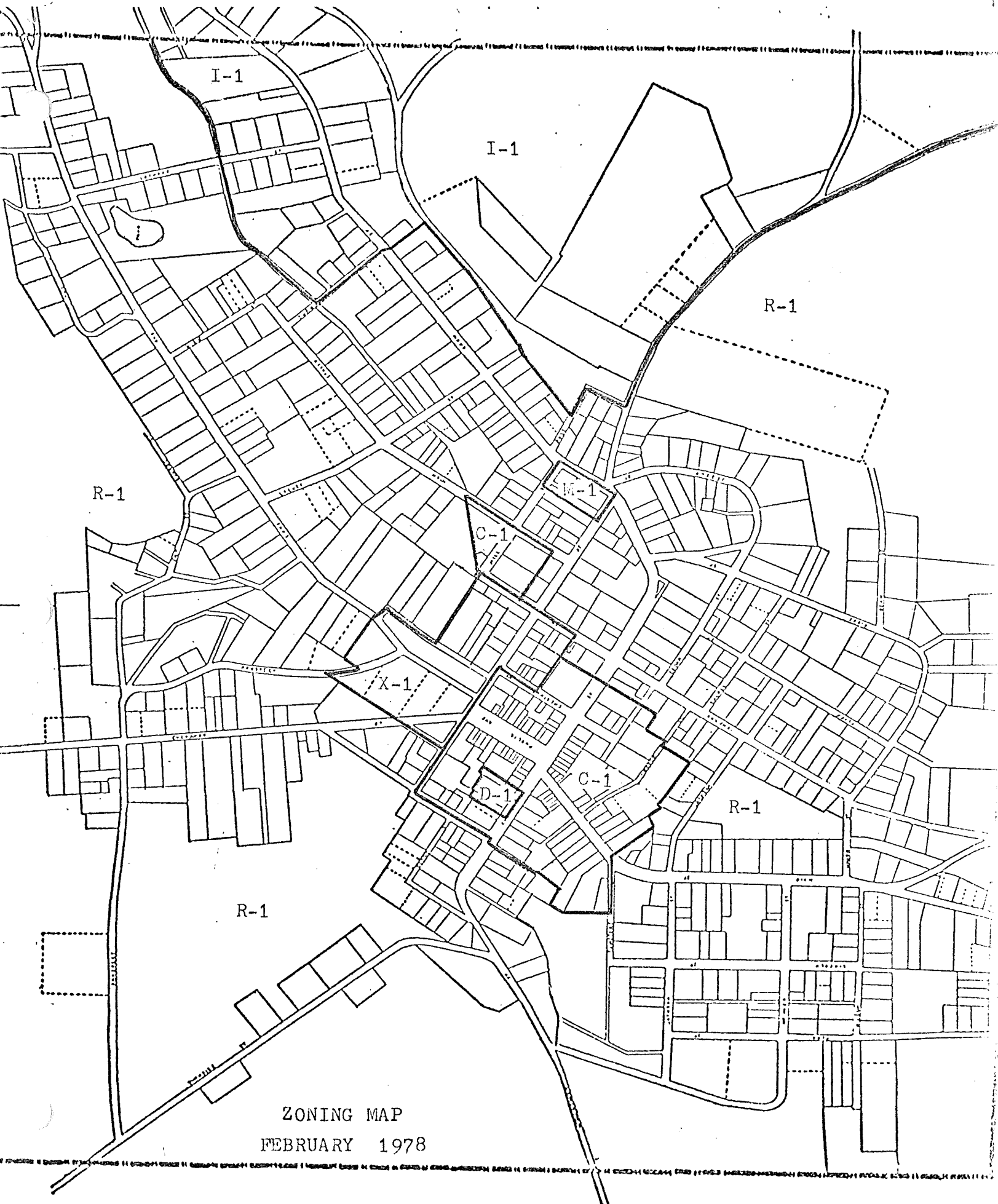
Request for Amendment Fifty (50.00) Dollars

Certificates of Nonconformance. No fee if application is made within twelve (12) months after the effective date of this Ordinance. Otherwise, a fee of Five (\$5.00) Dollars shall be paid.

Occupancy Permit. No Fee

Application for Interpretation of Boundaries.

Ten (\$10.00)Dollars



Enacted and ordained this _____ day of _____, 1978.

By _____
President of Council
Borough of Montrose

ATTEST:

Secretary

Read and approved by me on this the _____ day of _____,
1978.

By _____
Mayor
Borough of Montrose

ZONING ORDINANCE
FOR THE
BOROUGH OF MONTROSE, PENNSYLVANIA

COPY NO. _____

MONTROSE BOROUGH, SUSQUEHANNA COUNTY, PENNSYLVANIA

FEBRUARY 1978

ADOPTED: FEBRUARY 6, 1978

AMENDED: JUNE 5, 1978 (two amendments)

AMENDED: JULY 6, 1978

AMENDED: OCTOBER 6, 1980 (5 amendments)

2.100 APPLICABLE DEFINITIONS

Except where specified in the following definitions, all words used in this Ordinance shall carry their customary meanings. Words used in the present tense include the future; the singular number shall include the plural, and the plural the singular; the word "building" shall include the word "structure"; and the word "occupied" or "used" shall include "arranged, designed, constructed, altered, converted, rented, leased, or intended to be used"; the word "shall" is intended to be mandatory; the word "abut" shall include the words "directly across from".

Accessory Use or Structure. A use or building structure subordinate to and located on the same lot as the principal use or building and serving a purpose customarily incidental to the use of the principal building.

Alley. A public or private way affording only secondary means of access to abutting property.

Apartment. A general term referring to a multi-family dwelling.

Board. The Zoning Hearing Board of the Borough of Montrose, hereinafter referred to as "Board".

Boarding House. A house at which board, or board and lodging may be obtained for payment, the living accommodations offered to permanent lodgers or boarders, as distinguished from transient guests.

Building. Any structure having a roof supported by columns or walls, used for the shelter, housing or enclosure of persons, animals or property.

Building Height. The vertical distance of a building measured from the average level of the highest and lowest portion of the building site covered by the building to the ceiling of the uppermost story, unless otherwise specified in this Ordinance.

Building, Principal. A building in which is conducted the main or principal use of the lot on which it is situated.

enclosed building, and excluding pawn shops and establishments for the sale, purchase or storage of used cars in operable condition, salvaged machinery, used furniture and household equipment and the processing of used, discarded or salvaged materials as part of manufacturing operations.

Lot or Zone Lot. A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or utilized for a principal use and uses accessory or incidental to the operation thereof, together with such open spaces as required by this Ordinance, and having frontage on a public street.

- a. Lot, Corner. A lot situated at and abutting the intersection of two (2) streets having an interior angle of intersection not greater than one hundred thirty-five (135) degrees.
- b. Lot, Depth. The mean horizontal distance between the front and the rear lot lines.
- c. Lot Lines. The property lines bounding the lot.
 1. Lot Line, Front. The property boundary line separating the lot from the street legal right-of-way line.
 2. Lot Line, Rear. The lot line opposite and most distant from the front lot line.
 3. Lot Line, Side. Any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a side street lot line.
 4. Lot Line, Street or Alley. A lot line separating the lot from a street or alley.
- d. Lot Width. The average horizontal distance as measured between the side lot lines and parallel to the front lot line.
- e. Lot Area. The computed area contained within the lot lines.

Motel. A roadside hotel providing transients with lodging, typically in bedrooms which are united under one roof, but have individual entrances and with nearby parking space.

Nonconforming Lot. Any zone lot which does not conform with the minimum width, depth or area dimensions specified for the district in which said lot is situated.

not enclosed within the main sidewalls and roof of a structure.
Rooming House. A house in which lodgings are let, especially a house other than an inn or motel.

Sidewalk. A passageway for pedestrians along the side of a street.

Sign, Advertising. A sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the premises where such sign is located.

Sign, Gross Surface Area of. The entire area within a single continuous perimeter enclosing the extreme limits of such sign and in no case passing through or between any adjacent elements of same. However, such perimeter shall not include any structural or framing elements lying outside the limits of such sign and not forming an integral part of the display. The gross surface area of any multiple face sign shall include the sum of all faces excepting in the case of a double face sign with the two faces opposite to each other. Then only one face shall be included in the computation of gross surface area.

Story. That portion of a building which is included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and ceiling next above it.

a. Story, Half. A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four (4) feet above the floor of such story.

b. Story, First. The lowest story or the ground story of any building, the floor of which is not more than twelve (12) inches below the average contact ground level at the exterior walls of the building.

4.300 Use Classes.

"Use Classes" are hereby established as shown in Schedule I. The specific uses included in each Use Class are outlined below. None of these uses shall be permitted in any district if it is to be operated in such a manner so as to create any dangerous, injurious, noxious or otherwise objectionable, fire, explosive, radioactive or other hazard; noise or vibration; smoke, dust, dirt, air or other form of pollution; electrical, glare or other disturbance which will adversely affect the surrounding area or premises.

Use Class 1. Residential. Includes single family detached and two family dwellings.

Use Class 2. Light Commercial. Includes retail business establishments, customer service establishments, commercial recreation entertainment establishments and commercial education establishments serving the entire Borough. Such establishments shall be carried on in a completely enclosed building except for off-street parking and loading facilities and auto service stations.

Retail business establishments include shops selling food, drugs, cigars, candy, clothing and clothing accessories, newspapers, books, stationery, dry goods, hardware, paint, variety goods, household goods and appliances, flowers, agricultural nurseries and greenhouses, package liquor, photo supplies, garden supplies, artist and hobby supplies and sporting goods, specialty and gift items, furniture, and office supplies.

Customer service establishments include shops engaged in the repair of household, clothing and appliance items, barber and beauty shops, tailor shops, pick-up stations and self service establishments for the dry cleaning and laundering of clothes, business offices, and eating and drinking establishments, gymnasiums and physical health salons, photographic studios, medical centers, banks and financial institutions, hotels and motels, auto supply stores, auto service stations, funeral homes, rooming houses and boarding houses.

Use Class 4. General Industrial. Includes general industrial uses which shall be carried on in a completely enclosed building and which include the storage, manufacture, assembly, packing or testing of products from raw materials and from other previously prepared materials.

Use Class 5. Customary Accessory Uses and Essential Services.

Includes accessory uses which are customarily subordinate to the principal use of a building located on the same lot, and which serve a purpose customarily incident to the use of the principal building shall be permitted in each District. Such uses allowed include home occupations, home gardening, keeping of household pets, nurseries and greenhouses and professional offices of persons residing on the premises, private garages or parking areas, signs, off street parking and loading, temporary tract offices, travel trailers and buildings and other uses customarily appurtenant to other permitted uses or exceptions.

Uses not permitted are the raising or keeping of livestock, poultry or other animals for any commercial purpose or the outdoor storage of equipment or refuse.

Also includes essential services for public utilities that do not require enclosure in a building including gas, electrical, steam, telephone, or water distribution systems; and including related equipment such as poles, towers, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment. The utilities that apply should conform to the height regulations of the zoning district in which they are proposed.

Use Class 6. Mobile Home Parks. Includes the development of mobile home courts planned as a unit.

Use Class 7. Apartments and Conversions. Includes the conversion of buildings or portions of buildings into dwellings; new multi-family dwelling structures.

Use Class 8. Related Residential Uses. Includes funeral homes, nursing and convalescent homes, rooming houses, boarding houses, and nurseries for the day care of young children.

Mid-rise apartments shall be located only in a D-1 district and may include within the structure, but limited to not more than 10% of the total floor area, retail business establishments or customer service establishments as set forth in Use Class 2, or office services as set forth in Use Class 11.

Related Residential Uses (Use Class 8)

Funeral homes, nursing and convalescent homes, rooming houses, boarding houses, day nurseries, nursery schools, pre-kindergarten or other activity providing care of young children shall comply with the following:

- a. Except for a sign, there shall be no external evidence of any gainful activity.
- b. Any such use shall have sufficient off-street parking to serve the anticipated number of users and employees and shall have suitable street access without causing congestion of traffic on local residential streets.
- c. All such buildings shall conform to the minimum Lot Size, Minimum Yards, Maximum Height and Maximum Building Coverage Regulations specified in Schedule II for Zone R-1.

Appropriate Public Uses (Use Class 9)

Any appropriate Public Use permitted by the Board as an Exception shall be appropriate to the character of the District in which it is proposed and to the area which it will serve. Such Appropriate Public Uses shall have adequate access, shall provide off-street parking and loading as specified herein and shall comply with the following lot, yard and building regulations:

9. Community Buildings and Social Halls	100.0 sq. ft. of bldg.
10. Private or Commercial Schools	10.0 classroom seats
11. Hospitals or Nursing Homes	2.0 beds
12. Single-family Dwelling Units and conversions	1.0 dwelling unit
13. Multi-family Dwelling Units-Non Elderly	0.66 dwelling unit
14. Multi-family Dwelling Units-Elderly/Handi-capped	0.25 dwelling unit
15. Rooming Houses and boarding houses	1.5 roomers
16. Funeral Homes	0.2 parlors

Off-Street Loading. Every commercial or industrial building which requires the receipt or distribution by vehicles of material or merchandise shall provide one (1) off-street loading space for each 25,000 square feet of gross building floor area, and each such space shall be at least 250 square feet in area.

5.600 NONCONFORMING USES, BUILDINGS AND LOTS

Any legal nonconforming use or building may be continued, repaired, maintained, restored and rebuilt, and improved except as provided below;

- a. Such nonconforming use may not be enlarged more than 25 percent of the existing floor area and/or lot area, and only one such enlargement shall be permitted.
- b. If a nonconforming use of a building or land is abandoned for a continuous period of six (6) months, subsequent use of such shall be only in conformity with the provisions of this Ordinance. For the purposes of this Ordinance, abandonment shall begin when the nonconforming use ceases.

Existing Nonconforming Lots. In any zone where a non-conforming lot exists as a separate entity at the time of passage of this Ordinance, and where the owner of the nonconforming lot does not own an adjoining lot, then the following development is permitted:

may be made by posting the premises with one copy of said notice. All fines collected for the violation of this Ordinance shall be paid to the Borough of Montrose

7.900 FILING FEES

The following fees shall be paid at the office of the Zoning Officer upon the filing of an application:

Zoning Permits for uses not requiring Board action
Five (\$5.00) Dollars

Zoning Permits for uses requiring Board Action.
One Hundred (\$100.00) Dollars

Variance or Appeal Application One Hundred (\$100.00) Dollars

Request for Amendment One Hundred (\$100.00) Dollars

Certificates of Nonconformance. No fee if application is made within twelve (12) months after the effective date of this Ordinance. Otherwise, a fee of Five (\$5.00) Dollars shall be paid.

Occupancy Permit. No fee if associated with building permit or zoning permit. Otherwise, a fee of Five (\$5.00) shall be paid.

Application for Interpretation of Boundaries.
Ten (\$10.00) Dollars