

Chapter 27

Zoning

(See also, Chapter 5, Part 2, “Uniform Construction Code.”)

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Part 1**Short Title; Definitions****§27-101. Short Title.**

The official title of this Chapter is "Mount Pleasant Borough Zoning Ordinance."
(*Ord. 389, 4/1/1967, §101*)

§27-102. Definitions.

1. Unless otherwise expressly indicated herein, the terms hereinafter enumerated shall, for the purpose of this Chapter, have the meanings as defined herein. Words used in the singular shall include the plural, and the plural shall include the singular. [*Ord. 624*]

2. As used in this Chapter, the following terms shall have the meanings indicated:

Accessory use - a use customarily incidental and subordinate to the principal use and located on the same lot as the principal use.

Area - area of a lot or site shall be calculated from dimensions derived by horizontal projection of the site.

Basement - a story having more than 50 percent of its clear height below finished grade.

Board - the Zoning Hearing Board, unless otherwise designated.

Business service - any business activity which renders service to other commercial or industrial enterprises.

Clinic - any establishment where human patients are examined and treated by doctors or dentists but not hospitalized overnight.

Club - an establishment operated for social, recreational, or educational purposes but open only to members and not the general public.

Coverage - that percentage of the lot area covered by principal and accessory use structures.

Dwelling - any structure designed or used as the living quarters for one or more families.

Elderly resident - those individuals 62 years of age and older and, for purposes of this definition, any individual who is permanently disabled shall be included herein upon attaining the age of 55 years. [*Ord. 552*]

Essential services - the erection, construction, alteration, or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam, or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduit cables, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adjacent service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including structures.

Family - one or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boardinghouse, lodging house, club, fraternity, or hotel.

Health care - any business, either nonprofit or profit making, which involves the caring for the physical and psychological needs of individuals on a professional basis by professionals duly licensed by the Commonwealth of Pennsylvania. [Ord. 526]

Home occupation - an occupation carried on in a dwelling unit which is clearly incidental and secondary to the use of the building for dwelling purposes, and which does not change the character thereof.

Hospital - an institution which meets the requirements of the "Survey Eligibility Criteria" in the *Accreditations Manual for Hospitals*, 1983 Edition, published by the Joint Commission of Accreditation of Hospitals and as set forth in §101.31 of the Rules and Regulations of the Pennsylvania State Department of Health, Part IV Subpart A, Chapter 101, provided that it shall not be held to include any type of service which would be in competition with any lawful business conducted within limits of Mount Pleasant Borough. [Ord. 513]

Light manufacturing - the processing and fabrication of certain materials and products where no process involved will produce noise, vibration, air pollution, fire hazard, or noxious emission which will disturb or endanger neighboring properties. Light manufacturing includes the production of the following goods: home appliances; electrical instruments; office machines; precision instruments; electronic devices; timepieces; jewelry; optical goods; musical instruments; novelties; wood products; printed material; lithographic plates; type composition; machine tools; dies and gauges; food products, but not animal slaughtering, curing nor rendering of fats; ceramics; apparel; lightweight nonferrous metal castings; film processing; light sheet metal products; plastic goods; and pharmaceutical goods.

Lot - a parcel of land occupied or capable of being occupied by one or more structures.

Lot of record - any lot which, individually or as a part of a subdivision, has been recorded in the Office of Recorder of Deeds of the County.

Lot, depth of - a horizontal distance between the front and rear lot lines.

Lot, minimum area of - the horizontally projected area of a lot computed exclusive of any portion of the right-of-way of any public thoroughfare.

Lot, width of - the mean width measured at right angles to its depth.

Manufacturing - the processing and fabrication of any article, substance or commodity.

Mobile home - any mobile vehicle used or designed to be used for living purposes, whether the wheels are attached or not. A travel trailer, as defined herein, shall be considered a "mobile home" if occupied.

Multiple-family dwelling - any structure designed or used as the living quarters for three or more families.

Nonconforming structure - a structure designed, converted or adapted for a use prior to the adoption of provisions prohibiting such use in such location.

Nonconforming use - is any use or arrangement of land or structures legally existing at the time of enactment of this Chapter or any of its amendments which does not conform to the provisions of this Chapter.

Structure - anything constructed or erected, the use of which requires a fixed location on the ground or an attachment to something having a fixed location on the ground, including, in addition to buildings, billboards, carports, porches, and other building features but not including sidewalks, drives, fences, and patios.

Supply yard - a commercial establishment storing or offering for sale building supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods. "Supply yards" do not include the wrecking, salvaging, dismantling, or storage of automobiles and similar vehicles.

Travel trailer - a mobile vehicle, with wheels, designed for overnight living or camping purposes, capable of being towed by a passenger automobile and having an overall length less than 25 feet and an overall width less than 8 feet.

(Ord. 389, 4/1/1967, §103 and Art. 7; as amended by Ord. 513, 3/5/1984, §1; by Ord. 526, 11/17/1986, §1; by Ord. 552, 6/1/1992, §1; and by Ord. 624, 1/19/2010)

§27-103. Compliance.

No structure shall be located, erected, constructed, reconstructed, moved, altered, converted or enlarged; nor shall any structure or land be used or be designed to be used, except in full compliance with all the provisions of this Chapter and after the lawful issuance of all permits and certificates required by this Chapter.

(Ord. 389, 4/1/1967, §104)

Part 2**District Regulations****§27-201. Zoning Map.**

A map entitled "Mount Pleasant Borough Zoning Map" is hereby adopted as part of this Chapter. The Zoning Map shall be kept on file available for examination at the office of the Borough Secretary.

(*Ord. 389, 4/1/1967, §201*)

§27-202. Zoning Districts.

The Borough is divided into the districts stated in this Section as shown by the district boundaries on the Zoning Map. The districts are:

- A. R-1 Single-Family Residential.
- B. R-1A Single-Family Residential. [*Ord. 621*]
- C. R-2 Two-Family Residential.
- D. R-3 Multiple-Family Residential.
- E. B-1 Business.
- F. H-1 Hospital. [*Ord. 513*]
- G. H-2 Health Care. [*Ord. 526*]
- H. I-1 Industrial.
- I. E-1 Elderly Residential. [*Ord. 552*]

(*Ord. 389, 4/1/1967, §202; as amended by Ord. 513, 3/5/1984, §3; by Ord. 526, 11/17/1986, §3; by Ord. 552, 6/1/1992, §2; and by Ord. 621, 2/16/2009, §2*)

§27-203. District Boundaries.

District boundaries shown within the lines of streets, streams, and transportation rights-of-way shall be deemed to follow the center lines. The vacation of streets shall not affect the location of such district boundaries. When the Zoning Officer cannot definitely determine the location of a district boundary by such center lines by the scale or dimensions stated on the Zoning Map or by the fact that it clearly coincides with a property line, he shall refuse action, and the Zoning Hearing Board, upon appeal, shall interpret the location of the district boundary with reference to the scale of the Zoning Map and the purposes set forth in all relevant provisions hereof.

(*Ord. 389, 4/1/1967, §203*)

§27-204. Residential Districts.

Districts designated for Residential Use, R-1, R-1A, R-2, and R-3, are limited to dwellings and public or semipublic uses which are normally associated with residential neighborhoods. The only uses permitted in the residential districts are those which would not detract from the residential character of the neighborhood. The purpose of all four districts is to create an attractive, stable, and orderly residential environment. However, the families per dwelling and the lot and yard requirements are different in

the four districts to provide for the various housing needs and desires of the people.
(*Ord. 389, 4/1/1967, §204; as amended by Ord. 621, 2/16/2009, §2*)

§27-205. Business District.

The district designated for Business, B-1, is limited to business, public, and certain residential uses. By establishing compact districts for such uses, more efficient traffic movement, parking facilities, fire protection, and police protection may be provided. Industrial uses are excluded in order to reduce the hazards caused by extensive track and rail movements normally associated with such uses. The purpose of this district is to provide unified shopping centers conveniently located.

(*Ord. 389, 4/1/1967, §205*)

§27-206. Hospital District.

The district designated for Hospital, H-1, is limited to those institutions which qualify as a “hospital” under the definition of terms set forth in §27-102, parking facilities adjacent thereto and any necessary educational facilities required in the operation of such an institution. By establishing a separate district to be used solely for hospital purposes, the Borough expects to enable the orderly growth of the existing hospital facilities as long as it is limited to traditional hospital purposes as defined in this Chapter. All other uses are excluded in order to reduce the possibility of inconvenience to patients of said hospital and residents of said Borough. The purpose of this district is to provide a central location where a hospital may be located free from commercial or industrial intrusions.

(*Ord. 389, 4/1/1967; as added by Ord. 513, 3/5/1984, §4*)

§27-207. Health Care District.

The district designated for Health Care, H-2, is limited to those individuals and organizations who are duly licensed by the Commonwealth of Pennsylvania to render physical and psychological services to individuals as set forth under the definition set out in §27-102 and parking facilities adjacent thereto. By establishing a separate district to be used solely for health care services, in the vicinity of the H-1 District, the Borough expects to enable the ordinary growth of such business within the Borough limits. The purpose of this district is to provide a central location, near the hospital, where such service can be rendered to the general public.

(*Ord. 389, 4/1/1967; as added by Ord. 526, 11/17/1986, §4*)

§27-208. Industrial District.

The district designed for Industry, I-1, provides suitable space for existing industries and their expansion as well as for future industrial development. Performance standards, parking specifications, and yard regulations are set forth in this Chapter in order to ensure safe industrial development that is compatible with adjacent uses. The locations of the districts are near railroads or highways in order to meet the transportation needs of industry.

(*Ord. 389, 4/1/1967, §206*)

§27-209. Elderly Residential District.

The district designated as Elderly Residential, E-1, is designated for elderly residential use, and limited to those individuals and organizations who provide dwellings and public or semi-public uses which are normally associated with elderly residences, and parking facilities adjacent thereto. The purpose of this district would be to provide for housing needs of the elderly, conveniently located, and proving for an attractive, stable, and orderly residential environment for the elderly.

(*Ord. 389, 4/1/1967; as added by Ord. 552, 6/1/1992*)

§27-210. Permitted Uses.

The permitted uses and special exceptions for each district are shown on the following table. Uses given in the following categories shall be according to the common meaning of the term or according to definitions given in §27-102. Uses not specifically listed or defined to be included in the categories under this Chapter shall not be permitted.

Permitted Uses	Special Exceptions
	R-1 Single-Family Residential District
Single-family dwellings	Noncommercial recreational uses
Public and parochial schools	Public utility buildings
Public parks and playgrounds	Swimming pools
Churches	Fire stations
Essential services	Municipal buildings and libraries
Accessory uses	
	R-1A Single-Family Residential District
Single-Family Dwellings	Noncommercial recreational use
Public and Parochial Schools	Public utility buildings
Public Parks and Playgrounds	Swimming pools
Churches	Fire sirens
Essential Services	Municipal buildings and libraries
Accessory Uses	
[<i>Ord. 621</i>]	
	R-2 Two-Family Residential District
Single-family dwellings	Nursery schools
Two-family dwellings	Hospitals and clinics
Public and parochial schools	Public utility buildings
Public parks and playgrounds	Swimming pools

Permitted Uses

Churches
 Essential services
 Accessory uses

Special Exceptions

Fire stations
 Municipal buildings and libraries
 Planned unit residential projects
 Greenhouse
 Multiple-family dwellings
 One-chair beauty shops and/or barbershops [*Ord. 536*]

R-3 Multiple-Family Residential District

Single-family dwellings
 Two-family dwellings
 Multiple-family dwellings
 Public and parochial schools
 Churches
 Public parks and playgrounds
 Essential services
 Accessory uses

Nursery schools
 Hospital and clinics
 Public utility buildings
 Swimming pools
 Fire stations
 Municipal buildings and libraries
 Planned unit residential projects
 Greenhouse

B-1 Business District

Retail businesses
 Eating and drinking establishments
 Offices and banks
 Personal and professional services
 Fire stations and municipal buildings
 Auto sales, service and repair
 Wholesale business
 Theaters
 Motels
 Commercial schools
 Commercial recreation
 Public utility buildings
 Public parking lots and parking garages
 Essential services
 Accessory uses
 Clubs [*Ord. 435*]

Research laboratories
 Trailer parks
 Planned unit business projects
 Multiple-family dwellings

Permitted Uses

Special Exceptions

H-1 Hospital District

Hospitals

None

Parking facilities

Educational facilities

Essential services

Accessory uses, not to include structures

[Ord. 513]

H-2 Health Care District

Clinics

None

Extended-care facilities

Nursing home facilities

Ambulatory-care facilities

Related health care professionals, including commercial-professional office space for health care professionals

Parking. Off-street parking to be required as follows: (a) 1 space for each 3 beds in any housing facility and (b) 1 space for each 2 employees working on each shift in any facility erected on said area.

[Ord. 526]

I-1 Industrial District

Research and testing laboratories

Manufacturing

Offices

Planned unit industrial projects

Warehousing

Restaurants

Truck terminals

Light manufacturing

Essential services

Accessory uses

Supply yards

Wholesale distributors

E-1 Elderly Residential District

Single-family dwellings for the elderly

Noncommercial recreational uses.

Two-family dwellings for the elderly

Public utility buildings

Multiple-family dwellings for the elderly

Swimming pools

Permitted Uses	Special Exceptions
Ancillary, elderly functions such as senior center meal site	Tennis courts
Churches	Greenhouse
Essential services	Home occupations
Accessory uses	

[Ord. 552]

(Ord. 389, 4/1/1967, §207; as amended by Ord. 435, 4/5/1971, §1; by Ord. 513, 3/5/1984, §5; by Ord. 526, 11/17/1986, §5; by Ord. 536, 8/7/1989, §1; by Ord. 552, 6/1/1992; and by Ord. 621, 2/16/2009, §2; and by Ord. 625, 11/22/2010, §1)

§27-211. Lot and Yard Requirements.

The minimum lot area, minimum width of lot, minimum depth of front yard, and minimum width of each side yard for each district shall be as shown on the following table:

	R-1	R-1A [Ord. 621]	R-2	R-3	B-1	H-2 ¹ [Ord. 526]	I-1	E-1 [Ord. 552]
Minimum lot area (square feet)	8,000	6,000	6,000	6,000	3,000	6,000	10,000	6,000
Minimum lot area per family	8,000	3,000	3,000	1,500	3,000	—	—	1,500
Minimum lot width (feet)	60	50	50	50	30	50	100	50
Minimum depth front yard (feet)	30	25	25	20	0	20	25	20
Minimum width side yard (feet)	10	8	8	5	0	5	15	5 (multiple-family dwelling) 8 (single-family dwelling)

A. Lots which abut on more than one street shall provide the required front yards along every street.

B. All structures, whether attached to the principal structure or not and whether open or enclosed, including porches, carports, balconies, or platforms above normal grade level, shall not project into any minimum front, side, or rear yard.

C. Any lot of record existing at the effective date of this Chapter and then held in separate ownership different from the ownership of adjoining lots may be used for the erection of a structure conforming to the use regulations of the district

¹Said district shall be required to conform to all other provisions of paragraphs .A, .B, .C, and .D.

in which it is located, even though its area and width are less than the minimum requirements of this Chapter.

D. Nonresidential structures or uses shall not be located or conducted closer to any lot line of any other lot in any R District than the distance specified in the following schedule:

Minimum Side or Rear Yard Abutting Any Lot in Any R District	Use
20 feet	Off-street parking spaces and access drives for nonresidential uses
30 feet	Churches, schools, and public or semipublic structures
40 feet	Recreation facilities, entertainment facilities, motels, trailer parks, and all business and industrial uses

(*Ord. 389, 4/1/1968, §208; as amended by Ord. 526, 11/17/1986, §5; by Ord. 552, 6/1/1992; and by Ord. 621, 2/16/2009, §2*)

§27-212. Height Regulations.

No structure shall exceed 45 feet in height above average ground level unless approved by the Zoning Hearing Board. The Board may authorize a variance to this height regulation in any district if:

A. All front, side, and rear yard depths are increased 1 foot for each additional foot of height.

B. The structure is any of the following and does not constitute a hazard to an established airport, television, and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers and scenery lofts, cooling towers, ornamental towers, and spires, chimneys, elevator bulkheads, smokestacks, conveyors, and flagpoles.

(*Ord. 389, 4/1/1968, §209*)

Part 3**General Regulations****§27-301. Nonconforming Uses.**

The following provisions shall apply to all nonconforming uses:

A. A nonconforming use may be continued but may not be extended, expanded or changed unless to a conforming use, except as permitted by the Zoning Hearing Board in accordance with the provisions hereof.

B. Any nonconforming structure damaged by fire flood, explosion or other casualty may be reconstructed and used as before if such reconstruction is performed within 12 months of such casualty and if the restored structure has no greater coverage and contains no greater cubic content than before such casualty.

C. In the event that any nonconforming use, conducted in a structure or otherwise, terminates or is abandoned, for whatever reason, for a period of 1 year, such nonconforming use shall not be resumed.

(*Ord. 389, 4/1/1967, §301*)

§27-302. Private Swimming Pools.

A private swimming pool shall be permitted as an accessory use to any permitted residential use, provided that:

A. The pool is intended for private accessory use only and not for commercial or club purposes.

B. All swimming pools having a potential for water depth in excess of 23 inches shall have erected immediately adjacent to or as a part of the swimming pool a wall or fence at least 36 inches above the highest level of the swimming pool; but, in no event shall a swimming pool be required to have a height in excess of 48 inches when the pool and fence are measured together. Access to the pool may be controlled by a use of a gate, which must be securely locked when the pool is not in use, so as to prevent entry into the pool unless such entry is authorized by the owner of said pool.

C. In the event that a deck is used in conjunction with the pool, the minimum height requirement of 48 inches must be observed, and the stairway or ladder leading to the deck must be securely locked at all times so as to prevent entry into the pool unless such entry is authorized by the owner of said pool.

D. No swimming pool having a potential water depth of 23 inches shall be drained onto the surface. It is required for drainage that a hose be used leading from the swimming pool to a sanitary sewer point of entry.

(*Ord. 389, 4/1/1967, §302; as amended by Ord. 495, 12/7/1981*)

§27-303. Off-Street Parking.

Off-street parking spaces shall be provided in accordance with the specifications in this Section in any district, except the B-1 Business District, whenever any new use is established or existing use is enlarged.

Use	Parking Spaces Required
Residential	1 per dwelling unit
Church and school	1 per 6 seats in principal assembly room
Private club or lodge	1 per 4 members
Theater	1 per 4 seats
Hospitals and rest homes	1 per 3 beds and 1 for each 2 employees on the maximum working shift
Professional offices, business services, wholesale houses, and medical clinics	1 for every 250 square feet of floor space
Retail businesses, eating and drinking places and personal service establishments	1 for each 100 square feet of floor space
Bowling alleys	5 for each alley
Recreational assembly places, e.g., dance halls, nightclubs; funeral homes	1 for each 100 square feet of floor space
Industrial	1 for each 2 employees on the maximum working shift
Elderly residential [<i>Ord. 552</i>]	1 space per every dwelling unit: which spaces shall include at least one identifiable reserved handi-capped space for every 10 dwelling units.

A. In R-2, R-3 and all nonresidential districts, parking spaces may be located on a lot other than that containing the principal uses with the approval of the Board, provided that a written agreement, approved by the Borough Solicitor, shall be filed with the application for a zoning certificate. All off-street parking for lots located in R-1 and R-1A Districts shall be provided on the same lot as the principal use. [*Ord. 621*]

B. Any off-street parking lot for more than five vehicles shall be graded for proper drainage and surfaced so as to provide a durable and dustless surface.

C. Any lighting used to illuminate any off-street parking lot shall be so arranged as to reflect the light away from adjoining premises in any R District.

D. For all new development, off-street parking spaces shall be no less than 9 feet in width and 18 feet in length. Up to 10 percent of the required off-street parking may be designated for compact cars with a minimum width of 7 feet and a minimum length of 15 feet. [*Ord. 621*]

E. For new conversions of single-family dwellings to two-family or multiple-family dwellings in the R-2 District, a parking plan shall be submitted with the application for a zoning certificate. The parking plan shall indicate where the required off-street parking will be located in the dimensional requirements stated in paragraph .D above. [*Ord. 621*]

(*Ord. 389, 4/1/1967, §303; as amended by Ord. 552, 6/1/1992; and by Ord. 621, 2/16/2009, §2*)

§27-304. Mobile Homes.

1. Mobile homes to which there are no wheels attached to and which are placed on a permanent concrete foundation around all four sides shall be allowed in any area of the Borough, provided that the lot and yard requirements of §27-208 are met, and provided further that they are connected to the municipal water and sewer systems where available.

2. Mobile homes which do not conform to the specifications of subsection .1 shall be permitted only in trailer parks which meet the requirements of this Section. Occupied travel trailers, as defined by §27-102, shall meet all of the requirements specified for mobile homes.

A. No trailer park shall have an area of less than 3 acres.

B. Each trailer site within the trailer park shall have an area of 3,000 square feet.

C. No trailer shall be closer than 35 feet to any adjacent property.

D. Not less than 10 percent of the gross area of the trailer park shall be improved for recreational activities for the residents of the park.

E. The trailer park shall be appropriately landscaped and screened from adjacent properties.

F. The trailer park shall meet all applicable requirements of the Borough Subdivision Regulations [Chapter 22].

(*Ord. 389, 4/1/1967, §304; as amended by Ord. 414, 12/2/1969, §1*)

§27-305. Planned Unit Residential, Business, and Industrial Projects.

Planned unit residential, business, and industrial projects may be permitted if the planned unit project meets the requirements of this Section. After the unit plan is approved, all development, construction and use shall be in accordance with that plan unless a new planned unit project plan is submitted to and approved by the Zoning Hearing Board as required by this Chapter. Any development contrary to the approved unit plan shall constitute a violation of this Chapter.

A. The area of the land to be developed shall not be less than 5 acres.

B. Properties adjacent to the unit plan shall not be adversely affected.

C. The average density of dwelling units per area shall not be higher than that permitted in the district in which the plan is located.

D. The use of the land shall not differ substantially from the uses permitted in the district in which the plan is located, except that limited business facilities, intended to serve only the planned unit project area and fully integrated into the design of the project, may be considered.

E. The unit plan shall be consistent with the purposes of this Chapter

F. The unit plan shall be reviewed and recommendations made by the Borough Planning Commission and the Borough Council to determine if the proposed project is consistent with the Borough Comprehensive Plan and in the best welfare of the Borough.

(*Ord. 389, 4/1/1967, §305*)

§27-306. Temporary Structures.

Temporary structures used in conjunction with construction work shall be permitted only during the period that the construction work is in progress. Permits for temporary structures shall be issued for a 6-month period. Residing in basement or foundation structures before the completion of the total structure shall not be permitted.

(Ord. 389, 4/1/1967, §306)

§27-307. Signs.

No sign, billboard, or exterior graphic display shall be permitted in any district except as herein provided:

A. In any district, a sign not exceeding 1 square foot in surface size is permitted which announces the name, address or professional activity of the occupant of the premises on which said sign is located.

B. A bulletin board not exceeding 24 square feet is permitted in connection with any church, school or similar public building.

C. A temporary real estate or construction sign of reasonable size is permitted on the property being sold, leased, or developed. Such sign shall be removed promptly when it has fulfilled its function.

D. Business signs shall be permitted in connection with any legal business or industry when located on the same premises and if they meet the following requirements:

(1) Signs shall not contain information or advertising for any product not sold or service provided on the premises.

(2) Signs shall not have an aggregate surface size greater than 5 square feet for each foot of width of the principal structure on the premises.

(3) Signs shall not project over public rights-of-way, except that a sign which is placed flush against a building may project out a maximum of 12 inches from the front of the building to which it is attached. This provision shall apply to all signs which project over a right-of-way even if there is a porch or other part of the building which projects over said right-of-way under said sign. Theater marquees are specifically excepted from the provisions of this subsection as long as the theater is in operation. In the event that any theater ceases operations, the marquee must be removed within 30 days. [Ord. 472]

(4) Signs shall not be illuminated in any manner which causes undue distraction, confusion or hazard to vehicular traffic.

(5) Any sign which violates one of the provisions of this subsection and which is presently in existence may be removed by the owner of said sign within 6 months from the effective date of this subsection.

(6) Any sign which violates the terms of this subsection and is not removed by the owner thereof, upon 30 days notice by the Code Enforcement Officer, may be removed by the Borough of Mount Pleasant and a municipal lien filed against the owner of said sign for any expense involved in the removal of said sign. [Ord. 624]

(Ord. 389, 4/1/1967, §307; as amended by Ord. 465, 11/1/1976, §1; and by Ord. 472, 6/6/1977, §2; as amended by Ord. 624, 1/19/2010)

§27-308. Home Occupations.

Any home occupation, such as art studio, dressmaking, teaching or the professional office of a physician, dentist, lawyer, engineer, architect, or accountant, shall be permitted as an accessory use if it complies with the requirements of this Section. A home occupation shall not be interpreted to include barbershops and beauty parlors. commercial stables and kennels, real estate offices, or restaurants.

A. The home occupation shall be carried on by a member of the family residing in the dwelling unit with not more than one employee who is not part of the family.

B. The home occupation shall be carried on wholly within the principal or accessory structures.

C. Exterior displays or signs other than those permitted under §27-307, exterior storage of materials and exterior indication of the home occupation or variation from the residential character of the principal structure shall not be permitted.

D. Objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare shall not be produced.

E. Articles not produced on the premises shall not be sold on the premises.

(Ord. 389, 4/1/1967, §308)

§27-309. Regulation of Partition Fences.

1. *Construction, etc.; Permit Required.* No person, corporation, partnership, company or other entity shall construct, install, add to or alter a fence in the Borough, unless a permit is secured therefore.

2. *Height Limitations.* No fence shall be constructed which exceeds any of the following height limitations:

A. Forty-eight inches in front of the building line applicable to the subject property.

B. Seventy-two inches behind the front building line applicable to the subject property, except as otherwise provided in paragraph .C, below.

C. Forty-eight inches wherever the fence shall be located on any portion of any lot that abuts a street, intersection or common drive that empties onto a public street.

C. Eight feet in any Industrial Zoning District.

3. *Barbed Wire and Other Unsafe Fencing Prohibited.* Barbed wire and all other fencing that is designed to cut or injure is prohibited in all Residential Districts. In zoning districts other than residential, such fencing shall not be permitted, unless a request is made to Council and approved by a majority vote at a public Council meeting.

4. *Construction Standards.* All fences erected must be of good quality and must be firmly and sturdily footed in the ground. The decorative side of the fences must face outward.

5. *Treatment of Metal Fences.* Any fence erected which is made of a metal fabric or which is partially made of any metal fabric shall be galvanized or otherwise treated to prevent the formation of rust, and the metal used in the fabric shall be at least 11 gauge or heavier, unless it is subject to the provisions of subsection .9 regarding the gauge of metal fences around pools.

6. *Maintenance; Sturdiness.*

A. All fences shall be maintained in a sturdy and good condition. Fences which become loose, rusted or rotted, whether in whole or in part, shall be repaired, replaced or removed.

B. Any fence that cannot support the weight of 150-pound man without bending, breaking, leaning or moving shall be deemed not to be sturdy.

7. *Variances.*

A. Any property owner or tenant desiring to erect a fence or maintain a fence which does not conform to the provisions of this Chapter may apply for a variance from the Zoning Hearing Board of the Borough.

B. All requests for a variance shall be according to the procedures and governing provisions of this Chapter and the laws of the Commonwealth.

8. *Proximity to Lot and Curb Lines.* Fences may be erected on the property line. Fences may be erected next to the sidewalk; but, in the event no sidewalk exists, the fence must be erected no less than 6 feet from the curb. No fence in the front yard shall be higher than 48 inches.

9. *Fences Surrounding Pools or Other Structures.*

A. All pools, swimming pools, water retention basins and other structures, temporary or permanent and above or below ground, which may hold water, shall be surrounded by a fence, except as provided in paragraph .D hereof.

B. Fences required by paragraph .A hereof may surround the pool or the property. The wall of a building may constitute a portion of the fence. Such fences shall be adequate to make the structure containing the water inaccessible to small children.

C. Fences required by paragraph .A hereof shall not be less than 4 feet in height and shall be subject to the height limitations imposed in subsection .2. Further, such fences shall be constructed out of any of the following materials:

(1) Masonry or brick.

(2) Wire mesh, a minimum of nine gauge with posts not more than 10 feet apart.

(3) Pickets, not less than $\frac{3}{4}$ of an inch thick if wood or 20 gauge if metal, with posts not more than 10 feet apart.

(4) All gates or door openings through any fence required to be erected under this Section shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door for any dwelling which forms a part of the fence enclosure need not be so equipped.

D. Structures which are not capable of holding water in excess of 2 feet in depth need not be surrounded by a fence if the structures are emptied of all water

when not in use, or are securely and adequately covered to prevent small children from uncovering the pool when not in use.

10. *Permit Fee.* The fee for a permit for construction, installation, addition or alteration of any fence shall be in an amount as established from time to time by resolution of Borough Council.

(Ord. 389, 4/1/1967; as added by Ord. 624, 1/19/2010)

Part 4**Zoning Hearing Board****§27-401. Creation; Powers; Organizations.**

1. Pursuant to State enabling legislation, there shall be a Zoning Hearing Board constituted as provided by law. The Board shall perform all the duties and have all the powers prescribed by State statutes and as herein provided.

2. The Board shall elect its own Chairman and Vice Chairman from its membership. The Board may appoint a Secretary or Clerk who is not a member of the Board subject to the approval of the Borough Council and who may receive a salary as fixed by the Borough Council.

3. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. Meetings shall be at sufficiently frequent intervals, at the discretion of the Board, for the efficient conduct of its business. All meetings shall be open to the public. A quorum shall consist of three members. [*Ord. 525*]

(*Ord. 389, 4/1/1967; as added by Ord. 456, 1/6/1975; and as amended by Ord. 525, 8/4/1986, §1*)

§27-402. Procedures.

1. Procedure on all appeals, petitions, stays on appeal, public hearings, decisions, and other matters before the Board shall be governed by the provisions of State law and by the officially adopted rules of procedure of the Board. The Chairman, or in the event of his absence or his physical disability, the Vice Chairman and the Secretary shall sign all orders or instructions to the Zoning Officer and recommendations to the Borough Council pertaining to matters relating to this Chapter. The final disposition of any matter by the Board shall require the concurring vote of two of its members.

2. The Board shall adopt such rules of procedure consistent with the provisions of State statutes and local ordinance as it may deem necessary to the proper performance of its duties and the proper exercise of its powers.

3. Prior to taking action on any matter related to this Chapter for which a public hearing is required, such a hearing shall be held after public notice has been published not less than 10 days prior to such hearing date. Also, notification by mail to the property owner requesting Board action shall be made at least 15 days prior to said hearing. Decisions shall be rendered, in writing, within 45 days of said hearing.

4. A fee in an amount as established from time to time by resolution of Borough Council shall be charged for any appeal or proceeding filed with the Board. Any additional expenses incurred over and above this figure shall be borne by the applicant as determined by the Board. [*Ord. 624*]

5. The Secretary shall keep minutes of the Board's proceedings, showing the vote of each member upon every question or, if absent or failing to vote, indicating such fact. The Secretary shall keep records of the Board's examinations and official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. A card index record of all variances and special exception uses granted pursuant to

action of the Board under this Chapter shall be maintained in an alphabetical street file, and the location of such variances and special exception uses shall be marked upon a copy of the Zoning Map. Said file and said map shall be available for public inspection.

6. The Chairman, or Acting Chairman, may administer oaths and compel the attendance of witnesses.

(*Ord. 389, 4/1/1967, §501; as amended by Ord. 456, 1/6/1975; and by Ord. 624, 1/19/2010*)

§27-403. Appeals.

The Board shall have the power to hear and decide appeals from any order, requirement, decision, grant or refusal made by the Zoning Officer in the administration of this Chapter in accordance with applicable provisions of State law.

(*Ord. 389, 4/1/1967, §502*)

§27-404. Variances.

The Board, upon appeal, shall have the power to authorize variances from the requirements of this Chapter, and to attach such conditions to the variance as it deems necessary to assure compliance with the purpose of this Chapter, in accordance with applicable provisions of State law. A variance may be permitted if all the following requirements are met:

A. Literal enforcement of the Chapter would result in an unnecessary hardship with respect to the property.

B. Such unnecessary hardship results because of unique characteristics of the property.

C. The variance observes the spirit of this Chapter, produces substantial justice and is not contrary to the public interest.

(*Ord. 389, 4/1/1967, §503*)

§27-405. Special Exceptions.

The Board shall have the power to authorize special exceptions if the following requirements are met:

A. The special exception shall be in accordance with the standards specified for such class of special exceptions in Part 3 hereof.

B. The special exception shall not involve any element or cause any condition that may be dangerous, injurious or noxious to any other property or persons and shall comply with the performance standards of §27-406.

C. The special exception shall be sited, oriented and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties.

D. The special exception shall produce a total visual impression and environment which is consistent with the environment of the neighborhood.

E. The special exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood, and in situations where a special exception is requested in an R-2 District for one chair beauty shop and/or

barbershop, the applicant must make provision for three spaces of off-street vehicle parking. [Ord. 536]

F. The special exception shall preserve the purpose of this Chapter.
(Ord. 389, 4/1/1967, §504; as amended by Ord. 536, 8/7/1989, §2)

§27-406. Performance Standards.

All special exceptions shall comply with the requirements of this Section. In order to determine whether a proposed use will conform to the requirements of this Chapter, the Board may also obtain a qualified consultant to testify, whose cost for service shall be borne by the applicant:

A. *Fire Protection.* Fire prevention and fighting equipment acceptable to the Board of Fire Underwriters shall be readily available when any activity involving the handling or storage of inflammable or explosive materials is carried on.

B. *Electrical Disturbance.* No activity shall cause electrical disturbance adversely affecting radio or other equipment in the vicinity.

C. *Noise.* Noise which is determined to be objectionable because of volume, frequency or beat shall be muffled or otherwise controlled, except that fire sirens and related apparatus used solely for public purposes shall be exempt from this requirement.

D. *Vibrations.* Vibrations detectable without instruments on neighboring property in any district shall be prohibited.

E. *Odors.* No malodorous gas or matter shall be permitted which is discernible on any adjoining lot or property.

F. *Air Pollution.* Pollution of air by fly ash, dust, smoke, vapors or other substance shall be controlled by the Allegheny County Smoke and Air Pollution Control Ordinance.

G. *Glare.* Lighting devices which produce objectionable direct or reflected glare on adjoining properties or thoroughfares shall not be permitted.

H. *Erosion.* No erosion by wind or water shall be permitted which will carry objectionable substances onto neighboring properties.

I. *Water Pollution.* Water pollution shall be subject to the standards established by the Pennsylvania Department of Environmental Protection as adopted by the Environmental Quality Board. [Ord. 624]

(Ord. 389, 4/1/1967, §505; as amended by Ord. 624, 1/19/2010)

§27-407. Nonconforming Uses.

The Board shall have the power to authorize changes of lawful nonconforming uses as follows:

A. A nonconforming use which occupies a portion of a structure or premises may be extended within such structure or premises as they existed when the prohibitory provision took effect, but not in violation of the area and yard requirements of the district in which such structures or premises are located. No change of a nonconforming use shall entail structural alterations or any additions other than those required by law for the purpose of safety and health.

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

(*Ord. 389, 4/1/1967, §506*)

Part 5**Administration and Enforcement****§27-501. Zoning Officer.**

The Zoning officer, who shall be appointed by the Borough Council shall:

- A. Administer and enforce the provisions of this Chapter.
- B. Issue zoning certificates. [*Ord. 624*]
- C. Maintain a permanent file of all zoning certificates and applications as public records.

(*Ord. 389, 4/1/1967, §401; as amended by Ord. 624, 1/19/2010*)

§27-502. Compliance.

No structure shall be located, erected, constructed, reconstructed, moved, altered, converted, or enlarged; nor shall any structure or land be used or be designed to be used, except in full compliance with the provisions of this Chapter and after the lawful issuance of all permits and certificates required by this Chapter.

(*Ord. 389, 4/1/1967, §104*)

§27-503. Zoning Certificates.

1. A zoning certificate shall be obtained before any person may:
 - A. Occupy or use any vacant land.
 - B. Occupy or use any structure hereafter constructed, reconstructed, moved, altered, or enlarged.
 - C. Change the use of a structure or land to a different use.
 - D. Change a nonconforming use.

2. Application for a zoning certificate shall be accompanied by a plot plan showing clearly and completely the location, dimensions and nature of any structure involved and such other information as the Zoning Officer may require for administration of this Chapter, together with a filing fee in an amount as established from time to time by resolution of Borough Council. [*Ord. 624*]

(*Ord. 389, 4/1/1967, §402; as amended by Ord. 624, 1/19/2010*)

§27-504. Enforcement Notice.

1. If it appears to the Borough that a violation of this Chapter has occurred, the Borough shall initiate enforcement proceedings by sending an enforcement notice as provided in this Section.

2. 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.

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

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

B. The location of the property in violation.

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

D. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.

E. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a period of 10 days.

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

(*Ord. 389, 4/1/1967; as added by Ord. 624, 1/19/2010*)

§27-505. Enforcement Remedies.

1. 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 therefor in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than \$500 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 magisterial district judge. 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 magisterial district judge determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating this Chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the magisterial district judge and thereafter each day that a violation continues shall constitute a separate violation.

2. 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.

3. 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.

4. Magisterial district judges shall have initial jurisdiction over proceedings brought under this Section.

(*Ord. 389, 4/1/1967, §403; as amended by Ord. 624, 1/19/2010*)

§27-506. Method of Appeal.

Any person or Borough official aggrieved or affected by any provision of this Chapter or by any decision of the Zoning Officer may appeal to the Board within a reasonable time, as provided by rules of the Board, by filing a notice of appeal specifying the grounds thereof.

(*Ord. 389, 4/1/1967, §404*)

Part 6**Amendments****§27-601. General.**

The Council may introduce and consider amendments to this Chapter and to the Zoning Map, as proposed by Council, by the Planning Commission or by a petition of a person residing or owning property within the Borough.

(*Ord. 389, 4/1/1967, §601*)

§27-602. Petitions.

1. Petitions for amendment shall be filed with the Planning Commission, and the petitioner, upon such filing, shall, whether or not the proposed amendment is enacted, pay all costs and expenses connected with the petition including the drafting, advertising and recording of the ordinance and shall deposit with the Borough Secretary at the time the petition is presented, an amount as established from time to time by resolution of Borough Council on account of said costs and expenses. [*Ord. 624*]

2. The Planning Commission shall review the proposed amendment and report its findings and recommendations in writing to the Council and to the petitioner. The proposed amendment shall be introduced before the Council only if a Councilman elects to do so. If an amendment proposed by petition is not introduced, the advertising deposit shall be refunded to the petitioner; otherwise, such deposit shall be paid to the Borough.

(*Ord. 389, 4/1/1967, §602; as amended by Ord. 624, 1/19/2010*)

§27-603. Referral.

Any proposed amendment introduced by a Councilman without written findings and recommendations from the Planning Commission shall be referred to the Planning Commission for review by it prior to public hearing by the Borough. The Planning Commission shall report its findings and recommendations in writing to the Council within such reasonable time prior to the public hearing as the Council may specify in the referring action.

(*Ord. 389, 4/1/1967, §603*)

§27-604. Enactment of Zoning Ordinance Amendments.

1. The Borough Council may from time to time amend, supplement or repeal any of the regulations and provisions of this Chapter. The procedure for the preparation of a proposed zoning ordinance as set forth in §607 of the Pennsylvania Municipalities Planning Code, 53 P.S. §10607, is hereby declared optional.

2. Before voting on the enactment of an amendment, the Borough Council shall hold a public hearing thereon, pursuant to public notice. In addition, if the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by the Borough at points deemed sufficient by the Borough along the perimeter of the tract to notify potentially interested citizens. The affected tract or

area shall be posted at least 1 week prior to the date of the hearing.

3. In the case of an amendment other than that prepared by the Planning Commission, the Borough Council shall submit each such amendment to the Planning Commission at least 30 days prior to the hearing on such proposed amendment to provide the Planning Commission an opportunity to submit recommendations.

4. If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised to include land previously not affected by it, the Borough Council shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.

5. At least 30 days prior to the public hearing on the amendment by the Borough Council, the Borough shall submit the proposed amendment to the County Planning Agency for recommendations.

6. Within 30 days after enactment, a copy of the amendment to this Chapter shall be forwarded to the County Planning Agency.

(*Ord. 389, 4/1/1967, §604; as amended by Ord. 624, 1/19/2010*)

§27-605. Hearings.

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

A. Public notice shall be given and written notice shall be given to the applicant, the Zoning Officer and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by rules of the 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 1 week prior to the hearing.

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

C. The 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.

D. 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.

E. 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.

F. 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.

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

H. 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.

I. 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.

J. 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 45 days after the last hearing before the Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of this Chapter or of any law, ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within 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 30 days after the report of the hearing officer. Where the Board fails to render the decision within the period required by this paragraph, or fails to hold the required hearing within 60 days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of the said decision within 10 days from the last day it could have met to render a decision in the same manner as provided in paragraph .A of this Section. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this paragraph shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

K. 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.

L. The Borough Council shall establish, by resolution, fees with respect to hearings before the Zoning Hearing Board.

(*Ord. 389, 4/1/1967; as added by Ord. 624, 1/19/2010*)

Part 7**Adult Oriented Businesses****§27-701. Definitions.**

Adult arcade - any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of “specified sexual activities” or “specified anatomical areas.” All adult arcades must be constructed according to the attached Exhibit 27-A.

Adult bookstore or adult video store - a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

A. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes or video reproductions, slides or other visual representations which depict or describe “specified sexual activities” or “specified anatomical areas.”

B. Instruments, devices or paraphernalia which are designed for use in connection with “specified sexual activities.”

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “specified sexual activities” or “specified anatomical areas” and still be categorized as “adult bookstore or adult video store.” Such other business purposes will not serve to exempt such commercial establishment from being categorized as an “adult bookstore or adult video store” so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe “specified sexual activities” or “specified anatomical areas.”

Adult cabaret - a nightclub, bar, restaurant or similar establishment which regularly features:

A. Persons who appear in the state of partial or complete nudity.

B. Live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities.”

C. Motion pictures, videocassettes, slides, digital imaging, photographic reproductions or any and all visual media using the most recent technology which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

Adult entertainment -

A. An exhibition of any adult oriented motion pictures which are distinguished and characterized by an emphasis of matter depicting, describing or relating to “specified sexual activities” or “sexual anatomical areas.”

B. A live performance, display or dance of any type which has a significant or substantial portion of the performance or any actual or simulated performance

of “specified sexual activities” or exhibition in viewing of “specified anatomical areas” or persons in a state of nudity or semi-nudity.

C. Films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

Adult motel - a hotel, motel or similar commercial establishment which:

A. Offers accommodations to the public for any form of consideration; provides patrons with closed circuit television transmissions, films, motion pictures, videocassettes, slides, digital imaging, photographic reproductions or any visual media using current technology which are characterized by the depiction or description of “specified sexual activities,” “specified anatomical areas”; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions.

B. Offers sleeping rooms for rent four or more times in 1 calendar day during 5 or more calendar days in any continuous 30-day period.

Adult motion picture theater - a commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

Adult theater - a theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of “specified anatomical areas” or “specified sexual activities.”

Child-oriented business - a commercial establishment which, as one of its principal business purposes, serves and/or sells children and their families food, apparels, goods, services, play and/or entertainment.

Employee - a person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent, lessee, lessee of a dance floor or space or otherwise, and whether or not said person is paid a salary, wage or compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment located thereon or for the delivery of goods to the premises.

Escort - a person who, for consideration, agrees or offers to act as a companion, guide or date for another person or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort agency - a person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

Establishment or establish - includes any of the following:

A. The opening or commencement of any sexually oriented business as a new business.

B. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business.

C. The addition of any sexually oriented business or sexually oriented use to any other existing sexually oriented business or use.

D. The relocation of any sexually oriented business.

Knowingly - having a general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:

A. The character and content of any material or performance described herein which is reasonably susceptible of examination by a permittee or persons.

B. The age of a minor; provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the permittee or person made a reasonable bona fide attempt to ascertain the true age of such minor.

Municipality - the Borough of Mount Pleasant, Westmoreland County, Pennsylvania.

Nude motel studio - any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. Nude motel studio shall not include a proprietary school licensed by the Commonwealth of Pennsylvania as a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferrable to a college, junior college or university supported entirely or partly by taxation; or in a structure under the following conditions:

A. That there is no sign visible from the exterior of the structure and no other such advertising which indicates that a nude or semi-nude person is available for viewing.

B. Where, in order to participate in a class, a student must enroll at least 3 days in advance thereof.

C. Where no more than one nude or semi-nude model is on the premises at any one time.

Nudity or a state of nudity - the appearance of a human bare buttock, anus, male genitals, female genitals or female breast.

Permittee - a person in whose name a permit to operate a sexually oriented business has been issued, as well as the individual or individuals listed as the applicants on any permit application.

Person - an individual, proprietorship, partnership, corporation, association or other legal entity.

Semi-nude - a state of dress in which clothing covers no more than the genitals, pubic region and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

Sexual encounter center - a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex.

B. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

Sexually oriented business - an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center.

Specified anatomical areas - the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

Specified sexual activities - includes any of the following:

- A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts.
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy.
- C. Masturbation, actual or simulated.
- D. Excretory functions as put of or in connection with any of the activities set forth in paragraphs .A through .C above.

Substantial enlargement of a sexually oriented business - the increase in floor areas occupied by the business by more than 25 percent, as the floor area exists on date of enactment of this Part.

Transfer of ownership or control of a sexually oriented business - includes any of the following:

- A. The sale lease or sublease of the business.
- B. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means.
- C. The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by request or other operation of law upon the death of the person possessing the ownership or control.

Viewing booths - booths, stalls, partitioned portions of a room, rooms or other enclosures which are available for viewing:

- A. Films, movies, videos or visual reproductions of any kind depicting or describing "specified sexual activities" or "specified anatomical areas."
- B. Persons who appear in a state of nudity or semi-nudity or who offer performances or presentations characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

(Ord. 389, 4/1/1967; as added by Ord. 578, 9/5/2000, §2)

§27-702. Classification.

Sexually oriented businesses are classified as follows:

- A. Adult arcades.
- B. Adult bookstores or adult video stores.
- C. Adult cabarets.
- D. Adult motels.
- E. Adult motion picture theaters.
- F. Adult theaters.

- G. Escort agencies.
- H. Nude model studios.
- I. Sexual encounter centers.

(*Ord. 389, 4/1/1967; as added by Ord. 578, 9/5/2000, §2*)

§27-703. Permit Required.

1. Any person who operates a sexually oriented business without a valid permit issued by the Borough is guilty of violation of this Chapter.

2. An application for a permit to operate a sexually oriented business must be made on a form provided by the Code Enforcement Officer. Plans approved by the Pennsylvania Department of Labor and Industry depicting the floor plan and plot plan configuration of the premises, including a statement of total floor space to be occupied by the business, must accompany the application. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus 6 inches.

3. The applicant must be qualified according to the provisions of this Part and the premises must be inspected and found to be in compliance with the law by the Code Enforcement Officer.

4. If a person who wishes to operate a sexually oriented business is an individual, he must sign the application for permit as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 10 percent or greater interest in the business must sign the application for a permit as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity which wishes to operate such a business, each individual having a direct or indirect interest of 10 percent or greater in the corporation must sign the application for a permit as applicant.

5. The fact that a person possesses other types of permits issued by the Borough shall not exempt the person from the requirements of obtaining a sexually oriented business permit under the provisions hereof.

(*Ord. 389, 4/1/1967; as added by Ord. 578, 9/5/2000, §2*)

§27-704. Issuance of Permit.

1. The Code Enforcement Officer shall approve the issuance of a permit to an applicant within 30 days after receipt of an application unless he finds one or more of the following to be true:

- A. An applicant is under 18 years of age.
- B. An applicant or an applicant's spouse is overdue in his payment to the Borough of taxes, fees, lines or penalties assessed against him or imposed upon him in relation to a sexually oriented business.

C. An applicant has failed to provide all information required for issuance of the permit or has falsely answered a question or request for information on the application form.

D. An applicant is residing with a person who has been denied a permit by the Borough to operate a sexually oriented business within the preceding 12

months, or residing with a person whose permit to operate a sexually oriented business has been revoked within the preceding 12 months.

E. The premises to be used for the sexually oriented business have been reviewed and have been disapproved by the Code Enforcement Officer as not being in compliance with applicable laws and ordinances.

F. The permit fee required by this Part has not been paid.

G. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this Part.

H. An individual applicant or any individual holding a direct or indirect interest of more than 10 percent of a corporate applicant, or any of the officers and directors of a corporate applicant, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; or the manager or other person in charge of the operation of the applicant's business, has or have been convicted of an offense involving sexual misconduct within the Commonwealth of Pennsylvania including, but not limited to, prostitution, obscenity and possession of child pornography, or convicted of any offense in any jurisdiction other than the Commonwealth of Pennsylvania that would have constituted an offense involving sexual misconduct if committed within the Commonwealth of Pennsylvania. In order for approval to be denied pursuant to this paragraph, the person or person's conviction or release in connection with the sexual misconduct offense must have occurred within 2 years of the date of application in the event of a misdemeanor and within 5 years of the date of application in the event of a felony.

2. The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address, of the sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

3. The Code Enforcement Officer shall complete his certification that the premises are or are not in compliance within 20 days of receipt of the application by the Code Enforcement Officer.

(*Ord. 389, 4/1/1967; as added by Ord. 578, 9/5/2000, §2*)

§27-705. Fees.

The annual fee for a sexually oriented business permit shall be in an amount as established from time to time by resolution of Borough Council.

(*Ord. 389, 4/1/1967; as added by Ord. 578, 9/5/2000, §2; and as amended by Ord. 624, 1/19/2010*)

§27-706. Inspection.

1. An applicant or permittee shall permit an administrative inspection of the premises by the Code Enforcement Officer at any time that the permitted business operation is open for business in order to ensure continued compliance with the law.

2. Any person who operates a sexually oriented business or his agent or employee violates this Chapter if such person refuses to permit a lawful inspection of the premises as set forth above.

(*Ord. 389, 4/1/1967; as added by Ord. 578, 9/5/2000, §2*)

§27-707. Expiration of Permit.

1. Each permit shall expire 1 year from the date of issuance and may be renewed only by making application as provided in §27-704. Application for renewal should be made at least 60 days before the expiration date and, when made fewer than 60 days before the expiration date, the pendency of the application will not prevent the expiration of the permit.

2. If the Code Enforcement Officer denies renewal of a permit, the applicant shall not be issued a permit for 1 year from the date of denial, except that after 90 days have elapsed since the date of denial, the applicant may be granted a permit if the Code Enforcement Officer finds that the basis for denial of the renewal permit has been corrected or abated.

(*Ord. 389, 4/1/1967; as added by Ord. 578, 9/5/2000, §2*)

§27-708. Suspension of Permit.

The Code Enforcement Officer shall suspend a permit for a period not to exceed 30 days if he determines that a permittee or an employee of a permittee has:

- A. Violated or is not in compliance with any section of this Part.
- B. Refused to allow an inspection of the sexually oriented business premises as authorized by this Part.
- C. Knowingly permitted gambling by any person on the sexually oriented business premises.

(*Ord. 389, 4/1/1967; as added by Ord. 578, 9/5/2000, §2*)

§27-709. Revocation of Permit.

1. The Code Enforcement Officer shall revoke a permit if a cause for suspension set forth in §27-708 occurs and the permit has been suspended within the preceding 12 months.

2. The Code Enforcement Officer shall revoke a permit if he determines that:
- A. A permittee or any of the persons specified in §27-704.1.H is or has been convicted of the offenses specified in §27-704.1.H.
 - B. A permittee gave false or misleading information in the material submitted to the Borough during the application process.
 - C. A permittee or an employee of a permittee has knowingly allowed possession, use or sale of controlled substances on the premises.
 - D. A permittee or an employee of a permittee has knowingly allowed prostitution on the premises.
 - E. A permittee or an employee of a permittee knowingly operated the sexually oriented business during a period of time when the permittee's permit was suspended.

F. A permittee or an employee of a permittee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other explicit

sexual conduct to occur in or on the permitted premises.

G. A permittee is delinquent in payment to the Borough or the Commonwealth of Pennsylvania of any taxes or fees relating to sexually oriented businesses.

3. When the Code Enforcement Officer revokes a permit, the revocation shall continue for 1 year and the permittee shall not be issued a sexually oriented business permit for 1 year from the date revocation became effective, except that if the revocation is pursuant to subsection .2.A above, the revocation shall be effective for 2 years in the event of a misdemeanor or 5 years in the case of a felony.

4. All permit denial, renewal, suspension or revocation decisions shall be sent in writing to the applicant and/or permittee. All such decisions which deny, refuse to renew, suspend or revoke a permit shall state specifically the ordinance requirement not met and any other basis for the decision. After denial of an application, or denial of a renewal of an application, or after suspension or revocation of any permit, the applicant or permittee may appeal pursuant to the Local Agency Law, 2 Pa.C.S. §101 *et seq.*, to the Mount Pleasant Borough Council except as modified herein. Any such appeal must be filed, in writing, with the Code Enforcement Officer, within 10 days from the date of the mailing of the decision appealed from and shall specify, in detail, the basis for the appeal. Failure or refusal to file said appeal or specify the basis of said appeal with the Code Enforcement Officer shall be deemed a conclusive determination as to the issues or matters addressed by the written decision. If an appeal is timely filed, the Mount Pleasant Borough Council will then hold a Local Agency Law hearing pursuant to 2 Pa.C.S. §101 *et seq.* within 20 days from the date the appeal is filed and will render a written decision within 10 days from the date such hearing concludes. In the case of a denial or renewal, or in the case of a permit suspension or revocation, the permittee may continue to operate to the same extent as immediately prior to the suspension or revocation until the earlier of: (A) the expiration of the 10-day appeal period without filing of an appeal; or (B) the date of a final decision dismissing any appeal.

5. Any person aggrieved by a decision of the Mount Pleasant Borough Council may appeal to a court of competent jurisdiction pursuant to the Local Agency Law, 2 Pa.C.S. §101 *et seq.*, and 42 Pa.C.S. §933(a)(2). Mount Pleasant Borough shall, upon filing of such appeal, consent to any request by a permit applicant or permittee to the court to give expedited review of such appeal. Mount Pleasant Borough shall certify any record to the court within 20 days after the appeal is filed. In the case of a denial of a permit renewal, or in the case of a permit suspension or revocation, the permittee may continue to operate to the same extent as immediately prior to the denial, suspension or revocation until the earlier of:

A. The expiration of the 30-day appeal period without filing an appeal.

B. The date of a decision dismissing an appeal by a court of competent jurisdiction.

(Ord. 389, 4/1/1967; as added by Ord. 578, 9/5/2000, §2)

§27-710. Transfer of Permit.

A permittee shall not transfer his permit to another person. A permittee shall not operate a sexually oriented business under the authority of a penalty at any place other

than the address designated in the application.

(*Ord. 389, 4/1/1967*; as added by *Ord. 578, 9/5/2000, §2*)

§27-711. Location of Sexually Oriented Business.

1. A person is guilty of a violation of this Chapter if he operates or causes to be operated a sexually oriented business outside of the district in which a sexually oriented business is a permitted use. No sexually oriented businesses shall be located outside a district in which a sexually oriented business is a permitted use. Sexually oriented businesses as defined herein shall be permitted in the Industrial (I) District as a permitted use. Hours of operation shall be from 8 a.m. to 10 p.m., Mondays through Saturdays, and no such operation shall be permitted on Sundays or legal holidays.

2. A person is guilty of a violation of this Chapter if he operates or causes to be operated a sexually oriented business within 300 feet of:

A. A church, including, without limitation, any property owned or utilized for purposes of a convent, monastery, religious cemetery, religious retreat or any other property utilized for religious functions or uses.

B. A public or private pre-elementary, elementary, or secondary school.

C. A public library.

D. A public or private child care facility or nursery school.

E. A public park adjacent to any residential district.

F. A child-oriented business.

G. A college and/or public or private university.

H. Any properly situate in the Borough of Mount Pleasant, Westmoreland County, Pennsylvania, which is zoned or used for residential purposes.

3. A person is guilty of a violation of this Chapter if he causes or permits the operation, establishment, substantial enlargement or transfer of ownership or control of a sexually oriented business within 500 feet of another sexually oriented business.

4. A person is guilty of a violation of this Chapter if he causes or permits the operation, establishment or maintenance of more than one sexually oriented business in the same building, structure or portion thereof; or undertakes a substantial enlargement of a sexually oriented business as the same is defined in §27-701.

5. For the purpose of this Section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted to the nearest property line of any use or premises identified in subsection .2 hereof.

6. For purposes of subsection .3 above, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

7. Any sexually oriented business lawfully operating on date of enactment of this Part that is in violation of subsections .1 through .6 hereof shall be deemed a nonconforming use. In the event that two or more sexually oriented businesses are located within 500 feet of one another and otherwise in a permissible location, the

sexually oriented business which was first established and continually operating at the particular location shall be considered the conforming use and the later-established business shall be considered a nonconforming use. In the event any preexisting nonconforming sexually oriented business shall be abandoned or not utilized as a sexually oriented business for a period of at least 12 months, said business shall lose its preexisting nonconforming status and must thereafter comply with all provisions of this Part to reopen.

8. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business permit, of any premises or use identified in subsection .2 hereof within 500 feet of the sexually oriented business. This provision applies only to the renewal of a valid permit and does not apply when an application for a permit is submitted after a permit has expired or has been revoked.

(Ord. 389, 4/1/1967; as added by Ord. 578, 9/5/2000, §2)

§27-712. Injunction.

A person who operates or causes to be operated a sexually oriented business without a valid permit or in violation of this Part is subject to an action in equity or a suit for injunction as well as citations for violations of this Chapter.

(Ord. 389, 4/1/1967; as added by Ord. 578, 9/5/2000, §2)

Part 8**Airport District Overlay Ordinance****§27-801. Purpose.**

The purpose of this Part is to create an airport district overlay that considers safety issues around the Mount Pleasant Scottdale Airport, regulates and restricts the heights of constructed structures and objects of natural growth, creates appropriate zones, establishing the boundaries thereof and providing for changes in the restrictions and boundaries of such zones, creates the permitting process for use within said zones and provides for enforcement, assessment of violation penalties, an appeals process, and judicial review.

(Ord. 389, 4/1/1967; as added by Ord. 630, 2/7/2011, §1)

§27-802. Relation to Other Zone Districts.

The airport district overlay shall not modify the boundaries of any underlying zoning district. Where identified, the airport district overlay shall impose certain requirements on land use and construction in addition to those contained in the underlying zoning district.

(Ord. 389, 4/1/1967; as added by Ord. 630, 2/7/2011, §2)

§27-803. Definitions.

The following words and phrases when used in this Part shall have the meaning given to them in this Section unless the context clearly indicates otherwise:

Airport elevation - the highest point of an airport's useable landing area measured in feet above sea level. The airport elevation of the Mount Pleasant Scottdale Airport is 1,160 feet.

Airport hazard - any structure or object, natural or manmade, or use of land which obstructs the airspace required for flight or aircraft in landing or taking off at an airport or is otherwise hazardous as defined in 14 CFR Part 77 and 74 Pa. Cons. Stat. §5102.

Airport hazard area - any area of land or water upon which an airport hazard might be established if not prevented as provided for in this Part and the Act 164 of 1984 (Pennsylvania Laws Relating to Aviation).

Approach surface (zone) - an imaginary surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of the runway based on the planned approach. The inner edge of the approach surface is the same width as the primary surface and expands uniformly depending on the planned approach. The approach surface zone, as shown on Figure 1,² is derived from the approach surface.

Conical surface (zone) - an imaginary surface extending outward and upward

²Editor's Note: Figure 1 is on file in the Borough office.

from the periphery of the horizontal surface at a slope of 20 feet horizontally to 1 foot vertically for a horizontal distance of 4,000 feet. The conical surface zone, as shown on Figure 1,³ is based on the conical surface.

Department - Pennsylvania Department of Transportation.

FAA - Federal Aviation Administration of the United States Department of Transportation.

Height - for the purpose of determining the height limits in all zones set forth in this Part and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

Horizontal surface (zone) - an imaginary plane 150 feet above the established airport elevation that is constructed by swinging arcs of various radii from the center of the end of the primary surface and then connecting the adjacent arc by tangent lines. The radius of each arc is based on the planned approach. The horizontal surface zone, as shown on Figure 1³ is derived from the horizontal surface.

Larger than utility runway - a runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

Nonconforming use - any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Part or an amendment thereto.

Non-precision instrument runway - a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

Obstruction - any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth by this Part.

Precision instrument runway - a runway having an existing instrument approach procedure utilizing an instrument landing system (ILS) or a precision approach radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

Primary surface (zone) - an imaginary surface longitudinally centered on the runway, extending 200 feet beyond the end of paved runways or ending at each end of turf runways. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The primary surface zone, as shown on Figure 1³ is derived from the primary surface.

Runway - a defined area of an airport prepared for landing and takeoff of aircraft along its length.

Structure - an object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation and overhead transmission lines.

³Editor's Note: Figure 1 is on file in the Borough office.

Transitional surface (zone) - an imaginary surface that extends outward and upward from the edge of the primary surface to the horizontal surface at a slope of 7 feet horizontally to 1 foot vertically (7:1). The transitional surface zone, as shown on Figure 1,⁴ is derived from the transitional surface.

Tree - any object of natural growth.

Utility runway - a runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

Visual runway - a runway intended solely for the operation of aircraft using visual approach procedures.

(Ord. 389, 4/1/1967; as added by Ord. 630, 2/7/2011, §3)

§27-804. Establishment of Airport Zones.

There are hereby created and established certain zones within this Part, defined in §27-803 and depicted on Figure 1⁴ and illustrated on Mount Pleasant Scottsdale Airport Hazard Area Map,⁵ hereby adopted as part of this Part, which include:

- A. Approach surface zone.
- B. Conical surface zone.
- C. Horizontal surface zone.
- D. Primary surface zone.
- E. Transitional surface zone.

(Ord. 389, 4/1/1967; as added by Ord. 630, 2/7/2011, §4)

§27-805. Permit Applications.

1. As regulated by Act 164 and defined by 14 Code of Federal Regulations Part 77.13(a) (as amended or replaced), any person who plans to erect a new structure, to add to an existing structure, or to erect and maintain any object (natural or manmade), in the vicinity of the airport at or above 200 feet (The Borough of Mount Pleasant is located 1,335 MSL (mean sea level) and 175 feet above the elevation of the airport) shall first notify the Department's Bureau of Aviation (BOA) by submitting PennDOT Form AV-57 to obtain an obstruction review of the proposal at least 30 days prior to commencement thereof. The Department's BOA response must be included with this permit application for it to be considered complete. If the Department's BOA returns a determination of no penetration of airspace, the permit request should be considered in compliance with the intent of this Part. If the Department's BOA returns a determination of a penetration of airspace, the permit shall be denied, and the project sponsor may seek a variance from such regulations as outlined in §27-806.

2. No permit is required to make maintenance repairs to or to replace parts of existing structures which do not enlarge or increase the height of an existing structure.

(Ord. 389, 4/1/1967; as added by Ord. 630, 2/7/2011, §5)

⁴Editor's Note: Figure 1 is on file in the Borough office.

⁵Editor's Note: Mount Pleasant Scottsdale Airport Hazard Area Map is on file in the Borough office.

§27-806. Variance.

1. Any request for a variance shall include documentation in compliance with 14 Code of Federal Regulations Part 77 Subpart B (FAA Form 7460-1 as amended or replaced). Determinations of whether to grant a variance will depend on the determinations made by the FAA and the Department's BOA as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable air space. In particular, the request for a variance shall consider which of the following categories the FAA has placed the proposed construction in:

A. *No Objection.* The subject construction is determined not exceed to obstruction standards and marking/lighting is not required to mitigate potential hazard. Under this determination a variance shall be granted.

B. *Conditional Determination.* The proposed construction/alteration is determined to create some level of encroachment into an airport hazard area which can be effectively mitigated. Under this determination, a variance shall be granted contingent upon implementation of mitigating measures as described in §27-809, "Obstruction Marking and Lighting."

C. *Objectionable.* The proposed construction/alteration is determined to be a hazard and is thus objectionable. A variance shall be denied and the reasons for this determination shall be outlined to the applicant.

2. Such requests for variances shall be granted where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and that relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the intent of this Part.

(Ord. 389, 4/1/1967; as added by Ord. 630, 2/7/2011, §6)

§27-807. Use Restrictions.

Notwithstanding any other provisions of this Part, no use shall be made of land or water within the airport district overlay in such a manner as to create electrical interference with navigational signals or radio communications between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, impair visibility in the vicinity of the airport, create bird strike hazards or otherwise endanger or interfere with the landing, takeoff or maneuvering of aircraft utilizing the Mount Pleasant Scottdale Airport.

(Ord. 389, 4/1/1967; as added by Ord. 630, 2/7/2011, §7)

§27-808. Pre-existing Nonconforming Uses.

The regulations prescribed by this Part shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Part, or otherwise interfere with the continuance of a nonconforming use. No nonconforming use shall be structurally altered or permitted to grow higher, so as to increase the nonconformity, and a nonconforming use, once substantially abated (subject to the underlying zoning ordinance [this Chapter]), may only be reestablished consistent with the provisions herein.

(Ord. 389, 4/1/1967; as added by Ord. 630, 2/7/2011, §8)

§27-809. Obstruction Marking and Lighting.

Any permit or variance granted pursuant to the provisions of this Part may be conditioned according to the process described in §27-806 to require the owner of the structure or object of natural growth in question to permit the municipality, at its own expense, or require the person requesting the permit or variance, to install, operate, and maintain such marking or lighting as deemed necessary to assure both ground and air safety.

(*Ord. 389, 4/1/1967; as added by Ord. 630, 2/7/2011, §9*)

§27-810. Violations and Penalties.

Subject to that in this Chapter.

(*Ord. 389, 4/1/1967; as added by Ord. 630, 2/7/2011, §10*)

§27-811. Appeals.

Subject to the process in this Chapter.

(*Ord. 389, 4/1/1967; as added by Ord. 630, 2/7/2011, §11*)

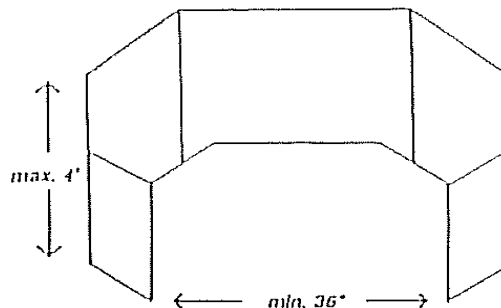
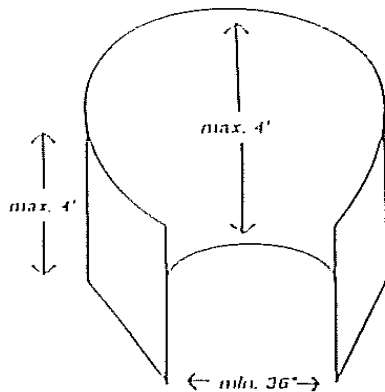
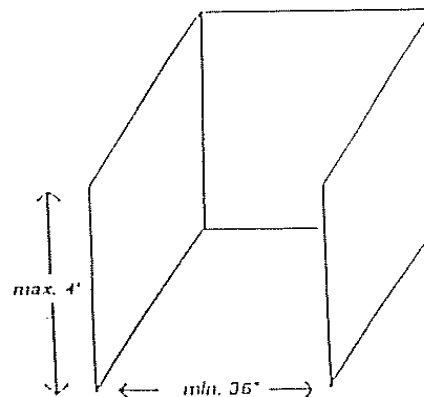
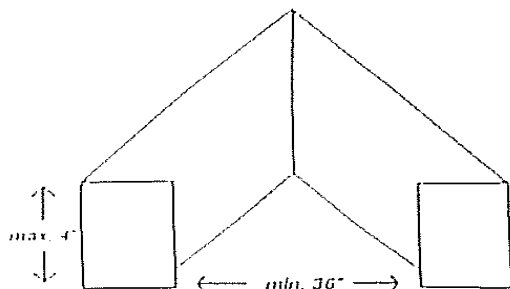
§27-812. Conflicting Regulations.

Where there exists a conflict between any of the regulations or limitations prescribed in this Part and any other regulation applicable to the same area, the more stringent limitation or requirement shall govern and prevail.

(*Ord. 389, 4/1/1967; as added by Ord. 630, 2/7/2011, §12*)

Exhibit 27-A

Adult Motion Picture Arcades



All arcade booth interiors must be designed in accordance with ADA (Americans with Disabilities Act) requirements.

Borough of Mount Pleasant
 1 Etze Avenue, Municipal Building
 Mount Pleasant, Pennsylvania 15666
 Tel: (724) 547-6745 Fax: (724) 547-0115

APPLICATION FOR ZONING PERMIT

PERMIT NUMBER _____

FEE DATE PD. CHECK NO.

_____ _____ _____ ZONING PERMIT FEE

 *NAME OF APPLICANT (MUST BE RECORD OWNER AND/OR EQUITABLE OWNER OF PROPERTY) * TELEPHONE NO.

 *MAILING ADDRESS OF APPLICANT *ZIP CODE

 *PHYSICAL ADDRESS OF PROPERTY (If different from mailing address) (i.e.: E. side PA 183 1 mi. N of I-78)

Deed Book Volume _____ Page _____ Tax Parcel Identification No. _____

Subdivision/Lot Number (Attach Subdivision Plan) Sewage Permit # (Attach Design) Lot Size Width Length

* Description of proposed construction/land use. Type (i.e. new residential dwelling; in ground pool; one room addition; flea market; etc.) & Materials, (i.e. block foundation, wood frame, vinyl siding, pole building, etc.)

Dimensions Area No. Stories/Height *Value of Construction

Zoning District Building Setback Side Yard, ea. Rear Yard

Required >> _____ _____ _____

Provided >> _____ _____ _____

DO NOT WRITE BELOW - FOR BOROUGH USE ONLY

_____ Permit Denied Reason: _____				
<table style="width: 100%; border: none;"> <tr> <td style="width: 60%; border: none;"> Signature _____ </td> <td style="width: 40%; border: none;"> Date Permit Issued _____ </td> </tr> <tr> <td colspan="2" style="border: none;"> Special Instructions/Restrictions _____ </td> </tr> </table>	Signature _____	Date Permit Issued _____	Special Instructions/Restrictions _____	
Signature _____	Date Permit Issued _____			
Special Instructions/Restrictions _____				

Easements

Does your property contain easements of any kind? _____ Yes _____ No _____ Don't Know (If YES, attach copy of deed.)

Do you have any utility pole on your property? _____ Yes _____ No _____ Don't Know

Do you have a swale, ditch, stream, etc. on your property? _____ Yes _____ No _____ Don't Know

Do you have underground utilities through your property? _____ Yes _____ No _____ Don't Know

Do you have shrubs, plants along the rear of your property? _____ Yes _____ No _____ Don't Know

Restrictions

Does your property contain any deed restrictions? _____ Yes _____ No _____ Don't Know (If YES, attach copy of deed)

If yes, please list what restrictions

Variances

Has your property received any zoning variances or relief from the Zoning Ordinance? _____ Yes _____ No _____ Don't Know

If yes, please explain what relief:

Has your property been rezoned (zoning district change?) _____ Yes _____ No _____ Don't Know

If yes, please explain what district you changed to:

Environmental Features

Does your property contain steep slopes? Or contours? _____ Yes _____ No _____ Don't Know

Does your property flood or are you located within a flood zone? _____ Yes _____ No _____ Don't Know

Does your property contain any wetlands? _____ Yes _____ No _____ Don't Know

Pursuant to Pa. Act 38 (amending Act 287 and 172) notification to the "One Call System" is required at least three working days prior to the disturbing earth with any type of powered equipment. Call Toll Free 1-800-242-1776. Please note that it is the responsibility of the applicant to make this notification.

*****Please note: If an application is submitted without all required information, a review will not begin until all missing information is submitted. If information is not submitted the application can be deemed incomplete and can be denied.**

VERIFICATION STATEMENT

I, _____, hereby verify that the information contained in this application, including all statements, representations, and other entries, is true and correct to the best of my knowledge, information and belief. This verification is made subject to the penalties of 18 PA. C. S. 4904, relating to unsworn falsification to authorities, and 4911, relating to tampering with official records.

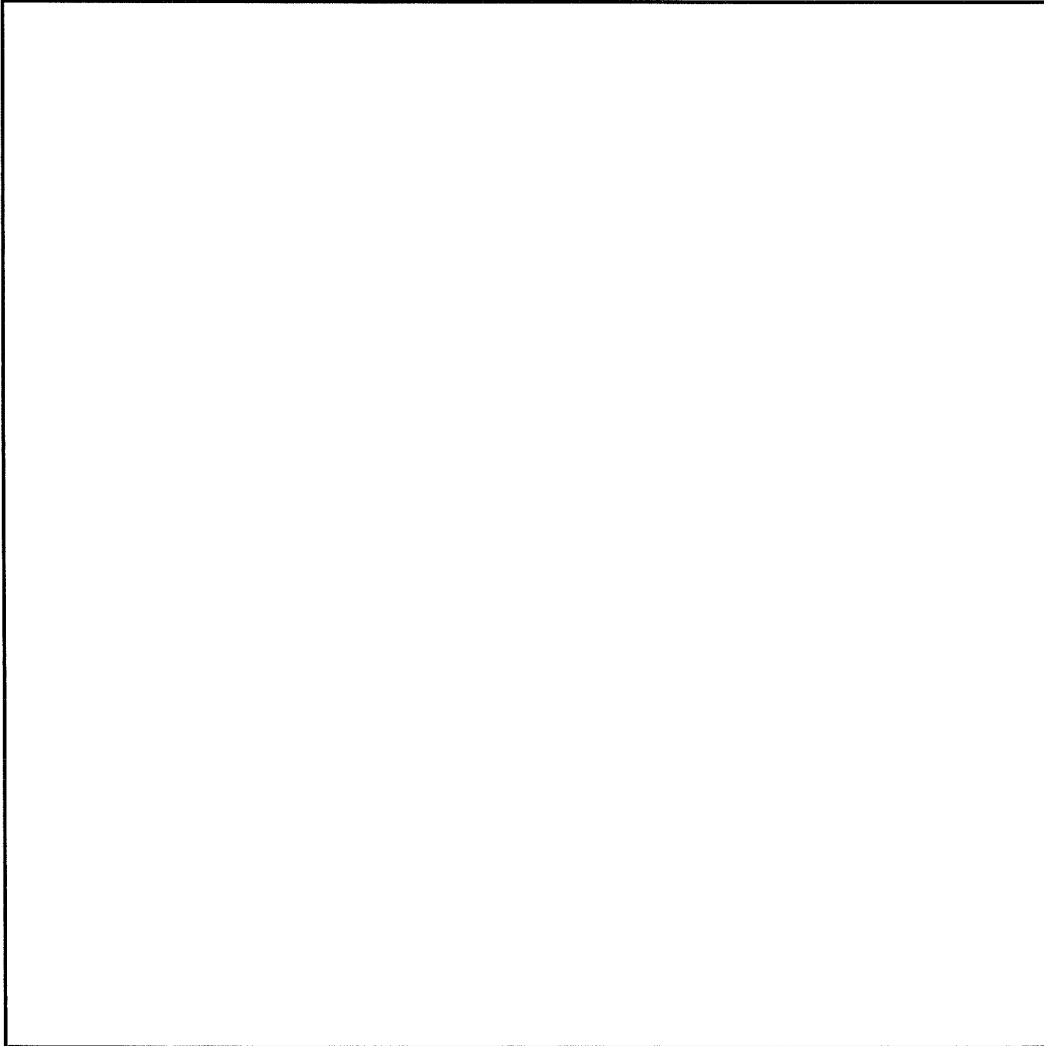
_____/_____
Applicants Signature / Date

PROPERTY DRAWING

Please provide a sketch in the box below depicting the following information. All information must be displayed or the Zoning Permit Applicant may be deemed incomplete and may be denied.

1. Rough sketch of your property boundary lines
2. Depict all existing and proposed buildings
3. Distance in Feet from your proposed structure to all property lines (front, rear, and both sides)
4. Distance in Feet from your proposed structure to the primary residence
5. Distance in Feet from your proposed structure to any other accessory structures

Note: The measurements listed above are to be measured at the shortest distance between your proposed structure and other structures or lot lines.



PLEASE NOTE: INCOMPLETE APPLICATIONS WILL BE REJECTED

Zoning Map Amendments

Ord./Res.	Date	Description
435	4/5/1971	The area located on the northerly side of Smithfield Street, extending from Mullin Avenue to Church Street, shall be zoned B-1, Business instead of R-3, Multi-family Residential.
444	3/5/1973	Amending the Zoning Map
445	4/2/1973	Amending the Zoning Map
501	9/14/1982	Amending the Zoning Map
504	5/23/1983	Amending the Zoning Map
532	11/7/1988	Amending the Zoning Map
513	3/5/1984	Designating the H-1 District as a district on the Zoning Map and defining the area that is the H-1 District.
552	6/1/1992	Designating the E-1 District as a district on the Zoning Map and defining the area that is the E-1 District.
621	2/16/2009	Creating a new Zoning District, R-1A Single-Family Residential.

