

*Borough of Kenhorst, PA  
Monday, April 13, 2015*

## Chapter 26. ZONING

o26a Zoning Map 

### Part 1. GENERAL PROVISIONS

#### § 101. Title.

[Ord. 458, 5/4/2000, § 101]

A Chapter establishing regulations, specifications and restrictions for the uses of land, watercourses and other bodies of water; the size, height, bulk, location, erection, construction, repair, maintenance, alteration, razing, removal and use structures; the areas and dimensions of land and bodies of water to be occupied by uses and structures, including areas, courts, yards and other open spaces, and distances to be left unoccupied by uses and structures; and the density of population and intensity of land uses in the Borough of Kenhorst, Berks County, Pennsylvania, and for said purposes, dividing the Borough into districts and prescribing certain uniform regulations for each such district and providing for the administrative enforcement and amendment provisions in accordance with the Pennsylvania Municipalities Planning Code, Act 247, as amended.

#### § 102. Short Title.

[Ord. 458, 5/4/2000, § 102]

This Chapter shall be known as and may be cited as the "Kenhorst Borough Zoning Ordinance of 2000, as amended."

#### § 103. Purpose.

[Ord. 458, 5/4/2000, § 103]

This Chapter has been adopted in accordance with the requirements of Act 247 (Pennsylvania Municipalities Planning Code), as amended, with the goals, objectives and policies established in the Kenhorst Borough Comprehensive Plan and with consideration for the character of the Borough and its capacity to accommodate growth and development. In addition to implementing the Kenhorst Borough Comprehensive Plan, the purpose of this Chapter is designed:

- A. To promote, protect and facilitate one or more of the following: the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, civil defense,

disaster evacuation, airports and national defense facilities, the provisions of adequate light and air, police protection, vehicle parking and loading space, transportation, water, sewage, schools, public grounds and other public requirements as well.

- B. To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers.
- C. To identify, protect and preserve the physical and environmental amenities within the Borough.
- D. Encourage aesthetical and innovative residential growth within the Borough that will meet the needs of existing and future residents.
- E. Encourage commercial development that is adequate to meet the Borough's needs for employment, goods and services.
- F. Ensure through planning that public facilities and controls are adequate to accommodate future growth.
- G. To provide for a system of open space through the preservation of floodplains, wooded areas and wetlands, providing areas for passive and active recreation.
- H. Promote, encourage and practice energy conservation within the Borough.
- I. Provide and establish a transportation network that safely and efficiently circulates people and goods throughout and within the Borough.

## § 104. Application.

[Ord. 458, 5/4/2000, § 104]

Except as hereinafter provided, no building, structure, land or parts thereof in Kenhorst Borough shall be used or occupied, erected, constructed, assembled, moved, enlarged, reconstructed or structurally altered, unless in conformity with the provisions of this Chapter.

## § 105. Exemptions.

[Ord. 458, 5/4/2000, § 105]

1. This Chapter shall not apply to any existing or proposed buildings, or extension thereof, used or to be used by a public utility corporation or communication corporation if, upon petition of the corporation, the Pennsylvania Public Utility Commission or Federal Communication Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.
2. It shall be the responsibility of the Pennsylvania Public Utility Commission or Federal Communication Commission to ensure that both the corporation and the Borough have notice of the public hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties and otherwise exercise the rights of a party to the proceedings.
3. The Kenhorst Borough Planning Commission and Council shall have right to require that a land development plan be prepared by and submitted by the representatives of the Pennsylvania Public Utility Commission or Federal Communication Commission. The land development plan shall be prepared to meet

goals, objectives and policies identified in the Kenhorst Borough Comprehensive Plan and this Chapter, and with the requirements specified in the Kenhorst Borough Subdivision and Land Development Ordinance [Chapter 20].

## § 106. Interpretation.

[Ord. 458, 5/4/2000, § 106]

1. In interpreting and applying the provisions of this Chapter, they shall be held to be the minimum requirements adopted for the promotion of the public health and safety and the general welfare of the residents and occupants of the Borough.
2. Where the provisions of this Chapter impose greater restrictions than those of any other Borough statute, ordinance or regulation, the provisions of this Chapter shall be complied with.
3. Where the provisions of any other Borough statute, ordinance or regulations impose greater restrictions than this Chapter, the provisions of such other Borough statute, ordinance or regulation shall be complied with, unless otherwise stated in this Chapter.

## § 107. Community Development Objectives.

[Ord. 458, 5/4/2000, § 107]

This Chapter attempts to emulate through its regulations, the goals and objectives of the Kenhorst Borough Comprehensive Plan. These regulations have been established with considerations to the Borough's physical characteristics, population trends, housing characteristics, existing land use characteristics, community facilities and services and existing transportation characteristics. The regulations established in this Chapter reflect and portray the goals, objectives and policies of the functional components of the adopted Comprehensive Plan.

## § 108. Effective Date.

[Ord. 458, 5/4/2000, § 110]

This Chapter has been adopted by the Kenhorst Borough Council on May 4, 2000. This Chapter shall become effective on May 11, 2000.

## Part 2. DEFINITIONS

### § 201. General Interpretation.

[Ord. 458, 5/4/2000, § 201]

1. For the purpose of this Chapter, certain terms and words are defined below. Words used in the present tense shall include the future tense. Words in the singular shall include the plural and words in the plural shall include the singular. Words in the masculine include the feminine and the neuter.

2. The word "shall" is mandatory. The word "may" is permissive. The word "person" includes "individual," "company," "unincorporated association" or other similar entities. The words "used for" include "designed for," "arranged for," "intended for," "maintained for" or "occupied for." The word "building" shall be construed as if followed by the phrase "or part thereof."

## § 202. Specific Terms.

[Ord. 458, 5/4/2000, § 202]

Terms or words used herein, unless otherwise expressly stated, shall be construed as defined below. When terms, phrases or words are not defined, they shall have their ordinarily accepted meanings or such as the context may imply.

### **ACCESS**

The point in which a vehicle and person can enter, exit and/or approach a parcel of land.

### **ACCESSIBLE**

The ability to enter, exit and/or approach a parcel of land by a person and vehicle.

### **ACCESSORY BUILDING**

A building subordinate to the principal building on a lot and used for purposes customarily incidental to those of the principal use.

### **ACCESSORY USE**

A subordinate use of a portion of a lot which is customarily incidental to the main or principal use of land or of a building on a lot.

### **ACRE**

43,560 square feet.

### **ACT**

The Pennsylvania Municipalities Planning Code, as amended.

### **ACT 247**

The Pennsylvania Municipalities Planning Code, as amended.

### **ADJACENT**

The state of being side by side, next to or adjoining one another.

### **ADT (AVERAGE DAILY TRAFFIC)**

The average number of vehicles that pass over a given point per day.

### **ADULT BUSINESS USE**

Any adult bookstore, arcade, bar, cabaret, tavern, dance hall, night club, restaurant, theater, minimotion picture theater, motel and/or any other adult establishment as defined within this Chapter, and which, under the State Obscenity Code, as amended, must exclude minors or may not knowingly disseminate to minors.

#### **(1) 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 producing devices are maintained to show images to five or fewer persons per machine at any one time or where the image is so

displayed or distinguished or characterized by depicting or describing "specific sexual activities" or "specific anatomic areas."

(2) **ADULT BOOKSTORE**

— An establishment, having as a substantial or significant portion of its stock in trade (for sale or rental), books, magazines and other materials which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

(3) **OR SIMILAR COMMERCIAL ESTABLISHMENT**

R, TAVERN, NIGHT CLUB, RESTAURANT OR SIMILAR COMMERCIAL ESTABLISHMENT — Any place or establishment offering entertainment used for presenting material distinguished or characterized by an emphasis on manner depicting or describing "specific sexual activities" or "specific anatomic areas" for observation by patrons therein, whether or not liquor is sold on the premises. Such presentation or material may be live or through films, motion pictures, video cassettes or other photographic reproduction depicting or describing "specific sexual activities" or "specific anatomic areas."

(4) **ADULT ENTERTAINMENT**

— Live or nonlive entertainment containing "specific sexual activities" or presenting "specific anatomic areas." This definition shall also include, but not [be] limited to, adult bookstore, arcade, bar, cabaret, tavern, dance hall, night club, restaurant, theater, minimotion picture theater, retail establishment, motel, peep shows, sexual encounter center and/or any other adult establishment as defined within this Chapter.

(5) **ADULT RETAIL ESTABLISHMENT**

— Any commercial place or establishment offering principally, either by sale or by rental, books, videos, magazine rentals, printed matter, photographs, films, motion pictures, slides, instruments, devices and/or any other paraphernalia showing or utilized for "specific sexual activities" or "specific anatomic areas" by patrons on or off the premises. This definition may not apply to commercial establishments which may have other principal business purposes and which may offer to sell or rent adult material; provided, it is displayed in such a way that only the name of the item appears and/or that it is not utilized or viewed by patrons on the premises.

(6) **ADULT MINIMOTION PICTURE THEATER**

— An enclosed or partially enclosed building which houses a commercial establishment with the capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

(7) **ADULT THEATER**

— An enclosed or partially enclosed building which houses a commercial establishment with the capacity for more than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

(8) **ADULT MOTEL OR HOTEL**

— A hotel, motel or similar commercial establishment which offer accommodation to the public for any form of consideration, provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproduction which are used for presenting material distinguished or characterized with an emphasis on matter depicting or describing "specific sexual activities" or "specific anatomic areas."

**(9) NUDITY OR STATE OF NUDITY**

— The appearance of the specific anatomic areas without any coverings on the body area.

**(10) PEEP SHOWS**

— An enclosed or partially enclosed building which houses a commercial establishment with the capacity for one or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by parties or patrons therein.

**(11) SEMINUDE OR SEMINUDITY**

— State of dress in which clothing partially or opaquely covers specific anatomical areas.

**(12) SEXUAL ENCOUNTERS**

— A business of commercial enterprise that, as one of its primary business purposes, offers for any form of consideration physical contact in the form of wrestling or thumbing between person of the opposite sex or activities between male and female persons and/or persons of the same sex when one or more of the persons is in the state of nudity or seminude.

**(13) SPECIFIC ANATOMIC AREAS**

— Parts of the human body, including human genitals, pubic area, anus, buttocks, female breast(s) and/or human male genitals.

**(14) SPECIFIC SEXUAL ACTIVITIES**

— Human genitals in a state of sexual stimulation or arousal; acts or simulated acts of human masturbating, sexual intercourse, sodomy or oral copulation; fondling or other erotic touching of specific anatomic areas; and/or excretory functions.

**AGRICULTURE (GENERAL)**

The cultivation of the soil and the raising and harvesting of the products of the soil including, but not limited to, horticulture, forestry and animal husbandry.

**AGRICULTURE (INTENSIVE)**

Specialized agricultural activities including, but not limited to, mushroom, egg and poultry production and livestock production which, due to the intensity of production or raw material storage needs, necessitates special control of operation, raw material storage and processing, and disposal of liquid/solid wastes.

**ALTERATION**

Any change or rearrangement in the structural parts or in the existing facilities of a building or structure or any enlargement thereof, whether by extension on any side or by an increase in height, or the moving of such building from one location or position to another.

**ANIMAL UNIT**

Livestock which is equivalent to 1,000 pounds.

**ANTENNA**

A metallic device (such as a rod or wire) utilized for radiating or receiving transmission waves. For the purposes of this Chapter, a support tower shall be construed as an accessory structure to the antenna.

**ATTIC**

That part of a building which is immediately below and wholly or partly within the roof framing.

**BASEMENT**

A story partly below the finished grade but having 1/2 or more of its height (measured from finished floor to finished ceiling) above the average level of the finished grade where such grade abuts the exterior walls of the building.

**BED AND BREAKFAST**

The provisional short-term use and occupancy of a single-family detached dwelling for the purpose of accommodating transient guests for rent.

**BLOCK**

A tract of land or a lot or group of lots, bounded by streets, public parks, railroad rights-of-way, water courses or bodies of water, boundary lines of the Borough or by any combination of the above.

**BOROUGH**

The Borough of Kenhorst, Berks County, Pennsylvania.

**BOROUGH COUNCIL**

The Kenhorst Borough Council, Berks County, Pennsylvania.

**BUFFER YARD**

A continuous strip of land which is clear of all buildings and paved areas and is adequately landscaped in accordance with § 514 of this Chapter.

**BUILDING**

A structure enclosed within exterior walls or fire walls, built, erected and framed of component structural parts, designed for the enclosure and support of individuals, animals or property of any kind.

**BUILDING AREA**

The total area taken on a horizontal plane at the main grade level of all primary and accessory buildings on a lot, excluding unroofed porches, paved terraces, steps, eaves and gutters, but including all enclosed extensions.

**BUILDING COVERAGE**

The percentage of a lot which is covered by principal and accessory buildings.

**BUILDING HEIGHT**

The vertical distance measured from the average elevation of the finished grade at the two front corners of the building to the highest point of the roof.

**BUILDING LENGTH**

The measurement of a building in one general direction, whether it be the front, side or rear of the building.

**BUILDING SETBACK**

The minimum distance a building or structure must be set back from the street right-of-way line (except the right-of-way of a service street).

**BUILDING SETBACK LINE**

The line within a property establishing the minimum required distance between any building or structure or portions thereof to be erected or altered and a street right-of-way (except the right-of-way of a service street). The distance shall be measured at right angles from the street right-of-way line which abuts the property and the building setback line shall be parallel to said right-of-way line.

**CARPORT**

A building open on two or more sides and used in association with a dwelling for the storage of private motor vehicles.

**CARTWAY**

The portion of a street right-of-way, whether paved or unpaved, designed for vehicular use.

**CELLAR**

A story partly below the finished grade, having at least 1/2 of its height (measured from finished floor to finished ceiling) below the average level of the adjoining finished grade where such grade abuts the exterior walls of the building. A cellar shall not be considered a story in determining the permissible number of stories.

**CEMETERY**

Land used or intended to be used for the burial of human remains and may include columbariums, crematorium, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

**CERTIFICATE OF USE AND OCCUPANCY**

A statement, based on an inspection, signed by the designated person or firm authorized by Council, setting forth that a building, structure, sign and/or land complies with this Chapter or that a building, structure, sign, and/or land may be lawfully employed for specific uses, or both.

**CHURCH**

A building used for public worship by a congregation, excluding buildings used primarily for residential, educational, burial, recreational or other uses not associated with worship.

**CLUB OR LODGE**

An association of persons for some common nonprofit activity, not including groups organized primarily to render a service which is customarily carried on as a business.

**COMMERCIAL SCHOOL**

A school for the teaching of a trade or skill, carried on as a business.

**COMMON OPEN SPACE**

A parcel or parcels of land or an area of water, or a combination of land and water, within the development site designed and intended for use or enjoyment of all residents of the development in which it is located. Land included within the right-of-way lines of streets shall not be classified as common open space. Common open spaces shall not include required open areas between buildings and between buildings and street rights-of-way, driveways, parking areas and property lines in the development. No dwelling unit, residential accessory buildings or parking areas may be located within common open spaces.

**COMMON PARKING AREA**

A parking facility other than those provided within the lot lines of a lot on which one single-family detached dwelling, one single-family semidetached dwelling or one townhouse is located.

**COMMON WALL**

A wall used or adopted for joint service between two buildings or parts thereof. Unless otherwise specified in this Chapter, the side yard setback shall not apply to a common lot line extending from the common wall.

**COMPLETION**

The act of bringing to a condition of physical completeness and readiness for use and occupancy.



**COMPREHENSIVE PLAN**

The document entitled the "Kenhorst Borough Comprehensive Plan," or any part thereof, adopted by the Kenhorst Borough Council.

**CONDITIONAL USE**

Certain specified uses which are permitted or denied by Borough Council after recommendations by the Planning Commission, pursuant to express standards and specifications established in this Chapter.

**CONSTRUCTION SITE**

The total necessary land required for all buildings or uses within a unified development before a zoning permit may be issued.

**CONVERSION**

To change or adapt land or structures to a different use, occupancy or purpose.

**COUNCIL**

The Kenhorst Borough Council, Berks County, Pennsylvania.

**COUNTY**

The County of Berks, Commonwealth of Pennsylvania.

**COUNTY PLANNING COMMISSION**

The Berks County Planning Commission.

**COURT**

A portion of a lot unoccupied above grade, but partially or wholly surrounded by the walls of a structure or buildings.

**CURB LINE**

The edge of the cartway.

**CURATIVE AMENDMENT****(1) LAND OWNER CURATIVE AMENDMENT**

— A proposed zoning amendment made to the Borough by any landowner who desires to challenge on substantial grounds the validity of an ordinance which prohibits or restricts the use of the development of land in which the applicant has an interest.

**(2) MUNICIPAL CURATIVE AMENDMENT**

— A zoning amendment initiated by the Borough pursuant to § 609.2 of Pennsylvania Act 247.

**DENSITY**

The number of dwelling units per gross acre.

**DEVELOPMENT**

Any manmade change to improved or unimproved land including, but not limited to, buildings or other structures, the installation of utilities, filling, grading, paving, excavation, mining, dredging or drilling operations.

**DISTRICT**

A portion of the Borough within which certain uniform regulations and requirements or combinations thereof apply under the provisions of this Chapter.

**DOMESTIC ANIMAL/PET**

Animals including, but not limited to, dogs, cats, fish, birds or other animals, which have been domesticated by man to live and breed in a tame condition.

**DWELLING**

A building or structure or portion thereof arranged, intended, designed or used as the living quarters for one or more families living independently of each other. Such buildings as hospitals, hotels, boarding, rooming, lodging houses, nursing homes, motels and institutional residences are not included in the definition of dwelling.

**(1) SINGLE-FAMILY DETACHED DWELLING**

— A building arranged, intended or designed to be occupied exclusively as a residence for one family and having no common wall with an adjacent building.

**(2) SINGLE-FAMILY SEMIDETACHED DWELLING**

— A building arranged, intended or designed to be occupied exclusively as a residence for two families, one family living on each side of a common wall.

**(3) TWO-FAMILY DETACHED DWELLING (DUPLEX)**

— A building arranged, designed or intended for occupancy of two families living independent of each other in separate dwelling units that are separated by horizontal floors as opposed to vertical walls.

**(4) TOWNHOUSE**

— A building arranged, intended or designed to be occupied exclusively as a residence for one family, which is one of a group of three or more such buildings, placed side by side and separated by unpierced common walls, each dwelling having at least one separate entrance.

**(5) APARTMENT BUILDING**

— A building on a single lot arranged, intended or designed to be occupied as a residence for three or more families and in which the dwelling units may be separated horizontally and/or vertically.

**(6) CONDOMINIUM**

— Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common open space, solely for the owners of those portions, created under either the Pennsylvania Unit Property Act, as amended, or the Pennsylvania Uniform Condominium Act, as amended.

**(7) MOBILE HOME**

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

**(8) MODULAR HOME**

— Any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on the building site.

**DWELLING UNIT**

A building or portion thereof providing one or more rooms arranged for the use of one or more individuals living together as a single housekeeping unit and having no cooking or sanitary facilities in common with

any other unit.

**ELECTRIC SUBSTATION**

An assemblage of equipment for purposes other than generation or utilization, through which electric energy in bulk is passed for the purpose of switching or modifying its characteristics to meet the needs of the public.

**FAMILY**

An individual or any number of individuals living together as a single, nonprofit housekeeping unit, and having a single, common cooking facility and living together upon the premises as a separate unit in a domestic relationship based upon birth, marriage or other domestic bond; excluding, however, occupants of a club, fraternity house, lodge, residential club or rooming house. Also, a group of not more than three persons not related, living as a single housekeeping unit in a dwelling.

**FARM**

An area of land, including all buildings, accessory buildings, farm buildings and one single-family detached principal dwelling all used for agriculture and where the primary source of income is derived from property.

**FENCE**

A manmade barrier placed or arranged as a line of demarcation between lots or to enclose a lot or portion thereof. The term "fence" shall be deemed to include a wall.

**FLOOR AREA (GROSS FLOOR AREA)**

- (1) The gross floor space of the building or buildings, measured from the exterior faces of exterior walls or from the center line of wall separating buildings. In particular, the floor area of a building or buildings shall include:
  - (a) Basement space.
  - (b) All spaces other than cellar space with structural headroom of seven feet, six inches or more.
  - (c) Interior balconies and mezzanines.
  - (d) Enclosed porches or terraces or other space which are attached to the principal structure on at least one side.
  - (e) Attic spaces (with or without a finished floor) providing structural headroom of seven feet, six inches or more is available over 50% of such attic space.
- (2) However, the "floor area" shall not include:
  - (a) Cellar space, except that cellar space used for retailing.
  - (b) Elevator shafts, stairwells, bulkhead, accessory water tanks or cooling towers.
  - (c) Uncovered terraces, breezeways, steps or open space.
  - (d) Accessory buildings.

**FLOOR AREA RATIO**

The floor area in square feet of all buildings on a lot divided by the gross area of such lot in square feet.

**GARAGE**

(1) **GARAGE PRIVATE RESIDENTIAL**

— An accessory building or a part of a principal building used for the storage of motor vehicles owned and used by the owner or tenant of the premises and for the storage of not more than three motor vehicles owned and used by persons other than the owner or tenant of the premises. Not more than one commercial vehicle or truck may be stored in a private garage.

(2) **GARAGE PUBLIC OR REPAIR**

— A building, other than a private or storage garage, one or more stories in height, used solely for the commercial storage service or repair of motor vehicles.

(3) **GARAGE STORAGE**

— A building, not a private residential nor a public garage, one story in height, used solely for the storage of motor vehicles used in conjunction with a business or industry, but not for the sale, service or repair thereof nor for the sale of fuel, accessories or supplies.

### **GOVERNING BODY**

The Kenhorst Borough Council, Berks County, Pennsylvania.

### **GROUP HOME**

An association of mentally and/or physically handicapped adults and their care givers which has been licensed as a group home by the Commonwealth of Pennsylvania. All residents of a group home shall function as a single housekeeping unit, sharing kitchen facilities and a communal dining area. Court mandated associations, rehabilitative facilities, penal institutions and/or any type of living arrangement which is clearly an involuntary association shall not under any circumstance be considered as a group home, regardless of the living arrangement within the facility or dwelling unit.

### **HEALTH CLUB**

A private or public indoor facility utilized for recreational activities. All activities relating to an adult business use shall be prohibited within a health club.

### **HIGHWAY ACCESS POINT**

A place of ingress/egress from or access to a street or highway created by a driveway or another street or highway. Measurement between them shall be from the center line of one such point to the center line of another such point.

### **HIGHWAY FRONTAGE**

The lot dimensions measured along the right-of-way line of any one street or highway abutting a lot.

### **HOME OCCUPATION OR ACCESSORY PROFESSIONAL OFFICE USE**

A professional use which is customarily carried on in a dwelling unit, or a structure accessory thereto, clearly secondary and incidental to the dwelling in which the practitioner resides.

### **HOTEL**

A building or group of buildings containing six or more individual rooms for rental, primarily for transients, with common hallways for all rooms on the same floor, and where no provision is made for cooking in any individual room or suite. "Hotel" does not include institutional or educational uses and buildings where human beings are housed under legal constraint.

### **IMPERVIOUS COVERAGE**

The percentage of lot area covered by any and all impervious materials, such as buildings, paved parking areas, paved walks, terraces and similar surfaces which do not normally absorb rainfall.

**IMPROVEMENT**

Any type of structure or paved section, excluding driveway, curb, sidewalk or barrier to unchanneled motor vehicle entrance or exit.

**IMPROVEMENT SETBACK**

The minimum distance an improvement or land use activity must be setback from a street right-of-way and/or property line.

**INDUSTRY**

A facility for the manufacture, processing or warehousing of products and materials.

**KENNEL**

A commercial establishment, structure, lot or portion of a lot in which five or more domesticated pets more than six months old are kept for the purpose of breeding, boarding, sale and/or show.

**LABORATORY**

A building or group of buildings in which are located the facilities for scientific research, investigation, testing and experimentation, but not including the manufacture of products for sale.

**LANDOWNER**

The legal or beneficial owner or owners of land, including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition). A lessee under a written lease, who has written authorization of the legal owner, shall be deemed to be a landowner for the purpose of this Chapter.

**LIVESTOCK**

Animals including, but not limited to, horses, cattle, pigs, hogs, sheep, goats, poultry, rabbits or similar animals which are kept or raised for use, pleasure and/or profit.

**LOT**

A tract or parcel of land, regardless of size, held in single or joint ownership, not necessarily a lot or lots shown on a duly recorded map, which is occupied or capable of being occupied by buildings, structures and accessory buildings, including such open spaces as are arranged, designed or required. The term "lot" shall also mean parcel, plot and/or site.

**(1) CORNER LOT**

— A lot situate at and abutting the intersection of two streets having an interior angle of intersection not greater than 135°. The front yard and lot width requirements shall apply to each public street to which the corner lot has frontage.

**(2) INTERIOR LOT**

— A lot other than a corner lot, the sides of which do not abut a street.

**(3) REVERSE FRONTAGE LOTS**

— Lots which have frontage on two public streets while restricting vehicular access solely from the public street which would front along the commonly identified rear of the lot.

**(4) FLAG LOT OR KEYHOLE LOT**

— An irregularly shaped lot characterized by an elongated extension from a street to the principal part of the lot. The flag or keyhole shape of the lot is normally intended to provide for access to an otherwise land locked interior parcel.

**LOT AREA (GROSS)**

The space contained within the lot lines, including land area within all existing and future/ultimate street rights-of-ways, areas delineated as "wetlands," areas identified as common open space and land area within all utility, municipal and stormwater easements.

**LOT AREA (NET)**

The space contained within the lot lines, excluding any and all land areas as follows: areas within any rights-of-ways; areas identified as common open space; areas within easements; areas delineated as wetlands; and areas within the one-hundred-year floodplain as defined by FEMA. The net lot area for all proposed lots shall be no smaller than the minimum lot size for the zoning district in which the lot is located.

**LOT COVERAGE**

The percentage of lot area covered by any and all impervious materials, such as buildings, paved parking areas, paved walks, terraces and similar surfaces which do not normally absorb rainfall.

**LOT DEPTH**

The mean average horizontal distance between the front and the rear lot lines.

**LOT FRONTAGE**

That portion of a lot which fronts on a single street.

**LOT LINE**

A line forming the front, rear or side boundary of a lot.

**(1) FRONT LOT LINE**

— The line separating a lot from a street. The front lot line is also the street line.

**(2) REAR LOT LINE**

— The lot line which is opposite the front lot line. The rear line of any triangularly or irregularly shaped lot shall be established such that it will be at least 10 feet long.

**(3) SIDE LOT LINE**

— Any lot line other than a front or rear lot line.

**LOT OF RECORD**

A lot or parcel recorded in the Office of the Recorder of Deeds of Berks County, Pennsylvania. Any lot which has been recorded prior to the enactment of this Chapter, and does not comply with the minimum or maximum requirements set forth by this Chapter, shall be considered as a nonconforming lot. All lots of record shall be subject to the development controls and limitations specified within this Chapter.

**LOT WIDTH**

The width of a lot measured at the street line and at the legal right-of-way line of the public street immediately adjacent thereto.

**MASSAGE PARLOR**

A place of business where a person or persons engage in or carry on any method of pressure on, friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating any part of the body with the hands or with the aid of any apparatus. This use does not include licensed physicians or members of the American Massage Therapist Association.

**MOTEL**

A group of attached or detached buildings which primarily have direct access to the outside and contain

individual living or sleeping units designed for temporary use by tourists or transients generally traveling by motor vehicle.

### **MOTOR VEHICLE SERVICE STATION**

An area of land, including structures thereon, used primarily for the sale of gasoline or motor vehicle fuel, but which may be used secondarily for supplying services generally required for the operation and maintenance of motor vehicles, but which shall not include painting, body and fender repairs or sale, rental and storage of vehicles.

### **MUNICIPALITY**

The Borough of Kenhorst, Berks County, Pennsylvania.

### **MUNICIPAL USE**

A use by the Borough of Kenhorst for public recreation area, park, municipal offices, police station, water and sewage facilities, utilities, road materials and equipment storage and similar governmental uses.

### **MUSHROOM HOUSE/PRODUCTION**

An enclosed unit or group of units which are utilized for the production, processing or cultivation of mushrooms for commercial purposes or profit.

### **NONCONFORMING LOT**

A lot which does not meet with the minimum lot width, depth, or area dimensions specified for the district where such lot is situated, but was lawfully in existence prior to the effective date of this Chapter or is legally established through the granting of a variance by the Zoning Hearing Board.

### **NONCONFORMING STRUCTURE OR BUILDING**

A structure or building or part thereof which does not meet the applicable provisions or requirements of the district in which it is located, either at the time of enactment of this Chapter or as a result of subsequent amendments thereto, where such building or structure lawfully existed prior to the enactment of such Chapter or amendment. Such nonconforming structures include, but are not limited to, nonconforming signs.

### **NONCONFORMING USE**

A building, structure, sign or use of land which does not conform to the applicable regulations of the district in which it is located, either at the time of the enactment of this Chapter or as a result of subsequent amendments thereto, but which did not violate any applicable use regulations prior to the enactment of such Chapter or amendments. However, no existing use shall be deemed nonconforming solely because of the existence of less than the required off-street parking spaces.

### **NURSERY or GREENHOUSE**

#### (1) **COMMERCIAL NURSERY/GREENHOUSE**

— The raising of trees (for transplanting), ornamental, shrubs, flowers or house plants for any commercial purpose. All such accessory buildings or structures shall not be utilized as a separate commercial land use. Accessory buildings and structures customary to agricultural and horticultural land uses shall be exempt from the height and open area requirements specified within this Chapter.

#### (2) **RESIDENTIAL NURSERY/GREENHOUSE**

— The raising of trees (for transplanting), ornamental, shrubs, flowers or house plants for private or residential purpose. All such accessory buildings or structures shall not be utilized as a separate commercial land use and shall be subject to the provisions for residential accessory structures and uses specified under § 502(2) of this Chapter.

**NURSING HOME**

A building containing sleeping rooms used by persons who are lodged and furnished with meals and are provided with needed support services, including the availability of basic nursing care. Such a facility may or may not include skilled nursing or medical care. This definition shall be limited to facilities licensed by the Commonwealth of Pennsylvania as a nursing center or personal care center.

**OFFICIAL ZONING MAP**

The Zoning Map of Kenhorst Borough.

**ONE-HUNDRED-YEAR FLOOD**

A flood that, on the average, which is likely to occur once every 100 years or has a 1% change of occurring each year, although the flood may occur in any given year.

**ONE-HUNDRED-YEAR FLOODPLAIN**

An area in which the elevation is within the limits of the one-hundred-year flood as delineated by the Federal Emergency Management Agency.

**OPEN SPACE**

Unoccupied space open to the sky and on the same lot with the principal use.

**PARENT TRACT OF LAND**

A lot or parcel which has been recorded in the Office of the Recorder of Deeds of Berks County, prior to the enactment of this Chapter. All lots of record shall be subject to the development limitations and controls specified within this Chapter.

**PARKING LOT**

An off-street area designed solely for the parking of motor vehicles, including driveways, passageways and maneuvering space appurtenant thereto.

**PARKING PERIMETER**

The limit beyond which parking is not allowed, the circumscribed parking area.

**PARKING SPACE**

A reasonably level space, available for the parking of one motor vehicle, not less than 10 feet wide and having an area of not less than 200 square feet, exclusive of passageways or other means of circulation or access.

**PAVED AREA**

The percentage of lot area covered by any and all impervious materials, such as buildings, paved parking areas, paved walks, terraces and similar surfaces which do not normally absorb rainfall.

**PERMITTED USE**

A use permitted in a particular district to occupy or use land for a specific purpose in accordance with this Chapter, when such use is permitted by right.

**PIGGERIES/SWINE OPERATION**

An establishment devoted to the raising, of pigs, hogs, boars, sows, gilts or similar animals, which are kept in densely defined areas (inside or outside) for use and/or profit.

**PLAN**

The proposal for development, including a part of subdivision, all covenants, grants or easements and other conditions relating to use, location and bulk of buildings, density of development, common open space,



recreation areas and/or public facilities.

**PLANNING COMMISSION**

The Planning Commission for the Borough of Kenhorst, Berks County, Pennsylvania.

**PRINCIPAL BUILDING**

A building in which a principal use on a lot is carried on.

**PRINCIPAL USE**

The main or primary purpose for which any land, structure or building is designed, arranged or intended, and for which they may be occupied or maintained under the terms of this Chapter.

**PROFESSIONAL OFFICE**

An office wherein a professional, clerical and/or administrative service is performed.

**PROFESSIONAL SERVICE**

A commercial service wherein the provider is a licensed, accredited or otherwise recognized expert in some field of business. Professional services shall include all types of services related to medical, financial, legal, advertising, public relations, engineering, architectural, land use planning, surveying, graphic design and similar services.

**RECREATION AREA (ACTIVE)**

Land area that contains facilities that require visitors/participants to become involved in physical or an energetic moving function, primarily group functions.

**RECREATION AREA (PASSIVE)**

Land area that contains facilities that require visitors/participants to become involved in quiet functions that do not require physical or energetic functions.

**RESIDENTIAL SETBACK**

The minimum distance that a building or structure must be setback from a principal residential dwelling unit.

**SALVAGE YARD**

A lot, land or structure or parts thereof used for the collection, storage, dismantling, salvage, sale or recycling of used and discarded materials including, but not limited to, waste paper, rags, scrap metal or the scrap, salvage or discarded material from vehicles or machinery.

**SANITARY SEWER SYSTEM**

A public system which designed to collect, convey, treat and dispose of sewage from users in compliance with State and local regulations.

**SIGN**

Any structure, building, wall or other outdoor surface or any device or part thereof which displays or includes any letter, word, model, banner, flag, pennant, insignia, device or other representations used for announcement, direction or advertisement. The word "sign" includes the word "billboard," but does not include the flag, pennant or insignia of any nation, state, city or other political unit, nor public traffic or directional signs.

**SOLID WASTE**

Waste including, solid, liquid, semisolid or contained gaseous materials.

**SPECIAL EXCEPTION**

A use permitted in a particular district by the Zoning Hearing Board, to occupy or use land for a specific purpose in accordance with this Chapter, when such use is not permitted by right.

**STATE OBSCENITY CODE**

18 Pa.C.S.A. § 5903, as amended.

**STORY**

That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between any floor and the ceiling next above it. A basement, but not a cellar, shall be deemed to be a story.

**STREET**

A public or private right-of-way, excluding driveways, intended as a means of vehicular and pedestrian travel, furnishing access to abutting properties. The word "street" includes thoroughfare, avenue, boulevard, road, court, drive, expressway, highway and similar terms.

**(1) ARTERIAL (MAJOR) STREET**

— A street serving a large volume of comparatively high speed and long distance traffic.

**(2) COLLECTOR STREET**

— A street which, in addition to providing access to abutting properties, intercepts minor streets to provide a route serving 50 or more dwelling units to give access to community facilities and/or arterial streets or other collector streets.

**(3) MINOR STREET**

— A street used primarily to provide access to residential properties.

**(4) CUL-DE-SAC STREET**

— A minor street intersecting another street at one end and terminating in a permanent vehicular turnaround at the other end.

**(5) MARGINAL ACCESS STREET**

— A minor street, parallel and adjacent to an arterial or collector street which provides access to abutting properties and control of intersections.

**(6) INTERNAL STREET**

— A minor street used for circulation and access within a development involving multiresidential, commercial and/or nonresidential land uses.

**(7) SERVICE STREET (ALLEY)**

— A right-of-way providing secondary access to the side or rear of two or more properties.

**(8) PUBLIC STREET**

— A street which has been officially dedicated to Kenhorst Borough or the Commonwealth of Pennsylvania.

**(9) PRIVATE STREET**

— A street which held under private ownership by an individual, group, partnership or corporation and has not been titled or dedicated to the Borough of Kenhorst.

**STREET FRONTAGE**

The lot dimension measured along the street line or right-of-way line of any one street or highway abutting a lot.

**STREET LINE**

The dividing line between a lot and the outside boundary of a public street, road or highway right-of-way legally open or officially mapped by a municipality or higher governmental authority, between a lot and the outside boundary of a street shown on a recorded subdivision or land development plan, or between a lot and a private street or road over which the owners or tenants of one or more lots held in single and separate ownership have a right-of-way.

**STRUCTURE**

Any manmade object having an ascertainable stationary location on or in land or water, whether or not affixed to land.

**SUBDIVIDER**

Any landowner, whether an individual, firm, partnership, association, corporation, estate, trust or any other group or combination acting as a unit (or agent of said landowner authorized thereby) which undertakes the subdivision or development of land.

**SUBDIVISION**

The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development. Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

**SUBDIVISION AND LAND DEVELOPMENT ORDINANCE**

The Kenhorst Borough Subdivision and Land Development Ordinance, as adopted by the Kenhorst Borough Council [Chapter **20**].

**SWIMMING POOL**

A body of water or receptacle for water having a depth at any point greater than 18 inches which is primarily used or intended to be used for swimming or bathing.

**USE**

The specific purpose for which land, a sign or a structure or building is designed, arranged, intended, or for which it may be occupied or maintained or any activity, occupation, business or operation which may be carried on, thereon or therein. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

**VARIANCE**

Relief granted by the Zoning Hearing Board from the terms and conditions of this Chapter all in accordance with the provisions established within this Chapter and the Pennsylvania Municipalities Planning Code (Act 247, as amended).

**WASTE**

A material whose original purpose has been completed and which is directed to a disposal or processing facility or is otherwise disposed. The term waste shall also include and apply to waste considered as either hazardous, contaminated, toxic, residual, municipal or recyclable, as defined by the Pennsylvania DEP and/or Environmental Protection Agency.

**WATER SUPPLY SYSTEM**

A system designed to transmit public water from the source to users in compliance with the requirements of the appropriate State agencies and the Borough of Kenhorst.

**WETLANDS**

Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. The three major characteristics of wetlands include vegetation, soil and hydrology.

**YARD**

An open space on the same lot with a structure (or a group of structures) which lies between the structure (or a group of structures) and a lot line and which is unoccupied and unobstructed from the ground upward, except as herein permitted.

**(1) FRONT YARD**

— A yard extending the full width of the lot between a structure and the front lot line. On lots abutting more than one public street other than an alley, the front yard requirement shall apply fronting each public street.

**(2) REAR YARD**

— A yard extending the full width of the lot between a structure and a rear lot line.

**(3) SIDE YARD**

— A yard extending from the front yard to the rear yard between a structure and the nearest side lot line.

**ZONING**

Division of all of the land of an entire political subdivision into districts having different regulations pertaining to use of land; and height, area, bulk and use of buildings and yard requirements; and in some states density of population. Zoning is affected by local ordinance under the police power of the state granted by specific legislation generally termed an "enabling act."

**ZONING HEARING BOARD**

A board created by Borough Council to hear matters as provided for in this Chapter.

**ZONING MAP**

Kenhorst Borough Zoning Map.

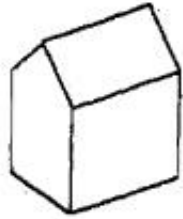
**ZONING OFFICER**

The designated person, agent, firm or official authorized by Borough Council to administer and enforce the Zoning Ordinance of the Borough.

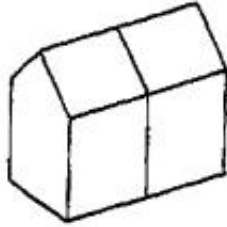
**ZONING ORDINANCE**

The Kenhorst Borough Zoning Ordinance of 2000, as adopted by the Kenhorst Borough Council on May 4, 2000 [this Chapter].

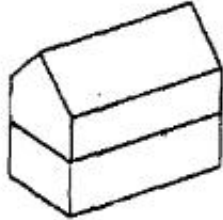
**TYPES OF DWELLING UNITS**



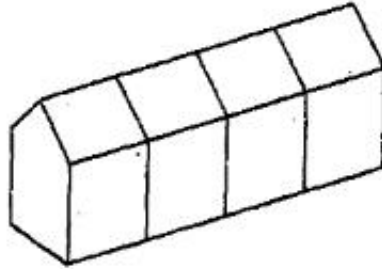
**SINGLE FAMILY DETACHED**



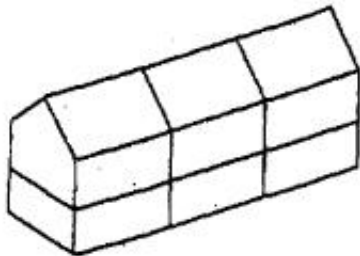
**SINGLE FAMILY SEMI-DETACHED**



**TWO FAMILY DETACHED**

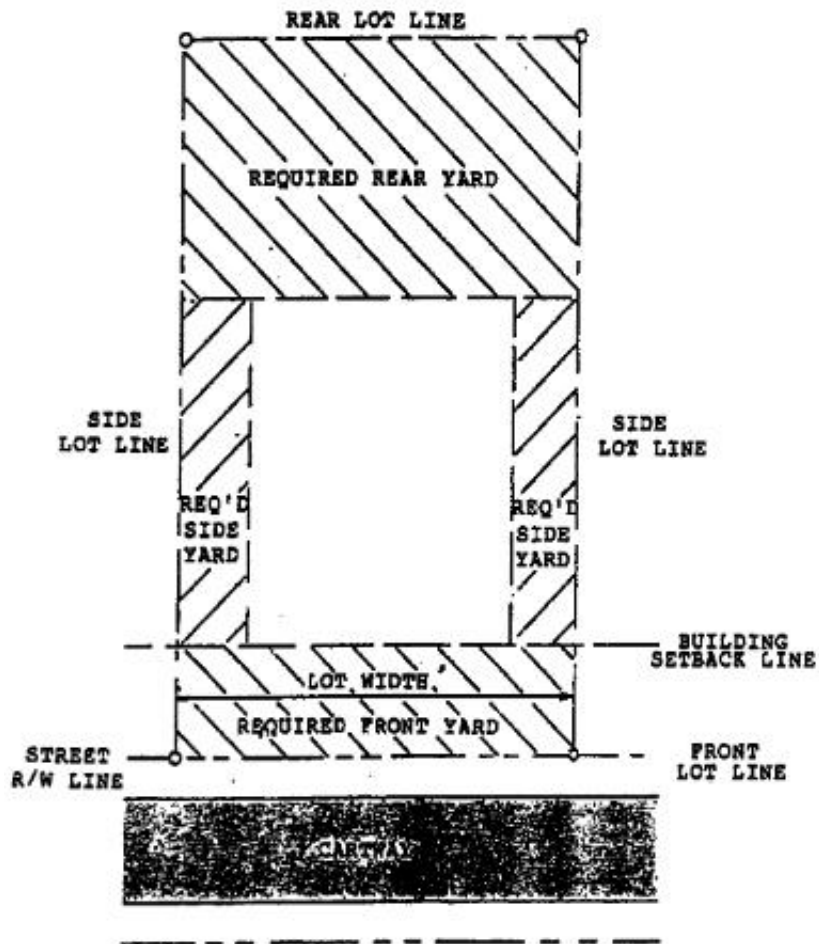


**TOWNHOUSES OR  
SINGLE FAMILY ATTACHED**



**APARTMENT BUILDING**

**LOT AND SETBACK REQUIREMENTS**



## Part 3. ZONING MAP AND ZONING DISTRICTS

### § 301. Establishment of Zoning Districts.

[Ord. 458, 5/4/2000, § 301]

For the purpose of this Chapter, the Borough is hereby divided into classes of zoning districts which shall be designated as follows:

- A. R-1 Suburban Residential District.
- B. R-2 Suburban Residential District.
- C. R-3 Urban Residential District.
- D. M-1 Mixed Use District.
- E. C-1 Highway Commercial District.
- F. C-2 Shopping Center Commercial District.

## § 302. Official Zoning Map.

*Editor's Note: The Zoning Map can be found at the end of this chapter.*

[Ord. 458, 5/4/2000, § 302]

1. The boundaries of the zoning districts shall be as shown on the Zoning Map of Kenhorst Borough. The zoning map and all notations, references and data illustrated thereon are hereby incorporated by reference into this Chapter. The official copy of the zoning map shall be labeled and identified by the signature of the President of Council, attested by the Secretary of said Council, and bears the seal of the Borough under the following words:  
 "This is to certify that this is the Official Zoning Map of the Borough of Kenhorst adopted by the Kenhorst Borough Council on May 4, 2000 as part of the Kenhorst Borough Zoning Ordinance of 2000."
2. If, in accordance with the provisions of this Chapter and the Pennsylvania Municipalities Planning Code, as amended, changes are made in district boundaries or other matters portrayed on the official zoning map, such changes shall be entered on the official zoning map promptly after the amendment has been approved by Borough Council. No changes of any nature shall be made in the official zoning map or matter thereon shown, except in conformity with the applicable procedures established in this Chapter. All changes shall be noted by date with a brief description of the nature of the change.
3. The official zoning map shall be located in a place designated by Borough Council and shall be the final authority as to the current zoning status of land and water area in Kenhorst Borough regardless of unofficial copies which may have been made or published from time to time.
4. In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, Council may, by resolution, adopt a new official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of Council, attested by the Secretary of said Council, and bear the seal of the Borough under the following words:  
 "This is to certify that this official zoning map of Kenhorst Borough supersedes and replaces the official zoning map adopted as part of Ordinance No. 458 of Kenhorst Borough, Berks County, Pennsylvania."
5. Unless the prior official zoning map has been lost or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all applicable records pertaining to its adoption or amendment.

## § 303. Interpretation of District Boundaries.

[Ord. 458, 5/4/2000, § 303]

Where uncertainty exists as to the boundaries of districts as indicated on the official zoning map, the following rules provided within this Section shall be applicable.

- A. Where district boundaries are indicated as approximately coinciding with the center lines of streets, highways, lanes, alleys, railroad tracks, rivers or creeks, such center line shall be construed to be such boundaries.

- B. Where district boundaries are indicated as approximately coinciding with lot lines or municipal boundary lines, such lines shall be construed to be such boundaries.
- C. Where district boundaries are indicated as being approximately parallel to the center or right-of-way lines of streets or highways, lanes, alleys, railroad tracks, rivers or creeks, such district boundaries shall be construed as being parallel to the center or right-of-way lines at such distance as is indicated on the official zoning map. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- D. Where district boundaries are indicated as being approximately perpendicular to the right-of-way lines of streets or highways, such district boundaries shall be construed as being perpendicular to the right-of-way lines.
- E. Where physical or cultural features existing on the ground are at a variance with those indicated on the official zoning map, or in circumstances not covered within the context of this Section, the Zoning Hearing Board shall interpret the district boundaries.
- F. Where a district boundary line divides a lot which was in single ownership at the effective date of this Chapter, at the election of the property owner, the regulations of either zoning district may be extended a distance of not more than 50 feet beyond the district boundary line onto the remaining portion of the lot.

## § 304. Application of District Regulations.

[Ord. 458, 5/4/2000, § 304]

The following standards indicated within this Section shall be utilized for the generalized application of the district regulation in association with this Chapter.

- A. No building, structure or land shall be used and no building, structure or part thereof shall be erected, constructed, assembled, moved, enlarged, reconstructed, removed or structurally altered without the issuance of a zoning and/or building permit by the designated person or firm authorized by Council. No building, structure or land shall be occupied without the issuance of a certificate of use and occupancy by the designated person or firm authorized by Council.
- B. No part of a yard, common open space, other open space or off-street parking or loading space required in connection with one structure, building or use of the land shall be included as part of a yard, common open space, open space or off-street parking or loading space similarly required for any other structure, building or use of the land, except as permitted or required by this Chapter or other Borough ordinance or regulation.
- C. No yard or lot existing at the time of passage of this Chapter, which meets the requirements of this Chapter, shall be reduced in dimension or area below the minimum requirements set forth in this Chapter. A yard or lot existing at the time of passage of this Chapter shall not be further reduced below the minimum requirements of this Chapter.
- D. Where district regulations specify a minimum lot width at the street line, the minimum lot width shall be provided contiguous along the street line of one street. It is prohibited, when calculating the width of a lot, to add widths along the street lines of two or more streets. In the case of a corner lot, the minimum lot width must be provided along the street line of one street, but does not have to be provided along the street line of each street on which the lot fronts.
- E. Where district regulations specify a minimum lot width at the building setback line, the minimum lot width



shall be provided contiguous along the building setback line established from one street. It is prohibited, when calculating the width of a lot, to add widths along the building setback lines established from two or more streets, in the case of a corner lot, the minimum lot width must be provided along the building setback line established from one street, but does not have to be provided along the building setback line established from each street on which the lot fronts.

- F. In the case of a lot of irregular shape in which a portion of the lot abuts a street and a portion not abutting a street abuts the rear yards of lots which have frontage on the same street as does the irregularly shaped lot, on the irregularly shaped lot a building setback line shall be established from the abutting rear yards. As a minimum, the building setback requirement of the applicable zoning district shall be used in establishing such building setback line.

## Part 4. ZONING DISTRICT REGULATIONS

### § 401. R-1 — Suburban Residential District.

[Ord. 458, 5/4/2000, § 401; as amended by Ord. 484, 8/7/2003, § 1]

1. Purpose. The purpose of the R-1 Zoning District is to encourage moderate residential development, to retain the suburban characteristics of the Borough and to serve as a transition between areas of variable densities. All uses permitted within the R-1 Zoning District shall be serviced by public sanitary sewage disposal facilities and public water supply facilities.
2. Uses Permitted by Right. The following, as a principal use, their accessory uses and no other, are permitted in the R-1 Zoning District; provided, that the use, type, dimensional and all other applicable requirements of this Chapter are satisfied:
  - A. Single-family detached dwelling.
  - B. Municipal use.
  - C. Agricultural uses, subject to § 505 of this Chapter.
  - D. Recreational uses, subject to § 506 of this Chapter.
  - E. Public utilities uses, subject to § 529 of this Chapter.
  - F. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.
  - G. No-impact home-based businesses, as such term is defined in Section 107(a) of the Pennsylvania Municipalities Planning Code, as amended, except that such permitted use shall not supersede the rights of any deed restriction, covenant or agreement restricting the use of land, nor any master deed, bylaw or other document applicable to a common interest ownership community.
3. Uses Permitted by Conditional Use. The following, as a principal use, their accessory uses and no other, are permitted in the R-1 Zoning District when a conditional use is granted by Borough Council subject to and in accordance with Part 7 of this Chapter.
  - A. Home occupation, subject to § 503 of this Chapter.

- B. Fire station.
  - C. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.
4. Uses Permitted by Special Exception. The following, as a principal use, their accessory uses and no other, are permitted in the R-1 Zoning District when a special exception is granted by the Zoning Hearing Board subject to and in accordance with Part of this Chapter:
- A. Public cemetery.
  - B. Church or similar place of worship.
  - C. Nursing home, retirement home or convalescent home.
  - D. State licensed nursery school, elementary school, middle school, junior high school, senior high school or day care center.
  - E. Medical building or hospital.
  - F. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.
5. Area, Yard and Height Regulations. Unless otherwise specifically provided for within this Chapter, each of the following minimum and maximum dimensional requirements shall apply to each permitted use in the R-1 Zoning District:
- A. Minimum Regulations.
 

Lot Area	6,500 square feet
Lot Width	60 feet
Building Setback	30 feet
Rear Yard	20 feet
Side Yard	
Total	16 feet*
One Side	8 feet*
  - B. Maximum Regulations.
 

Building Height	35 feet
Building Coverage	25%
Lot Coverage	40%

\*Unless otherwise specified in this Chapter, the side yard setback shall not apply to a common lot line extending from the common wall.
6. Supplementary Regulations. All Sections under Part 5 of this Chapter shall apply as supplementary guidelines and specifications for the R-1 District.

## § 402. R-2 — Suburban Residential District.

[Ord. 458, 5/4/2000, § 402; as amended by Ord. 484, 8/7/2003, § 1]

- 1. Purpose. The purpose of the R-2 Zoning District is to encourage moderate to medium density residential

development, to retain the suburban characteristics of the Borough and to serve as a transition between areas of variable densities. All uses permitted within the R-2 Zoning District shall be serviced by public sanitary sewage disposal facilities and public water supply facilities.

2. Uses Permitted by Right. The following, as a principal use, their accessory uses and no other, are permitted in the R-2 Zoning District provided that the use, type, dimensional and all other applicable requirements of this Chapter are satisfied:
  - A. Single-family detached dwelling.
  - B. Municipal use.
  - C. Agricultural uses, subject to § 505 of this Chapter.
  - D. Recreational uses, subject to § 506 of this Chapter.
  - E. Public utilities uses, subject to § 529 of this Chapter.
  - F. Semidetached residential developments, subject to § 531 of this Chapter.
  - G. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.
  - H. No-impact home-based businesses, as such term is defined in Section 107(a) of the Pennsylvania Municipalities Planning Code, as amended, except that such permitted use shall not supersede the rights of any deed restriction, covenant or agreement restricting the use of land, nor any master deed, bylaw or other document applicable to a common interest ownership community.
3. Uses Permitted by Conditional Use. The following, as a principal use, their accessory uses and no other, are permitted in the R-2 Zoning District when a conditional use is granted by Borough Council subject to and in accordance with Part 7 of this Chapter:
  - A. Home occupation, subject to § 503 of this Chapter.
  - B. Fire station.
  - C. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.
4. Uses Permitted by Special Exception. The following, as a principal use, their accessory uses and no other, are permitted in the R-2 Zoning District when a special exception is granted by the Zoning Hearing Board, subject to and in accordance with Part 7 of this Chapter:
  - A. Public cemetery.
  - B. Church or similar place of worship.
  - C. Nursing home, retirement home or convalescent home.
  - D. State licensed nursery school, elementary school, middle school, junior and senior high school or day care center.
  - E. Medical building or hospital.
  - F. Institutional uses.

- G. Two-family residential developments, subject to § 532 of this Chapter.
  - H. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.
5. Area, Yard and Height Regulations. Unless otherwise specifically provided for within this Chapter, each of the following minimum and maximum dimensional requirements shall apply to each permitted use in the R-2 Zoning District:
- A. Minimum Regulations.
 

Lot Area	6,500 square feet
Lot Width	60 feet
Building Setback	30 feet
Rear Yard	20 feet
Side Yard	
Total	16 feet*
One Side	8 feet*
  - B. Maximum Regulations.
 

Building Height	35 feet
Building Coverage	25%
Lot Coverage	40%

\*Unless otherwise specified in this Chapter, the side yard setback shall not apply to a common lot line extending from the common wall.
6. Supplementary Regulations. All Sections under Part 5 of this Chapter shall apply as supplementary guidelines and specifications for the R-2 District.

## § 403. R-3 — Urban Residential District.

[Ord. 458, 5/4/2000, § 403; as amended by Ord. 484, 8/7/2003, § 1]

- 1. Purpose. The purpose of the R-3 Zoning District is to permit medium to high density residential development and to retain the suburban characteristics of the Borough. All uses permitted within the R-3 Zoning District shall be serviced by public sanitary sewage disposal facilities and public water supply facilities.
- 2. Uses Permitted by Right. The following, as a principal use, their accessory uses and no other, are permitted in the R-3 Zoning District; provided, that the use, type, dimensional, and all other applicable requirements of this Chapter are satisfied:
  - A. Single-family detached dwelling.
  - B. Municipal use.
  - C. Agricultural uses, subject to § 505 of this Chapter.
  - D. Recreational uses, subject to § 506 of this Chapter.
  - E. Public utilities uses, subject to § 529 of this Chapter.

- F. Semidetached residential developments, subject to § 531 of this Chapter.
  - G. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.
  - H. No-impact home-based businesses, as such term is defined in Section 107(a) of the Pennsylvania Municipalities Planning Code, as amended, except that such permitted use shall not supersede the rights of any deed restriction, covenant or agreement restricting the use of land, nor any master deed, bylaw or other document applicable to a common interest ownership community.
3. Uses Permitted by Conditional Use. The following, as a principal use, their accessory uses and no other, are permitted in the R-3 Zoning District when a conditional use is granted by Borough Council, subject to and in accordance with Part 7 of this Chapter.
- A. Home occupation, subject to § 503 of this Chapter.
  - B. Fire station.
  - C. Multifamily residential developments, subject to the provisions of § 530 of this Chapter.
  - D. Tourist, bed and breakfast, rooming or boarding house, subject to § 533 of this Chapter.
  - E. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.
4. Uses Permitted by Special Exception. The following, as a principal use, their accessory uses and no other, are permitted in the R-3 Zoning District when a special exception is granted by the Zoning Hearing Board, subject to and in accordance with Part 7 of this Chapter:
- A. Public cemetery.
  - B. Church or similar place of worship.
  - C. Nursing home, retirement home or convalescent home.
  - D. State licensed nursery school, elementary school, middle school, junior and senior high school or day care center.
  - E. Medical building or hospital.
  - F. Institutional uses.
  - G. Two-family residential developments, subject to § 532 of this Chapter.
  - H. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.
5. Area, Yard and Height Regulations. Unless otherwise specifically provided for within this Chapter, each of the following dimensional requirements shall apply to each permitted use in the R-3 Zoning District:
- A. Minimum Regulations.
 

Lot Area	6,500 square feet
Lot Width	60 feet
Building Setback	30 feet
Rear Yard	20 feet

Side Yard	
Total	16 feet*
One Side	8 feet*

B. Maximum Regulations.

Building Height	35 feet
Building Coverage	25%
Lot Coverage	40%

\*Unless otherwise specified in this Chapter, the side yard setback shall not apply to a common lot line extending from the common wall.

6. Supplementary Regulations. All Sections under Part 5 of this Chapter shall apply as supplementary guidelines and specifications for the R-3 District.

## § 404. M-1 — Mixed Use District.

[Ord. 458, 5/4/2000, § 404]

1. Purpose. The purpose of the M-1 Zoning District is to provide an area for a mixture of residential and village commercial type land uses which service the needs of the community. The M-1 Zoning District is located within the vicinity of the New Holland Road (SR 625). All development which occurs shall be planned to accomplish safe vehicular access and to protect the integrity of any adjacent residential uses. All uses permitted within the M-1 Zoning District shall be serviced by public sanitary sewage disposal facilities and public water supply facilities.
2. Uses Permitted by Right. The following, as a principal use, their accessory uses and no other, are permitted in the M-1 District; provided, that the use, type, dimensional and all other applicable requirements of this Chapter have been satisfied:
  - A. Banks, savings and loan associations and finance companies.
  - B. Professional office or studio.
  - C. Church or similar place of worship.
  - D. Funeral home.
  - E. Municipal use.
  - F. Personal and household service establishments such as, but not limited to, barber shops, beauty shops, dry cleaning shops, laundromats, repair shops, seamstress/tailor shops.
  - G. Restaurants and similar types of eating establishments.
  - H. Retail business establishment such as, but not limited to, antiques, appliances, beverages, bicycles, books (except adult bookstores), carpeting, clothing, dry goods, flowers, food, furniture, hardware, household supplies, lumber, jewelry, newspapers, office equipment, paint, periodicals, sporting goods, stationary, travel and tobacco.
  - I. Single-family detached dwelling, subject to the area, yard and height requirements for the R-3 Zoning District, as specified under § 403(5) of this Chapter.

- J. Semidetached residential developments, subject to § 531 of this Chapter.
  - K. Tourist, bed and breakfast, rooming or boarding house, subject to § 533 of this Chapter.
  - L. Home occupation, subject to § 503 of this Chapter.
  - M. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.
3. Uses Permitted by Conditional Use. The following, as a principal use, their accessory uses and no other, are permitted in the M-1 District when a conditional use is granted by Borough Council, subject to and in accordance with Part 7 of this Chapter.
- A. Fire station.
  - B. Public utilities, subject to § 529 of this Chapter.
  - C. Multifamily residential developments, subject to the provisions of § 530 of this Chapter.
  - D. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.
4. Uses Permitted by Special Exception. The following, as a principal use, their accessory uses and no other, are permitted in the M-1 District when a special exception is granted by the Zoning Hearing Board to and in accordance with Part 7 of this Chapter:
- A. Nursing home, retirement home, convalescent home, group home or special care home.
  - B. State licensed nursery school, elementary school, middle school, junior high school, senior high school or day care center.
  - C. Recreation uses, subject to § 506 of this Chapter.
  - D. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.
5. Area, Yard and Height Regulations. Unless otherwise specifically provided for within this Chapter, each of the following dimensional requirements shall apply to each permitted use in the M-1 Zoning District:
- A. Minimum Regulations.
 

Lot Area	6,500 square feet
Lot Width	60 feet
Building Setback	30 feet
Rear Yard	20 feet
Side Yard	
Total	16 feet*
One Side	8 feet*
  - B. Maximum Regulations.
 

Building Height	35 feet
Building Coverage	25%
Lot Coverage	40%
- \*Unless otherwise specified in this Chapter, the side yard setback shall not apply

to a common lot line extending from the common wall.

6. Land Development Plan. Prior to the issuance of a zoning and/or building permit for a nonresidential land use that is permitted in the M-1 District, the applicant shall submit a land development plan to the Borough Planning Commission for review and comment. The Borough Planning Commission shall review each land development plan in accordance with all Borough standards and specifications concerning land development before recommending a decision to Borough Council.
7. Supplementary Regulations. All Sections under Part 5 of this Chapter shall apply as supplementary guidelines and specifications for the M-1 Zoning District.

## § 405. C-1 — Highway Commercial District.

[Ord. 458, 5/4/2000, § 405]

1. Purpose. The purpose of the C-1 Zoning District is to provide an area for general commercial land uses which service the needs of surrounding residential communities. The C-1 Zoning District is concentrated around existing commercial land uses that are located along collector and arterial highways within the Borough of Kenhorst. Development which occurs shall be planned to accomplish safe development of highway frontage and to protect major highways as thoroughfares. All uses permitted within the C-1 Zoning District shall be serviced by public sanitary sewage disposal facilities and public water supply facilities.
2. Uses Permitted by Right. The following, as a principal use, their accessory uses and no other, are permitted in the C-1 District; provided, that the use, type, dimensional and all other applicable requirements of this Chapter have been satisfied:
  - A. Banks, savings and loan associations, and finance companies.
  - B. Professional or government office or studio.
  - C. Church or similar place of worship
  - D. Funeral home.
  - E. Municipal use.
  - F. Personal and household service establishments such as, but not limited to, barber shops, beauty shops, dry cleaning shops, laundromats, repair shops, seamstress and tailor shops.
  - G. Restaurants and similar types of eating establishments.
  - H. Retail business establishment such as, but not limited to, antiques, appliances, auto parts, beverages, bicycles, books (except adult bookstores), carpeting, clothing, dry goods, flowers, food, furniture, hardware, household supplies, lumber, jewelry, machinery, newspapers, office equipment, paint, periodicals, pharmaceuticals, sporting goods, stationary, travel and tobacco.
  - I. Single-family detached dwelling, subject to the area, yard and height requirements for the R-3 Zoning District, as specified under § 403(5) of this Chapter.
  - J. Tourist, bed and breakfast, rooming or boarding house, subject to § 533 of this Chapter.
  - K. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.



3. Uses Permitted by Conditional Use. The following, as a principal use, their accessory uses and no other, are permitted in the C-1 District when a conditional use is granted by Borough Council, subject to and in accordance with Part 7 of this Chapter.
  - A. Agricultural uses, subject to § 505(1) of this Chapter.
  - B. Fire station.
  - C. Public utilities, subject to § 529 of this Chapter.
  - D. Hotel/motel accommodations.
  - E. Nursing home, retirement home, convalescent home, group home or special care home.
  - F. State licensed nursery school, elementary school, middle school, junior high school, senior high school or day care center.
  - G. Recreation uses, subject to § 506 of this Chapter.
  - H. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.
  
4. Uses Permitted by Special Exception. The following, as a principal use, their accessory uses and no other, are permitted in the C-1 District when a special exception is granted by the Zoning Hearing Board, [subject] to and in accordance with Part 7 of this Chapter:
  - A. Automatic car wash.
  - B. Automobile sales.
  - C. Automobile service station.
  - D. Adult business uses, subject to § 535 of this Chapter.
  - E. Club or lodge for fraternal or social purposes; provided, that the primary activity of such use is not operated for business; and, provided, that the building and services shall be primarily for use of members and their guests.
  - F. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.
  
5. Area, Yard and Height Regulations. Unless otherwise specifically provided for within this Chapter, each of the following minimum and maximum dimensional requirements shall apply to each permitted use in the C-1 Zoning District:
  - A. Minimum Regulations.
 

Lot Area	8,000 square feet
Lot Width	80 feet
Building Setback	30 feet
Rear Yard	30 feet
Side Yard	
Total	20 feet*
One Side	10 feet*
Improvement Setback	10 feet

Buffer Yard (Depth) 5 feet

B. Maximum Regulations.

Building Height 40 feet

Building Coverage 40%

Lot Coverage 60%

\*Unless otherwise specified in this Chapter, the side yard setback shall not apply to a common lot line extending from the common wall.

6. Land Development Plan. Prior to the issuance of a zoning and/or building permit for a nonresidential land use that is permitted in the C-1 District, the applicant shall submit a land development plan to the Borough Planning Commission for review and comment. The Borough Planning Commission shall review each land development plan in accordance with all Borough standards and specifications concerning land development before recommending a decision to Borough Council.
7. Supplementary Regulations. All Sections under Part 5 of this Chapter shall apply as supplementary guidelines and specifications for the C-1 Zoning District.

## § 406. C-2 — Shopping Center Commercial District.

[Ord. 458, 5/4/2000, § 406]

1. Purpose. The purpose of the C-2 Zoning District is to provide an area for shopping center commercial land uses which service the needs of surrounding residential communities. The C-2 Zoning District is concentrated around existing commercial land uses that are located along collector and arterial highways within the Borough of Kenhorst. Development which occurs shall be planned to accomplish safe development of highway frontage and to protect major highways as thoroughfares. All uses permitted in the C-2 Zoning District shall be serviced by public sanitary sewage disposal facilities and public water supply facilities.
2. Uses Permitted by Right. The following, as a principal use, their accessory uses and no other, are permitted in the C-2 District; provided, that the use, type, dimensional and all other applicable requirements of this Chapter have been satisfied:
  - A. Banks, savings and loan associations, and finance companies.
  - B. Professional or government office or studio.
  - C. Municipal use.
  - D. Personal and household service establishments such as, but not limited to, barber shops, beauty shops, dry cleaning shops, laundromats, repair shops, seamstress and tailor shops.
  - E. Restaurants and similar types of eating establishments.
  - F. Retail business establishment such as, but not limited to, antiques, appliances, auto parts, beverages, bicycles, books (except adult bookstores), carpeting, clothing, dry goods, flowers, food, furniture, hardware, household supplies, lumber, jewelry, machinery, newspapers, office equipment, paint, periodicals, pharmaceuticals, sporting goods, stationary, travel and tobacco.
  - G. Shopping center, mall, plaza, minimall, subject to § 538 of this Chapter.

- H. Hotel/motel accommodations.
  - I. Art gallery, museum, library or similar use.
  - J. Single-family detached dwelling, subject to the area, yard and height requirements for the R-3 Zoning District, as specified under § 403(5) of this Chapter.
  - K. Home occupation, subject to § 503 of this Chapter.
  - L. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.
3. Uses Permitted by Conditional Use. The following, as a principal use, their accessory uses and no other, are permitted in the C-2 District when a conditional use is granted by Borough Council, subject to and in accordance with Part 7 of this Chapter.
- A. Agricultural uses, subject to § 505(1) of this Chapter.
  - B. Public utilities, subject to § 529 of this Chapter.
  - C. Indoor theater (except adult theaters) and place of amusement or recreation.
  - D. Recreation uses, subject to § 506 of this Chapter.
  - E. Professional office/research park, subject to § 537 of this Chapter.
  - F. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.
4. Uses Permitted by Special Exception. The following, as a principal use, their accessory uses and no other, are permitted in the C-2 District when a special exception is granted by the Zoning Hearing Board, [subject] to and in accordance with Part 7 of this Chapter:
- A. Automatic car wash.
  - B. Automobile sales.
  - C. Automobile service station.
  - D. Self storage facilities.
  - E. Manufacturing facilities.
  - F. Printing, binding or publishing facilities.
  - G. Warehouse facilities.
  - H. Wholesale and distribution facilities.
  - I. Salvage yards, subject to § 535 of this Chapter.
  - J. Kennels, subject to § 544 of this Chapter.
  - K. Metal processing facilities.
  - L. Truck distribution center.

- M. Any land use not specified and/or permitted in any of the zoning districts.
  - N. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.
5. Area, Yard and Height Regulations. Unless otherwise specifically provided for within this Chapter, each of the following minimum and maximum dimensional requirements shall apply to each permitted use in the C-2 Zoning District:
- A. Minimum Regulations.
 

Lot Area	10,000 square feet
Lot Width	100 feet
Building Setback	50 feet
Rear Yard	30 feet
Side Yard	
Total	30 feet*
One Side	15 feet*
Improvement Setback	15 feet
Buffer Yard (Depth)	10 feet
  - B. Maximum Regulations.
 

Building Height	40 feet
Building Coverage	40%
Lot Coverage	60%

\*Unless otherwise specified in this Chapter, the side yard setback shall not apply to a common lot line extending from the common wall.
6. Land Development Plan. Prior to the issuance of a zoning and/or building permit for a nonresidential land use that is permitted in the C-2 District, the applicant shall submit a land development plan to the Borough Planning Commission for review and comment. The Borough Planning Commission shall review each land development plan in accordance with all Borough standards and specifications concerning land development before recommending a decision to Borough Council.
7. Supplementary Regulations. All Sections under Part 5 of this Chapter shall apply as supplementary guidelines and specifications for the C-2 District.

## Part 5. SUPPLEMENTARY REGULATIONS

### § 501. Access to Structures.

[Ord. 458, 5/4/2000, § 501]

1. Every building hereafter erected or moved shall be on a lot adjacent to a public street and all structures shall be so located on lots which provide safe and convenient access for emergency vehicles and required off-street parking.
2. In any zoning district other than the C-2 District, no more than one principal building, structure or land use shall be permitted or erected on a single lot.

## § 502. Accessory Uses or Structures.

[Ord. 458, 5/4/2000, § 502]

1. General Provisions.
  - A. Except as noted elsewhere in this Chapter, no accessory building or structure shall be permitted within any required front or side yard and within five feet of the rear lot line. The minimum distance between an accessory building or structure within a rear yard and a side lot line shall be the side yard requirement of the applicable zoning district or five, whichever is less.
  - B. Except as noted elsewhere in this Chapter, no accessory building or structure shall exceed 25 feet in height.
  - C. Accessory buildings or structures customary to agricultural and horticultural uses shall not exceed 25 feet in height.
  - D. No permanent accessory building or structure shall be constructed on any lot prior to the commencement of construction of the principal building to which it is accessory.
  - E. Sections 502(2) and 502(3) indicate accessory uses and their specifications for residential and nonresidential land uses.
  - F. Except as noted elsewhere in this Chapter, a building permit must be issued by the designated person or firm authorized by Borough Council for all proposed accessory structures and buildings.
2. Residential Provisions.
  - A. Private noncommercial in-ground swimming pools which are designed to contain a water depth of 18 inches or more must be located in the rear or side yard only, entirely enclosed with permanent fence not less than four feet in height. The pool shall not occupy more than 50% of the minimum yard area in which it is located. Section 521 of this Chapter provides additional standards and provisions for swimming pools.
  - B. Unless otherwise specified within this Chapter, detached garages, green houses and other outbuildings are permitted as accessory uses; provided, they are located within the building setback lines. All such uses shall be erected, enlarged and/or demolished in accordance with all applicable Borough building codes.
  - C. Paved terraces, patios or open porches; provided, that such terraces, patios or open porches comply with the front, side and rear setback which are designated for the zoning district in which the structure is located. The side yard setback shall not apply to a common lot line extending from a common wall.
  - D. Private noncommercial tennis courts shall not be located within the front yard and/or closer than 15 feet from side or rear property line. A tennis court shall not be located over a drainage field of a sewage disposal system.
  - E. Freestanding earth station satellite receiving dishes shall be mounted at ground level (where possible) and shall not be located within the front yard and/or closer than five feet from side or rear property lines.
  - F. The keeping of domestic farm animals is permitted provided that all activities are in compliance with

§ 505, "Agricultural Use Regulations," of this Chapter and do not result in a threat to the health and safety of the adjacent property owners.

- G. Unless stated elsewhere within this Chapter, the height of a residential accessory structure shall not exceed 25 in height.
  - H. Utility sheds shall not be permitted in the front yard and within three feet of the side or rear lot line. The minimum distance between a utility shed within a rear yard and a side lot line shall be three feet. All such utility sheds permitted under this Section of this Chapter shall not exceed a floor area of 180 square feet and a height of 15 feet.
3. Nonresidential Provisions.
- A. No accessory building or structure for a nonresidential use shall be permitted within any required front or side yard and within 10 feet of any rear lot line.
  - B. Storage facilities are permitted; provided, that such facilities are located in areas which have direct access to a street or driveway. The outdoor storage of materials shall be screened from the view of adjacent properties.
  - C. Living quarters are permitted only for proprietors, watchmen, caretakers or similar employees.
  - D. Restaurants, cafeterias and/or recreational facilities are permitted; provided, they are intended for the use of employees only, unless they are permitted as principal uses in the zoning district in which they are constructed.

## § 503. Home Occupation Regulations.

[Ord. 458, 5/4/2000, § 503]

1. Home occupations are permitted by right within the M-1 and C-2 Zoning Districts.
2. Home occupations are permitted by conditional use within the R-1, R-2 and R-3 Zoning Districts.
3. The office of a licensed medical practitioner or allied health field, dentist, architect, artist, baker (not for retail consumption), lawyer, accountant, insurance agent, real estate broker, teacher, tax collector, engineer, dance, music or voice instructor, dressmaker, milliner or seamstress, general repair or service, farm-based business, barber or beautician or similar occupation shall be deemed to be a "home occupation."
4. All dwelling units which propose a home occupation use shall have direct access to a public street; provided, that the occupation is secondary to the use of the property as a residence; and, further, that the use of the dwelling does not change the character thereof and/or have any exterior evidence of such secondary use other than a permitted sign subject to the requirements specified under § 527, "Signs," of this Chapter.
5. The principal person engaged in the home occupation shall be a resident of that dwelling.
6. The home occupation shall be limited to the principal person engaged in the home occupation and one additional person to provide secretarial, clerical or other assistance.
7. The home occupation shall be conducted within the principal residential structure or an accessory structure to which the home occupation is performed.

8. No more than one home occupational use shall be permitted per lot and/or residential unit.
9. A home occupation shall not occupy more than 25% of the total floor area of the residential dwelling unit or accessory structure to which the home occupation is performed.
10. Unless otherwise permitted by Borough Council, all required parking spaces shall be off-street. A minimum of two parking spaces in addition to those required for the existing residential units shall be provided, except that in the case of the office of a medical practitioner or dentist, four spaces shall be provided.
11. A zoning permit issued by the Borough is required for all proposed home occupations.
12. At the discretion of Borough Council, a land development plan may be required for a home occupational use.

## § 504. Residential Conversion Standards.

[Ord. 458, 5/4/2000, § 504]

1. The Zoning Hearing Board may authorize as a special exception the conversion of any single-family detached dwelling into a dwelling for not more than two families.
2. The lot area per family shall not be reduced to less than the minimum lot area as required for the zoning district in which it is located.
3. The yard, building, area and other applicable requirements for the applicable zoning district shall not be reduced.
4. Provisions for adequate water supply and wastewater disposal shall be designed in accordance with the requirements which are specified by Kenhorst Borough. All uses shall be serviced by public sanitary sewage disposal facilities and public water supply facilities.
5. Provisions for adequate access and off-street parking shall be made in accordance with the standards which area specified under §§ 501, 524 and 525 of this Chapter.
6. Such conversion shall not disrupt the character, harmony and integrity of the neighborhood.
7. Such conversion shall be authorized only for a large building which is structurally sound and has relatively little economic value or usefulness as a single-family detached dwelling or other conforming land use.
8. If such conversion is authorized, the Kenhorst Borough Zoning Hearing Board may prescribe such further conditions with respect to the conversion and use of such building as it deems appropriate.

## § 505. Agricultural Use Regulations.

[Ord. 458, 5/4/2000, § 505]

1. Unless otherwise stipulated within this Chapter, general agricultural activities/uses are permitted by right in the R-1, R-2 and R-3 Zoning Districts and are permitted by conditional use in the C-1 and C-2 Zoning Districts.
2. The raising and ownership of horses, cattle, pigs, hogs, sheep, goats, poultry, rabbits or similar animals shall be limited to a maximum of one animal unit per acre.

3. The display and sale of farm products shall be permitted provided that at least 75% of the quantity of products for sale have been produced on the property on which they are offered for sale. The sale of farm products shall be conducted in a structure or stand which shall not be located closer than 20 feet from the applicable street right-of-way. In addition, all off-street parking shall be designed in accordance with § 524 of this Chapter.
4. All areas utilized for grazing purposes shall be completely fenced in.
5. The spreading of fertilizers, manure, sewage sludge, and/or biosolids shall be conducted in a manner required and approved by the Pennsylvania Department of Environmental Protection, Kenhorst Borough and public water supplier.
6. Intensive agricultural activities and uses; provided, it is located on a minimum of 20 acres of contiguous land area. All intensive agricultural activities shall have a minimum setback of 300 feet from all property lines.

## § 506. Recreational Use Regulations.

[Ord. 458, 5/4/2000, § 506]

The following standards and regulations shall apply to all government, nonprofit, private or community recreational uses:

- A. All active outdoor recreational land uses/areas shall be set back 50 feet from all lot lines.
- B. All passive outdoor recreational land uses/areas shall be set back 10 feet from all lot lines.
- C. No buildings utilized for recreational activities shall be constructed within 50 feet from any lot line.
- D. No buildings or impervious surfaces shall be constructed on lands which are classified as being wetlands or floodplains.
- E. Parking facilities shall be required and designed in accordance with all Borough standards and specifications.
- F. All parking areas, driveways and/or streets shall be provided with a lighting system which shall furnish adequate illumination at any point and shall be designed to prevent glare which could be hazardous or uncomfortable to drivers in the area. Lights shall be screened to prevent spill or glare onto adjacent residential areas. In addition, the standards indicated under § 522, "Lighting," shall be applicable for all design specifications.
- G. All property lines adjacent to existing residential land uses shall be adequately screened and buffered so as to protect the neighborhood from inappropriate noise, light and other disturbances. The depth of the buffer yard shall be a minimum of 50 feet in depth and shall be consistent with the provisions specified under § 514(1) of this Chapter.
- H. Land areas which are not designated for buildings and impervious surfaces shall be planted with an adequate all-season ground cover which is consistent with § 514, "Landscaping," of this Chapter.
- I. No driveway or access street shall be located within 50 feet from the intersection of any Borough, State or private street. The intersections and interior traffic circulation pattern shall be designed to prohibit through traffic and minimize substantial traffic congestion and hazards. All roads designed for interior circulation shall be constructed in accordance with all applicable Borough standards and specifications.



- J. A land development plan shall be required for all proposed recreational sites in accordance with requirements adopted by the Borough.

## § 507. Design Standards for Nonresidential Uses.

[Ord. 458, 5/4/2000, § 507]

All proposed nonresidential uses shall be designed in accordance with all land development requirements and procedures pursuant to all Borough codes and ordinances.

## § 508. Environmental Performance Standards.

[Ord. 458, 5/4/2000, § 508]

Notwithstanding the laws and regulations of the United States Environmental Protection Agency (US EPA) and/or the Pennsylvania Department of Environmental Protection (PA DEP), the environmental performance standards listed under this Section will be utilized by the Kenhorst Borough Council and Planning Commission as supplemental regulations for reviewing existing or potential environmental impacts within the corporate limits of Kenhorst Borough.

### A. Air Management.

- (1) Open burning is not permitted in Kenhorst Borough unless such burning is consistent with the provisions and restrictions of all codes, regulations and/or ordinances adopted by Kenhorst Borough.
- (2) No gases, vapors, odors, and/or particulates shall be emitted from the facility which are detrimental to persons, property, animals or vegetation. No toxic, radioactive or corrosive gases, vapors or fumes shall be released into the atmosphere.
- (3) No odors causing annoyance or discomfort to the adjacent residents shall be detectable beyond the property lines of the site on which such odors originate. The Kenhorst Borough Zoning Officer and/or the designated person or firm authorized by Borough Council shall determine if the odor is considered offensive and is a nuisance.
- (4) The Pennsylvania Air Pollution Control Act, as amended, in conjunction with Chapter 131, "Ambient Air Quality Criteria," and Chapter 123, "Standards for Contaminants," of Title 25, shall be considered as minimum standards for the control of smoke, dust, fumes and emissions.

### B. Noise and Vibration Control.

- (1) No continuous, static, fluctuating and/or intermittent noise in excess of 60 decibels shall be permitted at the property line of the site on which the source of the noise originates between the hours of 7:00 a.m. and 5:00 p.m.
- (2) No continuous, static, fluctuating and/or intermittent noise in excess of 55 decibels shall be permitted at the property line of the site on which the source of the noise originates between the hours of 5:00 p.m. and 11:00 p.m.
- (3) No continuous, static, fluctuating and/or intermittent noise in excess of 50 decibels shall be permitted at the property line of the site on which the source of the noise originates between the hours of 11:00 p.m. and 7:00 a.m.

- (4) The levels of all sound pressure testing shall be measured with a Sound Level Meter and an Octave Band Analyzer that conforms to the specifications published by the American Standards Associates.
  - (5) No physical vibration shall be perceptible without aid of instruments at or beyond the lot lines with the exception of temporary construction activity.
  - (6) Noise which is considered as loud, offensive, disruptive, excessive, crude and/or is uncustomary for the land use from which it is generated shall not be permitted between the hours of 11:00 p.m. and 7:00 a.m. on any given day.
- C. Glare and Heat Control. Any operation producing intensive light, glare and/or heat shall be performed within an enclosed building or behind a solid fence in such a manner as to be completely imperceptible from any point beyond the boundary lines.
- D. Wastewater Management.
- (1) In no case shall potentially hazardous effluent or waste from any operations be discharged.
  - (2) Effluent must meet all standards specified by the Borough and/or Pennsylvania Department of Environmental Protection.
- E. Solid Waste Management.
- (1) No storage of solid waste materials on the site shall be permitted in excess of 10 days or as required under any other regulations pertaining to solid waste management as adopted by the Borough of Kenhorst.
  - (2) All solid waste materials awaiting transport shall be properly screened and concealed from the view of all adjacent properties. All containers shall be air-tight, vermin-proof and have adequate storage capacity to accommodate existing and projected volumes of solid waste.
  - (3) All solid waste management violations must be rectified within a twenty-four-hour period.
  - (4) Incineration for the purpose of reducing or disposing of liquid or solid waste material is not permitted.
  - (5) Biodegradable material which is considered and/or construed as being unsightly, malodorous, offensive, disruptive or hazardous shall not be kept, stored, stockpiled or spread on any property within the Borough.
- F. Outdoor Storage Control.
- (1) No flammable or explosive liquids, solids or gases shall be stored in bulk aboveground, except for tanks or drums of less than 600 gallons of fuel which is directly connected with engines, heating devices or appliances located and operated at the same site as the tanks or drums of fuel and which have been approved by the appropriate agencies.
  - (2) The limits which are specified for fuel storage in this Chapter shall not apply to agricultural uses and activities. However, all such requirements for the storage of fuel for agricultural uses shall be approved and/or permitted by the appropriate agencies.
  - (3) All storage facilities for fuel, raw materials and products stored outdoors shall be enclosed by a security fence and planting screen adequate to conceal the storage facilities from the view of adjacent properties.
  - (4) No materials or waste shall be deposited on site in such form or manner by which it can be

transported off the site by natural causes or forces.

- (5) No substance which has the potential to contaminate groundwater or surface water shall be permitted to be stored outside unless the owner can provide safeguards which are satisfactory to the Borough and the Pennsylvania Department of Environmental Protection.
- (6) Section 510, "Outdoor Storage," shall also be applicable for nonresidential uses.
- (7) Trailers which are parked on any property for a period of time exceeding 30 consecutive days and are utilized for storage purposes of any type, shall be considered as a temporary structure and shall be subject to the requirements specified under § 509 of this Chapter.

G. Utility Management and Control.

- (1) All uses requiring energy in the form of electric, diesel, gas, oil, etc., shall comply with the most acceptable safety requirements recognized by the Pennsylvania Bureau of Labor and Industry and shall be so constructed and installed so as to be an integral part of the architectural features of the site.
- (2) Any utility which is viewed and regarded as offensive and unsightly shall be concealed by coniferous planting.

H. Electromagnetic and Radioactive Radiation Control.

- (1) All electromagnetic radiation shall comply with the regulations of the Federal Communication Commission (FCC); provided, that no electromagnetic radiation which interferes with radio or television reception or the operation of other equipment beyond the lot lines shall be produced.
- (2) No injurious electromagnetic radiation or radioactive emission shall be produced and all radioactive emissions shall be in accordance with all pertinent Federal and State standards.

I. Violations. Proprietors who have been cited for any violation(s) subject to this Section shall be responsible for applicable costs incurred by the Borough of Kenhorst through background investigations, legal proceedings, retributions and rectification measures.

## § 509. Temporary Structures.

[Ord. 458, 5/4/2000, § 509]

A temporary permit shall be issued for the authorization of temporary structures or uses necessary during construction or other special circumstances of a discontinuing nature. The time period of the initial permit shall be one year which may be renewed for three month time periods up to and not exceeding one year. The temporary structure(s) shall be removed completely within 30 days of the expiration of the permit without cost to the Borough.

## § 510. Outdoor Storage.

[Ord. 458, 5/4/2000, § 510]

1. Outdoor storage of any type shall not be permitted unless such storage conforms to the normal functions and procedures conducted on the premises. Outdoor storage of any type shall be prohibited if such storage is considered and/or construed as unsightly, malodorous, hazardous to the environment and potentially

detrimental to the health and safety of the adjacent property owners. The use and location of such outdoor storage shall be in accordance with all pertinent Federal, State and local codes.

2. Exterior fuel tanks or drums utilized for agricultural uses shall be stored in approved aboveground containers not exceeding 600 gallons. All such containers shall be directly connected with engines, heating devices or appliances. All such containers and connections shall be approved and/or permitted by the appropriate agencies.
3. Exterior fuel tanks or drums utilized for residential uses shall be stored in approved aboveground containers not exceeding 300 gallons. All such containers shall be directly connected with the appropriate heating devices or appliances. All containers and connections shall be approved and/or permitted by the appropriate agencies.
4. All storage facilities for fuel, raw materials and products stored outdoors shall be enclosed by a security fence and planting screen adequate to conceal the storage facilities from the view of adjacent properties.
5. No materials or waste shall be deposited on site in such form or manner by which it can be transported off the site by natural causes or forces.
6. No substance which has the potential to contaminate groundwater or surface water shall be permitted to be stored outside unless the owner can provide safeguards which are satisfactory to the Borough and the Pennsylvania Department of Environmental Protection.
7. Biodegradable material which is considered and/or construed as being unsightly, malodorous, offensive, disruptive or hazardous shall not be kept, stored, stockpiled or spread on any property within the Borough.
8. The storage of agricultural equipment, functional classic or antique automobiles and/or actively used building material shall be permitted in all districts; provided, that such items are not located within the street right-of-way and are not located within 10 feet of any adjacent property line.
9. Equipment or motor vehicles which are considered by the Kenhorst Borough and/or the designated person or firm authorized by Borough Council as nonfunctional and without evidence of restoration work shall be removed from the applicable property at the expense of the property owner.
10. Any lot, or part thereof, exceeding the provisions of this Section shall be identified and categorized as a junkyard.
11. Trailers which are parked on any property for a period of time exceeding 30 consecutive days and are utilized for storage purposes of any type shall be considered as a temporary structure and shall be subject to the requirements specified under § 509 of this Chapter.

## § 511. Prohibited Uses.

[Ord. 458, 5/4/2000, § 511]

No building or structure may be erected, altered, or used and no lot or premises may be used for any activity which is continuously noxious, injurious or offensive by reason of dust, smoke, odor, fumes, noise, vibration, gas, effluent discharge, illumination or similar substances or conditions.

## § 512. Front Yard Exceptions.

[Ord. 458, 5/4/2000, § 512]

When an unimproved lot is situated between two improved lots with front yard dimensions less than those required for the district in which the unimproved lot is located, the front yard required for the unimproved lot may be reduced to a depth equal to the average of the two adjoining lots; provided, however, that this provision shall only apply in cases where the improved lots in question are improved as of the time of the adoption of this Part and the improvements are located within 100 feet of the unimproved lot. For the purposes of this Section, an unimproved lot shall be the same as a vacant lot and an improved lot shall be one on which a principal building is erected.

## § 513. Flag Lots.

[Ord. 458, 5/4/2000, § 513]

Flag lots are permitted in all zoning districts, subject to the following development standards and conditions:

- A. Flag lots shall only be permitted within residential developments. All such lots shall be intended for single-family detached dwelling units.
- B. A cumulative total of two flag lots shall be created as a result of the subdivision(s). In all cases, the applicant must demonstrate that land cannot be subdivided to meet the minimum lot width requirements of the zoning district, the tract of land cannot be further subdivided in the future by normal or typical design, the tract of land cannot be properly subdivided due to the presence of certain physical development limitations associated with the site and that the configuration of the proposed lots will not limit the potential for development on adjacent tracts of land in the future.
- C. If the tract of land contains any residue or undeveloped land area, the applicant shall provide the Borough with a sketch plan for further review and comment.
- D. The access strip or stem of a flag lot shall be fee simple and extend to an existing public street. If required by the Borough, a five foot buffer strip shall be provided along the access strip. The buffer strip shall be sufficiently landscaped in accordance with the standards specified under § 514(1) of this Chapter.
- E. Driveways shall be located, designed and constructed in accordance with all pertinent Borough standards.
- F. The width of the access strip or stem shall be a minimum of 25 feet. Additional width may be required by the Borough in order to overcome problems associated with slope, drainage and/or sedimentation.
- G. The lot area for each flag lot shall meet or exceed the minimum lot area requirements for the applicable zoning district. The area of the access strip or stem shall not be utilized to compute the area of the flag lot.
- H. The building setback lines for the flag lot shall meet the minimum required setbacks as specified by the applicable zoning district. The setback lines shall be established at the flag portion of the proposed lot. The front yard depth or setback shall be measured from the access strip (extended through the lot) and from the rear property line of the lot between the proposed flag lot and public street. All other setbacks shall meet the rear yard setback requirements.
- I. Flag lots may not be further subdivided or developed for any other purpose.

## § 514. Landscaping.

[Ord. 458, 5/4/2000, § 514.]

1. Buffer Yards.
  - A. Where district regulations require buffer yards, screening and/or planting strips, the applicant shall submit a landscaping plan to the Borough for review and approval.
  - B. The landscaping plan shall show the location and arrangement of each buffer yard, the species, placement and size of all plant material selected and the type, placement and size of all fences to be placed in such buffer yards.
  - C. The type and density of planting shall adequately provide the screening effect required.
  - D. The plant materials utilized shall be selected from the approved list identified under § 514(3) of this Chapter.
  - E. All plant materials shall be permanently maintained by the property owner and any plant material which does not live shall be replaced within six months.
  - F. Any portion of a site which is not utilized for buildings, accessory structures, loading or parking spaces, aisles, sidewalks and designated storage areas shall be planted with an all season ground cover and shall be landscaped according to an overall plan.
  - G. All buffer yards shall be maintained and kept clean of debris, rubbish, weeds and tall grass. Depending on the land use activity and intensity, the Borough may require that a fence be installed within the buffer yard or along the internal portion of the buffer yard. The fence shall be consistent with the standards specified under § 516 of this Chapter.
  - H. Borough Council shall have the right to waive or modify any of the above specifications if the applicant can demonstrate that the existing conditions of the site exceeds all applicable requirements listed under this Section.
2. Developments Requiring Landscaping Plans.
  - A. All residential developments containing five or more dwelling units or nonresidential development greater than one gross acre shall submit a landscaping plan to the Borough of Kenhorst for review and approval.
  - B. The landscaping plan shall show the type, size and arrangement of all species selected.
  - C. The materials utilized shall be selected from the approved list identified under § 514(3) of this Chapter.
  - D. Residential developments shall provide a minimum of two selected canopy, flowering or evergreen tree per lot.
  - E. Nonresidential developments shall provide a minimum of three selected canopy, flowering and/or evergreen trees per gross acre.
  - F. All selected plant materials shall be planted a minimum of 10 feet outside of the legal right-of-way of all existing and proposed streets.
  - G. All selected plant materials shall be located so as not to interfere with the installation and maintenance of sidewalks, drainage facilities and/or utilities.
  - H. The strategic placement of trees throughout the development to serve as a buffer against the wind

and sun is encouraged for energy conservation purposes.

- I. All plant materials shall be located so as not to create a potential traffic hazard.
  - J. The Borough shall have the right to waive or modify any of the above specifications if the applicant can demonstrate that the existing conditions of the site exceeds all applicable requirements listed under this Section.
3. Plant Material List. The following trees, hedges and/or shrubs, which may be utilized to meet the standards and specifications of § 514(1) and § 514(2). Species selection shall be based upon the existing physical and natural conditions of the site.
- A. Canopy trees are permitted provided they are a minimum of two inches in caliper as measured 12 inches from the ground. The following is an approved list:
    - (1) *Acer ginnala* — Amur Maple.
    - (2) *Acer platanoides* — Norway Maple.
    - (3) *Acer rubrum* — Red Maple.
    - (4) *Acer saccharum* — Sugar Maple.
    - (5) *Betula alba* — European White Birch.
    - (6) *Fagus grandifolia* — American Beech.
    - (7) *Fagus sylvatica* — European Beech.
    - (8) *Fraxinus americana* — White Ash.
    - (9) *Fraxinus Pennsylvania lanceolata* — Green Ash.
    - (10) *Ginkgo Biloba* — Ginkgo (male only).
    - (11) *Liriodendron tulipifera* — Tulip Tree.
    - (12) *Phellodendron amurense* — Amur Cork Tree.
    - (13) *Quercus alba* — White Oak.
    - (14) *Quercus borealis* — Red Oak.
    - (15) *Quercus coccinea* — Scarlet Oak.
    - (16) *Quercus palustris* — Pin Oak.
    - (17) *Quercus phellos* — Willow Oak.
    - (18) *Robina pseudoacacia inermis* — Thornless Black Locust.
  - B. Flowering trees are permitted provided they are a minimum of 10 feet in height. The following is an approved list:
    - (1) *Amelanchier canadensis* — Shadblow Serviceberry.
    - (2) *Cornus florida* — Flowering Dogwood.

- (3) *Cornus kousa* — Kousa Dogwood.
  - (4) *Cornus mas* — Cornelian Cherry.
  - (5) *Laburnum vossi* — Goldenchain.
  - (6) *Magnolia soulangiana* — Saucer Magnolia.
  - (7) *Malus baccata* — Siberian Crab.
  - (8) *Malus floribunda* — Japanese Flowering Crab.
  - (9) *Oxydendrum arboreum* — Sourwood.
  - (10) *Pyrus calleryana* Bradford — Callery Pear.
  - (11) *Prunus calleryana* — Kwanza Cherry.
- C. Evergreen trees are permitted provided they are a minimum of six feet in height. The following is an approved list:
- (1) *Ilex opaca* — American Holly.
  - (2) *Picea abies* — Norway Spruce.
  - (3) *Picea omorika* — Serbian Spruce.
  - (4) *Picea pungens* — Colorado Spruce.
  - (5) *Pinus nigra* — Austrian Pine.
  - (6) *Pinus strobus* — Eastern White Pine.
  - (7) *Pinus thunbergii* — Japanese Black Pine.
  - (8) *Pseudotsuga menziesli* — Douglas Fir.
  - (9) *Tsuga caraliniana* — Caralina Hemlock.
  - (10) *Tsuga canadensis* — Canada Hemlock.
- D. Hedges or hedgerows are permitted for buffer and screening purposes provided they are a minimum of four feet in height. The following is an approved list of hedges:
- (1) *Crataegus crus-galli* — Cockspur Thorn.
  - (2) *Crataegus intricata* — Thicket Hawthorn.
  - (3) *Crataegus phaenopyrum* — Washington Hawthorn.
  - (4) *Elaeagnus augustifolia* — Russian Olive.
  - (5) *Euonymus alatus* — Winged Euonymus.
  - (6) *Forsythia intermedia* — Border Forsythia.
  - (7) *Rhamnus fraxula columnaris* — Tailhedge Buckthorn.



- (8) *Syringa vulgaris* — Common Lilac.
- (9) *Viburnum sieboldii* — Siebold Viburnum.
- (10) *Viburnum tomentosum* — Doublefile Viburnum.

E. Shrubs are permitted for buffer and screening purposes provided they are a minimum of three feet in height. The following is an approved list of shrubs:

- (1) *Hamamelis virginiana* — Common Witch Hazel.
- (2) *Ilex verticillata* — Winterberry.
- (3) *Juniper virginiana* — Upright Juniper.
- (4) *Phyacantha lalandi* — Laland Firethorn.
- (5) *Rhamnus frangula* — Glossy Buckthorn.
- (6) *Taxus capitata* — Upright Yew.
- (7) *Viburnum dentatum* — Arrowwood Viburnum.
- (8) *Viburnum lantana* — Wayfaring Tree Viburnum.

#### 4. Guarantee/Performance Bond.

- A. Any tree or shrub which dies within 18 months of planting shall be replaced. Any tree or shrub which, within 18 months of planting or replanting, is deemed, in the opinion of the Borough, to have grown in a manner uncharacteristic of its type, shall be replaced.
- B. Substitutions for certain species may be permitted only when approved by the Kenhorst Borough Planning Commission and Council.
- C. The developer or landowner shall deposit with the Borough a sum of money equal to the amount necessary to cover the cost of purchasing, planting, maintaining and replacing all vegetative materials for a period of 18 months. This condition shall be satisfied through an executed agreement between the Borough and developer.

## § 515. (Reserved for Future Use).

[Ord. 458, 5/4/2000, § 515]

## § 516. Fences, Walls and Hedges.

[Ord. 458, 5/4/2000, § 516]

Unless otherwise stipulated within this Chapter, fences, walls and/or hedges may be permitted within and along the periphery of any required yard; provided:

- A. No fence, wall and/or hedge is to be erected or planted within or encroaching upon the street right-of-way.
- B. No fence or wall, except a security fence or decorative retaining wall, shall exceed six feet in height. All

proposed fences and walls shall be designed and constructed in accordance with the specifications and proceedings of the designated person or firm authorized by Borough Council.

- C. Cyclone fences are permitted provided they are adequately screened with suitable landscaping from the view of any adjacent properties.
- D. Security fences, exceeding six feet in height, shall only be permitted for nonresidential land uses. The tops of security fences exceeding six feet in height may also utilize barb wire. All such security fences shall be adequately screened with suitable landscaping from the view of any adjacent properties.
- E. All security fences exceeding six feet in height shall be reviewed and approved by Borough Council.

## § 517. Corner Lot Restrictions.

[Ord. 458, 5/4/2000, § 517]

1. Clear sight triangles shall be provided at all street intersections. Within such triangles, nothing, except street signs, traffic lights or signs, utility poles and mail boxes, which impedes vision above a height of 2.5 feet from the centerline grades of the intersecting streets. Such triangles shall be established from a distance of 75 feet from the point of intersection of the center lines of the intersecting streets, except that a clear sight triangle of 150 feet shall be provided for all intersections with collector and arterial highways.
2. On every corner lot, a yard equal in depth to the front yard requirement of the zoning district in which the corner lot is located, shall be provided on each side of the lot which is adjacent to a street.
3. In cases in which a pre-existing lot of record is changed into a corner lot as the result of an adjacent subdivision or land development, the front yard of the preexisting lot shall only be established along the public street to which it originally had access. All other setbacks shall conform with the applicable requirements for the zoning district in which the pre-existing lot is located.

## § 518. Projections into Yards.

[Ord. 458, 5/4/2000, § 518]

Unless otherwise specified within this Chapter, all structures must comply with the front, side and rear setback which are designated for the zoning district in which the structure is located.

## § 519. Accessory Building Setback Exceptions.

[Ord. 458, 5/4/2000, § 519]

On any lot on which a principal building existed at the effective date of this Chapter, any accessory building to such existing principal building which is constructed after the effective date of this Chapter does not have to be set back further from any street right-of-way or lot line than that principal building.

## § 520. Height Exceptions.

[Ord. 458, 5/4/2000, § 520]

1. The building height limitations contained within this Chapter shall not apply to chimneys, spires, belfries, cupolas, farm buildings, silos, greenhouse ventilators, antennas (not in combination with support towers), water tanks and other similar appurtenances usually required to be placed above the roof level provided they are not intended for human occupancy.
2. The maximum height of the structures which are specified under subsection (1), above, shall be 50 feet. In no case shall height of the structure, or the building in combination with a structure, be greater than the distance to the closest lot line.
3. Unless otherwise specified in this Chapter, no building in the Borough, other than a farm building, shall exceed 35 feet in height.
4. Accessory buildings or structures customary to agricultural and horticultural uses shall be exempt from the building height and open area requirements specified in this Chapter. The height of the accessory building or structure above its base shall be less than the shortest distance from such base to any lot line.
5. The height exceptions specified in this Chapter shall be consistent with the development standards specified by all applicable regulations adopted by Kenhorst Borough.

## § 521. Swimming Pools.

[Ord. 458, 5/4/2000, § 521]

Swimming pools shall be defined as a fixed body of water, 18 inches or more in depth and with a water surface area of 100 square feet or more, that is utilized for the purpose of swimming and bathing. Such swimming pools may be entirely or partially aboveground. Swimming pools shall be classified as an accessory use. The following standards shall supplement those standards provided in § 502 of this Chapter.

- A. The pool, filters, pumps and other mechanical or structural equipment shall not be permitted within the front yard, the side yard setbacks and/or within 10 feet of the rear lot line.
- B. Any flood lighting or other illumination used in conjunction with the pool shall be shielded and directed away from adjacent property owners.
- C. The pool shall be completely enclosed by a fence or wall not less than four feet in height. If the enclosure is a fence, the vertical and horizontal interfaces shall be no more than two inches apart. All gates shall be equipped with locks.
- D. Aboveground pools over four feet in height do not need to be enclosed by a fence or wall, but the ladders serving the pool shall be locked in an inaccessible position at least four feet above the ground or removed and locked up elsewhere.
- E. The pool shall not occupy more than 50% of the minimum yard area in which it is located.

## § 522. Lighting.

[Ord. 458, 5/4/2000, § 522]

1. When the property on which any activity is conducted is illuminated at night, such illumination shall be so

designed and located that the light sources are shielded from adjoining residences and streets.

2. No direct beams of light shall be directed toward adjacent properties or toward public roads, except from street lights intended for the lighting of streets, the location of which have been approved by the Borough and the appropriate utility company.
3. No lighting shall be utilized in such a manner to produce a light intensity greater than ten-foot candles beyond the lot boundaries when the adjacent land is included within a residential zoning district.

## § 523. Off-street Loading Areas.

[Ord. 458, 5/4/2000, § 523]

1. Paved off-street loading and unloading spaces, with proper access from a street, common driveway or alley shall be provided on any lot on which a building for trade or business is hereafter erected or substantially altered. All such areas for the loading and unloading of vehicles and for the servicing of establishments or shops by refuse collection, fuel and other service vehicles shall be of such size, design and arrangement that they may be used without blocking or otherwise interfering with the use of automobile accessways, parking facilities or pedestrian ways. All loading areas shall be paved. Loading areas shall not be located within required front yards and shall not be located within 10 feet of any side or rear lot line.
2. All such spaces shall have dimensions not less than 12 feet by 45 feet with a clearance of not less than 14 feet in height. The spaces shall not be located within any public right-of-way or within any other designated parking area.
3. Unless otherwise required by this Chapter or permitted by Borough Council, a minimum of one off-street loading spaces shall be required for each nonresidential use.
4. Unless otherwise permitted by the Borough Council, the total number of required off-street loading spaces shall be specified as follows:
 

Office Building	One space for the each 20,000 square feet of gross floor area.
Warehousing or Wholesaling Establishment	One space for each 10,000 square feet of gross floor area.
Other Nonresidential Uses	One space for the each 20,000 square feet of gross floor area.
5. For any building or land use not covered above, or for any combination of uses set forth above, the designated person or firm authorized by Borough Council shall apply the standard for the number of required off-street loading spaces.
6. Unless otherwise permitted by Borough Council, all required off-street loading areas and access drives shall be paved. They shall have marked parking spaces, shall be graded to provide convenient access and proper drainage and shall be maintained in usable condition. The maximum grade of areas used for loading spaces shall not exceed 5%, and the maximum grade of access drives shall not exceed 10%. Surface water shall not be concentrated onto public sidewalks and other premises.

## § 524. Off-street Parking Facilities.

[Ord. 458, 5/4/2000, § 524]

1. Off-street parking facilities shall be provided whenever:
  - A. A building is constructed or new use established.
  - B. The use of an existing building is changed to a use requiring more parking facilities.
  - C. An existing building is altered so as to increase the amount of parking spaces required.
2. Standards for Off-Street Parking.
  - A. Each parking space shall have a minimum area of 200 square feet with minimum dimensions of 10 feet by 20 feet. In addition, appropriate driveways, aisles and maneuvering space shall be provided to permit safe and convenient access to and use of the area provided for parking purposes. Proper access from a street, alley or driveway shall be provided.
  - B. Parking spaces for residential uses shall be located on the same lot as the use served. Parking spaces for other uses shall be provided for on the same lot as the use being served or in parking facilities within 300 feet of the use, except in the case of a shopping center or similar grouping of buildings on a lot, in which case all parking areas shall be provided entirely within the lot lines of the property.
  - C. All off-street parking spaces designated for residential units shall be located behind the street right-of-way line.
  - D. All parking spaces and means of access, other than those relating to a dwelling, shall be adequately illuminated during night hours of use. The illumination must be designed and located so that the light sources are shielded from adjoining residences and public and private streets. The illumination shall not be of excessive brightness and shall not produce a glare noxious at or beyond the boundaries of the parking area.
  - E. Common or joint parking facilities for two or more uses may be established; provided, that the number of spaces provided is not less than the sum of the spaces required for each individual use.
  - F. All common parking areas and access drives shall be paved. They shall have marked parking spaces, shall be graded to provide convenient vehicular access and proper drainage and shall be maintained in usable condition. The maximum grade of areas used for parking shall not exceed 5%. and the maximum grade of access drives shall not exceed 10%. Surface water shall not be concentrated onto public sidewalks and other premises.
  - G. The Borough may permit a gravel or stone off-street parking area if the applicant can provide evidence that the proposed land use activity is not compatible or does not require a paved off-street parking area. As part of the request, the applicant shall submit a stormwater management plan, a grading plan and an erosion/sedimentation control plan to the Borough for review and comment.
  - H. No areas necessary to fulfill the off-street parking requirements of this Chapter shall be used for the sales, dead-storage, repair, dismantling or servicing of vehicles.
  - I. Off-street parking facilities existing at the effective date of this Chapter shall not be subsequently reduced to an amount less than that required under this Chapter for a similar new building or use.
  - J. The width of aisles in parking areas shall be no less than listed in the following table:

<b>Angle of Parking</b>	<b>Aisle Width</b>	
	<b>One-Way</b>	<b>Two-Way</b>

90 degrees	24 feet	24 feet
60 degrees	18 feet	
45 degrees	15 feet	
30 degrees	12 feet	

- K. When the required number of parking spaces is computed and a fraction of a parking space results, any fraction which is below  $\frac{1}{4}$  may be disregarded and any fraction which is over one-fourth shall necessitate the provision of a full parking space.
- L. The design of parking areas for all uses shall be such to prevent the back-up of vehicles on a public street.
- M. Where parking requirements are determined by the number of seats and no permanent seats are provided, only temporary seats, the number of parking spaces to be provided shall be based upon the capacity for temporary seats in normal usage.
- N. Parking areas shall be arranged so that no portion of any vehicles parked within a designated parking space can extend over any property line of the lot on which it is parked.
- O. Parking areas for nonresidential uses which are designed to contain more than three vehicles shall be screened from the view of persons on any land zoned R-1, R-2 and R-3 which is adjacent to the land on which the nonresidential parking area is located.
- P. Parking areas and access drives for nonresidential uses shall be located a minimum of 10 feet from a lot line and street right-of-way line and the area between the parking area and the lot line or street right-of-way line shall be landscaped in accordance with the standards specified under § 514 of this Chapter. Consideration should be given to providing landscaping within the interior of the off-street parking facility.
- Q. Nonconforming Parking Areas. No major repairs, substantial alterations or extensions to any building shall be permitted unless the plans for such change shall provide for bringing the entire property into conformance with all of the provisions of this Section as if an application were being made for a permit to erect or construct all of the existing and proposed buildings and structures on undeveloped ground.
- R. The parking of commercial or nonresidential vehicles shall be permitted in all zoning districts within the Borough; provided, they are not located within any street right-of-way or within the applicable front, side or rear yard setback. All such vehicles must be located within an enclosed building or must be located more than 25 feet from any property line. The building or parking area must be screened with suitable landscaping in order to conceal its view from any adjacent residential use.
- S. The parking of major recreational vehicles or equipment including, but not limited to, boats, boat trailers, campers, coaches, motorized dwellings or similar equipment shall be permitted in all zoning districts within the Borough; provided, they are not located within any street right-of-way or within the applicable side or rear yard setback. Unless otherwise approved and permitted by Kenhorst Borough, all such vehicles or equipment shall not be utilized for living, sleeping and/or household purposes.
- T. The number of off-street parking spaces to be provided for each use shall be sufficient to accommodate all employee, visitor, and customer parking. Minimum off-street parking requirements shall conform to the specifications under § 524(3) of this Chapter.
- U. The Kenhorst Borough Subdivision and Land Development Ordinance [Chapter **20**] provides

additional design standards and specifications for off-street parking facilities.

3. Off-Street Parking Requirements. Off-street parking requirements shall be required as follows:
  - A. Residential Uses. Two parking spaces per dwelling unit.
  - B. Wholesaling, Warehouse or Industrial Use. One space per two employees for the combined employment of the two largest successive shifts.
  - C. Restaurant, Tavern or Similar Use. One space for each two seats plus one space for each full time employee on the largest shift.
  - D. Retail and Service Establishments. One space for each 150 square feet of gross floor area.
  - E. Office Buildings. One space for each 200 square feet of gross floor area.
  - F. Motel, Hotel, Tourist Home or Similar Establishments. One space for each rental unit plus one space for each employee on the largest shift.
  - G. Medical, Dental, and Paramedical Offices and Clinics. Ten spaces for each person engaged in practice.
  - H. Nursing Home, Convalescent Home or Home for the Aging. One space for each employee plus one space for each four beds.
  - I. Hospital. One and one-half spaces per bed.
  - J. Funeral Home. One space for each four seats.
  - K. Roadside Farm Stand. Not less than five spaces.
  - L. Drive-in Eating Establishment (No Indoor Seating Provided). One space for each 2,000 square feet of lot area or one space for every 25 square feet of gross floor area, whichever is greater, plus one space for each full time employee on the largest shift.
  - M. Bowling Alley. Five spaces per alley.
  - N. Auditorium, Gymnasium, Theater, Municipal Building, Place of Worship, Club or Lodge, Cafeteria Utilized for Public Assemblage, or Other Place of Public Assemblage. One space for every three seats.
  - O. Library or Museum. One space per 300 square feet of gross floor area.
  - P. Nursery Schools. One space per employee plus one space for loading and unloading of children for each five children accommodated in the school.
  - Q. Elementary and Junior High Schools. One space per employee plus 10 spaces per classroom. Refer to subsection (2)(N), above, for additional requirements.
  - R. High Schools. One space per four students plus one space for each employee. Refer to subsection (2)(N), above, for additional requirements.
  - S. Skating Rink, Swimming Pools, Dance Hall, Indoor Recreational Establishment. One space per 50 square feet devoted to patron use.
  - T. Motor Vehicle Service Station or Repair Garage. Two parking spaces per service bay.
  - U. For any building or use not covered above or for any combination of uses set forth above, the

designated person or firm authorized by Borough Council shall apply the standard for off-street parking spaces in the above schedule deemed to most closely approximate the proposed building or use.

## § 525. Driveways.

[Ord. 458, 5/4/2000, § 525]

1. No driveways shall be located, designed and constructed so as to create a drainage or sedimentation problem on an adjacent property or street.
2. All driveways shall be so constructed and maintained that the materials of which the driveways are made will not wash nor be deposited upon public roads.
3. Driveways serving single-family residential dwelling units shall not exceed 15% in grade.
4. Driveways serving multifamily residential dwelling units and nonresidential developments shall not exceed 10% in grade and shall be paved.
5. All driveways shall be located, designed, maintained and constructed as to provide optimum and safe sight distance at their intersection with the street.
6. Driveway entrances shall not intersect streets at angles of less than 60° nor more than 120°.
7. All driveways shall be located, designed, maintained and constructed in accordance with all pertinent standards and specifications for driveways which have been adopted by the Borough of Kenhorst. Where provisions are not specified or applicable, the Kenhorst Borough Council shall provide a set of design requirements.
8. A highway occupancy permit, issued by the Pennsylvania Department of Transportation, shall be required for all proposed driveways entering onto a State road.

## § 526. Highway Frontage Development.

[Ord. 458, 5/4/2000, § 526]

1. All areas for off-street parking, off-street unloading and loading and the storage or movement of motor vehicles shall be physically separated from the public street or highway by a raised curb, planting strip or other suitable barrier against unchanneled motor vehicle entrance or exit, except for necessary accessways or access roads which supply ingress and egress from such facilities.
2. Each use with less than 100 feet of frontage on a public street shall have not more than one accessway to each such street. No use with 100 feet or more frontage on a public street shall have more than two accessways to any one street for each 300 feet of frontage. Where practicable, movement into and out of parking areas shall avoid direct access to or from an arterial street or major collector.
3. Where there is more than one driveway to a parking area, the driveways, whenever possible, shall be limited to one-way travel either as an entrance to or an exit from the parking area. The width of such entrances and exits, measured at the street line, shall be as follows:



- A. One-way travel: 12 feet minimum and 26 feet maximum.
  - B. Two-way travel: 24 feet minimum and 36 feet maximum.
4. In all cases the radius of the edge or the driveway apron shall be at least 15 feet and no more than 50 feet.
  5. The location and width of exit and entrance driveways shall be planned so as not to interfere with the use of adjacent property and with pedestrian and vehicular traffic on adjacent streets. The center line of the access driveway onto or from any public street shall be located at least 50 feet from the intersection of any street right-of-way lines.

## § 527. Signs.

[Ord. 458, 5/4/2000, § 527]

1. Purpose and Application.
  - A. The purposes of the regulations contained under this Section are to promote and maintain overall community beautification, establish reasonable time, place and manner regulations on the exercise of free speech, promote traffic safety and promote appropriate and efficient use of land.
  - B. Signs existing at the date of enactment of this Chapter and which do not conform to the requirements of this Chapter shall be considered nonconforming signs. Once a nonconforming sign is removed, it may be replaced only with a conforming sign. Nonconforming signs may be repaired or repainted; provided, that the modifications do not exceed the dimensions of the existing sign.
2. Area Standards for Signs.
  - A. The area of a sign shall be construed to include all lettering, wording and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display.
  - B. The area of a sign, painted upon or applied to a building, shall be considered to include all lettering, wording and accompanying designs or symbols, together with any backing associated with the sign.
  - C. Where the sign consists of individual letters or symbols attached to or painted on a surface, building, wall or window, the area shall be considered to be that of the smallest rectangle or other shape which encompasses all of the letters and symbols.
3. Permitted Signs, All Zoning Districts. These signs are permitted in all zoning districts and are subject to the following standards, provisions and specifications.
  - A. Official traffic control signs and other official, Federal, State, County or Borough government signs.
  - B. Temporary signs announcing a campaign, drive or event of a civic, philanthropic, educational or religious organization; provided, such sign shall not exceed 12 square feet in area and shall be removed immediately upon the completion of the campaign, drive or event.
  - C. Business signs offering the sale or rental of the premises upon which the sign is erected; provided, that the area of any such sign shall not exceed six square feet and not more than one such sign shall be placed on the property unless such property fronts on more than one street, in which case one sign may be erected on each street frontage.

- D. Temporary signs of contractors, developers, architects, engineers, builders and artisans, erected and maintained on the premises where the work is being performed; provided, that the area of such sign shall not exceed 12 square feet; and, provided, that such sign shall be removed upon completion of the work.
  - E. Trespassing signs, signs indicating the private nature of a road, driveway or premises, signs controlling fishing or hunting on the premises; provided, that the area of any such sign shall not exceed two square feet.
  - F. All signs must be located to comply with the requirements for clear sight triangles, as specified under § 517(1) of this Chapter.
  - G. Signs directing patrons, members of audience to temporary exhibits, shows or events and signs erected in conjunction with a political election; provided, that such sign shall not exceed six square feet, shall be removed within two weeks after the date of the exhibit, show, event or election, shall not be posted earlier than two weeks before the date of the exhibit, show or event and that political signs shall not be posted earlier than one month prior to an election.
  - H. Signs expressing the opinion of the owners or occupants of the property on which signs are placed; provided, that no such sign shall be obscene or shall cause threat to the health or safety of the public, no such sign shall exceed 10 square feet and not more than one such sign shall be erected on any one street frontage.
4. Permitted Signs, Residential Districts. The following signs are permitted within the R-1, R-2 and R-3 Zoning Districts:
- A. Home occupation or name sign displaying the name and address of the occupant or the profession or activity of the occupant of a dwelling; provided, that not more than one such sign shall be erected for each permitted use or dwelling; and, provided, that the area of such sign shall not exceed two square feet; and, provided, that such sign shall be fixed flat on the main wall of such building or may be erected in the front yard, but not within 10 feet of the cartway.
  - B. Sign, bulletin, announcement board or identification sign for schools, churches, clubs, multifamily dwellings or other principal uses and buildings other than dwellings on the same lot therewith for the purpose of displaying the name of the institution and its activities or services; provided, that the area of any such sign shall not exceed 12 square feet and not more than one such sign shall be erected on any one street frontage.
  - C. Signs offering the sale of farm products, nursery products or livestock produced or raised on the premises; provided, that the area of any such sign shall not exceed 12 square feet and not more than one such sign shall be erected on any one street frontage.
  - D. Signs denoting membership in agricultural associations, cooperatives or indicating specialization in a particular breed of cattle, hogs, etc., or in a particular hybrid or strain of plant; provided, that such sign is limited to six square feet and not more than one sign per 10 feet of road frontage.
5. Permitted Signs, Multifamily Residential Developments. The following signs are permitted within multifamily residential developments.
- A. Freestanding temporary real estate signs for and/or planned advertising the sale or rental of the premises upon which the sign is erected; provided, that the total area of any one side of the sign does not exceed 32 square feet, that there shall be no more than one such sign on each street frontage, and that no sign shall be erected so as to stand higher than one of the buildings it advertises.

- B. Multifamily dwelling premises shall not be advertised by temporary real estate signs for more than 12 months after the building is constructed.
  - C. Directional signs, not to exceed two square feet each, erected within the project itself to direct persons to a sales or rental office or sample apartment.
  - D. Permanent identifying signs for the purpose of indicating the name of the multifamily project and for the purpose of identifying the individual buildings within the projects. Not more than one sign for each entrance to the project from a public street to identify the name of the project shall be permitted and no such sign shall exceed 10 square feet in size. Signs to identify the individual buildings within the project shall not exceed two square feet in size.
6. Permitted Signs, Mixed Use and Nonresidential Districts. The following signs are permitted in the M-1, C-1 and C-2 Zoning Districts and no other:
- A. Business or commercial wall or freestanding signs on the same lot as the use to which it relates; provided, that the total of such signs shall be limited to two square feet for each lineal foot of horizontal building facade length, but not to exceed an aggregate area of 160 square feet. No more than two freestanding sign structures shall be permitted per lot.
  - B. Special temporary promotional devices, signs or displays shall be permitted on the outside of a building; provided, they are not on display for a total period of 30 cumulative days in any given year.
  - C. Offsite advertising signs may be erected and maintained within the C-1 and C-2 Zoning Districts. The following standards and specifications shall apply:
    - (1) All offsite advertising signs shall have a maximum display area of 300 feet per sign face with a maximum width of 25 feet, inclusive of any border, and shall have no more than one in each direction.
    - (2) Two sign faces may be utilized only in the back-to-back arrangement in which case they shall be parallel and directly opposite sign faces oriented in opposite directions located not more than 15 feet apart.
    - (3) All offsite advertising signs shall be constructed on a steel unipole support meeting the industry-wide standards and shall be designed and certified as accurate and of sound construction quality by a registered and certified professional engineer whose signature and seal shall appear on the face of said plan along with said certification.
    - (4) All offsite advertising signs shall conform to the building height restrictions of the district controlling the location of the structure. The height shall be measured from the bed of the street, road, highway or alley to the highest part of the sign or supporting structure.
    - (5) No offsite advertising sign shall be erected within 1,000 feet of any other offsite advertising sign on the same side of any street, road, highway or alley.
    - (6) No offsite advertising sign shall be erected closer than 20 feet to the cartway or as specified by the Pennsylvania Department of Transportation.
    - (7) All offsite advertising signs shall be maintained in good and safe structural condition. The painted portion of all offsite advertising signs shall be kept in good condition.
    - (8) All newly erected offsite advertising signs shall conform to all applicable Federal, State and local laws, rules and regulations.

- (9) The general area in the vicinity of all offsite advertising signs shall be kept free and clear of sign material, debris and adhere to any and all Borough ordinances, including the Weed Control Ordinance [Chapter XI] now in effect or as hereinafter amended.
  - (10) Offsite advertising signs may be illuminated; provided, that the lighting shall be arranged in a manner which shall protect neighboring properties and streets or roadways from direct glare, beams or rays and shall not be of such intensity or brilliance to cause impairment of the vision of any driver or operator of any vehicle nor create hazardous interferences of any kind.
  - (11) No offsite advertising signs shall be erected within 150 feet of any street intersection. No offsite advertising sign shall be erected or placed in any manner so as to interfere with or impede the unobstructed vision of a motor vehicle operator attempting to enter on or exit from any intersection with a public or private roadway, or any driveway or parking facility.
  - (12) No offsite advertising sign shall be erected or maintained without the owner thereof having first obtained a permit from the Borough, which shall be issued by the Zoning Officer and/or the designated person or firm authorized by Borough Council, only upon receipt of a written application completed in duplicate, signed by the applicant and accompanied by five copies of a plan of the property or tract of land, prepared to scale, depicting dimensional limits of the sign face, the perimeter boundaries as taken from the deed for said tract, identifying the current owner of the tract, all adjacent owners, the next closest intersecting public roadways and any driveways or parking areas within 150 feet of the site, the proposed location of the sign area to be transferred in fee or controlled by lease and any and all easements or utility installation affecting such site and accompanied by five copies of a plan of the sign prepared to scale depicting the supporting structure and the specifications of the materials and methods of construction and maintenance to be employed, signed and certified by a registered licensed professional engineer.
  - (13) Permit applications shall be reviewed by the Zoning Officer and/or the designated person or firm authorized by Borough Council for compliance with this Chapter and upon approval by both, a permit shall be issued to remain in effect for a period of three years from the date of issuance of the permit, subject to renewal for additional three year intervals upon written re-application and presentation of documentation establishing applicant's continued compliance with the terms and conditions of this Chapter concerning weed control, maintenance, illumination and other terms not to include the location of the site itself, but to include any terms or conditions appearing on the face of the permit.
  - (14) Permit applications shall be accompanied by a check or cash in full satisfaction of an initial application fee to be established by resolution of Borough Council.
7. Supplementary Sign Regulations. The following supplementary sign regulations shall apply to all zoning districts in the Borough.
- A. Projection. No sign shall project more than 12 inches from the building facade to which it is attached. No freestanding sign may project beyond the lot line or beyond a street right-of-way.
  - B. Height. No sign that is a part of or is supported by a building shall be erected upon the roof of such building, nor shall such sign extend above the height of the building. Freestanding signs shall meet the height requirements of the particular district in which they are located.
  - C. Clearance. No sign structure erected directly upon the ground shall have less than three feet of clear space between such sign and the ground; however, necessary supports may extend through such open space.

- D. Illumination. Signs may be lighted with nonglaring lights or may be illuminated by shielded floodlights; provided, however, that no red, green or amber lights shall be permitted; and, provided, that lighting is screened from adjacent properties. No lights of intermittent, flashing or animated types shall be permitted.
- E. Placement. No signs shall be permitted which are posted, stapled or otherwise permanently attached to public utility poles or trees within a street right-of-way. No portion of any freestanding sign shall be located within five feet of any side lot line.
- F. Construction. All signs, except temporary signs, shall be constructed of durable material and kept in good condition and repair. Any sign which is allowed to become dilapidated may, after 30 days notification, be removed by the Borough at the expense of the owner or lessee of the property on which it is located.

## § 528. Hazardous Areas.

[Ord. 458, 5/4/2000, § 528]

1. The Borough Planning Commission may identify areas of the Borough such as, but not limited to, mine holes, quarries, sinkholes, waterways, areas of naturally occurring physical features, areas of naturally occurring minerals or chemicals, areas containing hazardous, contaminated or toxic waste, waste disposal areas and/or waste storage areas which are considered hazardous or contaminated. These areas could endanger the public health, safety or welfare by presenting potential hazards to life, health or property if development occurs in the vicinity of such hazardous areas.
2. The hazardous areas shall continue to be considered as such until, after recommendation by the appropriate State, Federal or County agency, the Borough determine that the hazards have been eliminated or adequate safeguards against such hazards have been provided.
3. Except as noted, no occupied building or well shall be located within 300 feet of an identified hazardous area.
4. An occupied building or well may be located within 300 feet of an identified hazardous area; provided, that a sufficient number of excavations, borings and/or groundwater tests have been conducted within the area. The test results shall conclusively determine that the soil, geology and/or groundwater conditions are not considered hazardous to the occupant(s). The accuracy of all test results and/or conclusions shall be certified by a qualified professional.
5. All wells located within 300 feet of the hazardous area shall be retested every two years by a certified laboratory to determine if the water is potable. All costs incurred for the sampling and laboratory analysis shall be incurred by the property owner. A copy of the certified results shall be submitted to the Borough.

## § 529. Public Utility Standards.

[Ord. 458, 5/4/2000, § 529]

1. This Chapter shall not apply to any existing or proposed buildings or extension thereof used or to be used by a public utility corporation or communication corporation if, upon petition of the corporation, the Pennsylvania Public Utility Commission or Federal Communication Commission shall, after a public hearing,

decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.

2. The Kenhorst Borough Planning Commission and Council shall have right to require that a land development plan be prepared by and submitted by the representatives of the Pennsylvania Public Utility Commission or Federal Communication Commission.
3. The land development plan shall be prepared to meet the goals, objectives and requirements specified within the Borough Comprehensive Plan, this Chapter and the Borough Subdivision and Land Development Ordinance [Chapter 20].

## § 530. Multifamily Developments.

[Ord. 458, 5/4/2000, § 530]

Multifamily developments containing townhouses and/or apartments are permitted by conditional use within the R-3 and M-1 Zoning Districts. If a conditional use is granted by Board Council, the following conditions shall also apply:

- A. The minimum amount of land within a multifamily development shall be one acre.
- B. The development shall be served by public sewage disposal facilities and public water supply facilities.
- C. The overall density of any multifamily development shall not exceed 12 dwelling units per acre.
- D. The maximum building height shall be 40 feet.
- E. A minimum of 30% of the gross area of the development shall be set aside and dedicated as common open space. No more than 50% of the required common open space shall be located on lands which are wetlands and/or floodplain. No parts of the required common open space shall be occupied by areas designated for utilities, drainage facilities, easements and/or rights-of-way.
- F. The common open space areas shall be suitable for the designated purpose and contain no structure or parking facility, except as related to and incidental to open space uses. Common open space areas may be reserved for private use or dedicated to the Borough if acceptable to the Borough. For land which is not dedicated to the Borough, written agreements satisfactory to and approved by the Borough shall be made for the perpetual preservation and maintenance of the undedicated common open space areas.
- G. In lieu of land being designated as common open within the proposed development, the applicant may offer a financial contribution to the Borough of Kenhorst for the maintenance of its existing recreational facilities. The amount of the fee shall be mutually negotiated and agreed upon by the applicant and the Borough.
- H. A system for pedestrian circulation throughout the development shall be provided.
- I. The maximum length of a proposed apartment building shall be 150 feet.
- J. The total number of townhouses or other residential units in combination with townhouses shall not exceed eight contiguous residential dwelling units.
- K. No apartment building shall be located within 50 feet of any property line of the development. The horizontal distance between groups of apartment buildings shall be a minimum of 50 feet between the closest structural points.

- L. No townhouse building shall be located within 20 feet of any property line of the development. The horizontal distance between groups of townhouse buildings shall be a minimum of 40 feet between the closest structural points.
- M. No apartment building shall be located within 50 feet of any street right-of-way line.
- N. No townhouse building shall be located within 30 feet of any street right-of-way line.
- O. The minimum width of a townhouse shall be 20 feet.
- P. No more than 30% of the total area of the development shall be covered by buildings. No more than 50% of the total area of the proposed development shall be covered by impervious surfaces.
- Q. Exterior storage areas for trash and rubbish shall be completely screened from view on three sides and all trash and rubbish shall be contained in vermin-proof containers.
- R. Common parking areas shall not be designed or located to require cars to back into streets in order to leave the parking areas. All dead-end parking lots shall provide adequate areas in which emergency and commercial vehicles can safely maneuver.
- S. Common parking areas and access drives shall be located a minimum of 10 feet from all structures and from the exterior lot lines of the proposed development. Common parking areas shall be a minimum of 10 feet from all street rights-of-way.
- T. Entrance and exit ways to parking areas shall have a minimum width of 12 feet for each lane of traffic entering or leaving the areas.
- U. Parking areas shall be designed to prevent through traffic to other parking areas. No more than 60 parking spaces shall be accommodated in any one parking area. All common parking areas shall be sufficiently screened and landscaped in accordance with the standards specified under § 514(1), "Buffer Yards," of this Chapter.
- V. Entrances to and exits from common parking areas shall be located a minimum of 100 feet from the point of intersection of the nearest street curb lines.

## § 531. Single-Family Semidetached Developments.

[Ord. 458, 5/4/2000, § 531]

Single-family semidetached developments are permitted by right within the R-2, R-3 and M-1 Zoning Districts. The following conditions shall apply single-family semidetached developments:

- A. Single-family semidetached developments shall comply with the minimum and maximum dimensional requirements specified below. All minimum and maximum dimensional requirements shall be imposed on each individual dwelling unit.
  - (1) Minimum Regulations.
 

Lot Area	3,000 square feet
Lot Width	40 feet
Building Setback	30 feet
Rear Yard	20 feet
Side Yard	

Total	10 feet
One Side	5 feet

(2) Maximum Regulations.

Building Height	35 feet
Lot Coverage	25%
Paved Area	40%

- B. The side yard setback shall not apply to a common lot line extending from the common wall.
- C. In addition to these standards and specifications, all proposed developments containing single-family semidetached dwellings shall be designed and constructed in accordance with all pertinent Borough ordinances.

### § 532. Two-family Detached Dwelling Developments.

[Ord. 458, 5/4/2000, § 532]

Two-family detached developments are permitted by conditional use in the R-2 and R-3 Zoning Districts. The following conditions shall apply two-family detached developments:

- A. Two-family detached developments shall comply with the minimum and maximum requirements specified below:

(1) Minimum Regulations.

Lot Area	10,000 square feet
Lot Width	80 feet
Building Setback	30 feet
Rear Yard	20 feet
Side Yard	
Total	16 feet
One Side	8 feet

(2) Maximum Regulations.

Building Height	35 feet
Lot Coverage	25%
Paved Area	40%

- B. In addition to these standards and specifications, all proposed developments containing two-family detached dwellings shall be designed and constructed in accordance with all pertinent Borough ordinances.

### § 533. Tourist, Bed and Breakfast, Rooming or Boarding Houses.

[Ord. 458, 5/4/2000, § 533]

Tourist, bed and breakfast, rooming or boarding houses are permitted by right within the C-1 and M-1 Zoning Districts and by conditional use within the R-3 Zoning District. If permitted, the following conditions shall also apply:



- A. A tourist, bed and breakfast, rooming or boarding house shall be permitted only in a single-family detached dwelling and shall be owner-occupied and on a single lot of record.
- B. A tourist, bed and breakfast, rooming or boarding house shall not have more than five rental units and shall not house more than 10 guests.
- C. Each House shall contain complete washing and bathing facilities and a central kitchen with complete cooking facilities. No cooking facilities of any kind shall be permitted in any rental unit.
- D. A minimum of one off-street parking space shall be required for each occupant and guest of the house.
- E. The applicant shall provide documentation to Borough Council that all plumbing, heating, electrical, sanitary sewer, storm sewer and similar facilities comply with all applicable ordinances, regulations and laws of Kenhorst Borough and/or the Commonwealth of Pennsylvania.

## § 534. Salvage Yard Standards.

[Ord. 458, 5/4/2000, § 534]

Salvage yards are permitted by special exception in the C-2 Zoning District. If a special exception is granted by the Zoning Hearing Board, the following conditions shall apply:

- A. All salvage yards shall be enclosed with a fence a minimum of 15 feet in height with gates. Gates shall be securely locked, except during business hours when an adult attendant is on the premises.
- B. No operation, activity, use or occupation of any type for the salvage yard shall be carried on within 100 feet of any property line and/or within 100 feet of any street right-of-way.
- C. A fifty-foot wide buffer yard shall completely surround all areas used for the storage of salvage material. The buffer yard shall sufficiently screen all stored salvage material and fencing from the view of adjacent property owners. No materials of any nature shall be stored within this buffer yard. In addition, the buffer yard shall meet all pertinent standards specified under § 514(1) of this Chapter.
- D. All salvage shall be stored and arranged so as to permit access by firefighting equipment and to prevent any accumulation of stagnant water. No materials of any nature shall be piled to a height of more than six feet from the ground.
- E. All liquids and/or fluids shall be drained from any junk or scrapped automobiles. Liquids and/or fluids in an amount not exceeding 10 gallons may be stored aboveground in approved containers. Gasoline which is kept on the premises shall not exceed 1,000 gallons and shall be stored aboveground in a manner approved by the Pennsylvania Department of Environmental Protection (PA DEP), Underwriter Laboratories and/or the State Fire Marshall. No garbage and/or organic waste shall be permitted to be stored on any salvage yard.

## § 535. Adult Business Uses.

[Ord. 458, 5/4/2000, § 535]

Adult business uses have been defined under § 202 of this Chapter. Adult business uses are permitted as a special exception in the C-1 Zoning District. If a special exception is granted by the Zoning Hearing Board, the applicant is subject to all of the conditions and standards specified below:

- A. No adult business use shall be located within 1,000 feet of any other existing adult business use, as measured from the property lines on which the adult business use is proposed to be located.
- B. No adult business use shall be located within 200 feet (measured from the property line) of any residential zoning district.
- C. No adult business use shall be located within 500 feet (measured from the property line) of any churches, monasteries, chapels, convents, rectories, public playgrounds, public parks, public swimming pools, public libraries.
- D. No adult business use shall be located within 1,000 feet (measured from the property line) of any schools up to or including the twelfth grade or equivalent, and their adjacent recreation areas.
- E. No adult business use shall be located within 1,000 feet (measured from the property line) of any private or public preschool and/or day care center.
- F. An adult business use shall not be considered as a use which is permitted as a home occupation, as defined and permitted under § 503 of this Chapter.
- G. All storage and displays shall be located in the building.
- H. All business transactions that are conducted on the premises shall be in an enclosed building. All adult business uses shall operate between the hours of 9:00 a.m. and 9:00 p.m.
- I. Applications for adult business uses shall be accompanied by a site plan. The minimum information required on the site plan shall include: the adult business use intended, the location and elevation of all buildings, structures, walls, fences and landscaping on the site, the off-street parking areas and traffic circulation patterns, and the location, dimensions and content of all signs, displays and advertising.
- J. Applications for adult business uses shall include a statement providing specific information on each individual, partner, store manager(s), corporate officer, corporate director or corporate stockholders owning more than 3% of the issued and outstanding stock of a corporate applicant, comprising the applicant, to include the complete name, address and telephone number.
- K. In the event of the proposed sale, resale or reassignment of interest of an adult business use established under the terms of this Chapter, Borough Council shall be notified of such proposed change of ownership. Such notification shall include the documentation required in subsection (H) of this Section. Failure to notify the Board shall constitute grounds for the termination or revocation of the conditional use permit.
- L. In addition to other applicable regulations of Kenhorst Borough and State laws, the following shall apply to all adult business use signs and other visible messages:
  - (1) Sign messages shall be limited to written descriptions of material or services available on the premises.
  - (2) Sign messages shall not include any graphic or pictorial depiction of material related to specific sexual activities or anatomical areas.
  - (3) Advertisements, displays or other promotional materials related to specific sexual activities or anatomical area shall not be shown or exhibited so as to be visible to the public from the exterior of the building.
  - (4) Adult business uses shall be limited to two square feet in sign area, with lettering on said signs not exceeding four inches in height.
  - (5) The entrance of the adult business should include a sign warning all individuals that the premises is

classified as an adult business.

## § 536. Shopping Centers.

[Ord. 458, 5/4/2000, § 536]

Shopping centers are permitted by right in the C-2 Zoning District and shall be subject to all conditions and standards specified below:

- A. Shopping centers shall consist of harmonious land uses, structures and services.
- B. Permitted uses shall include retail business establishments, personal business establishments, business, professional or banking offices, restaurants, cafes or similar use and accessory uses associated with shopping centers.
- C. Shopping centers shall be in single ownership or under a guaranteed unified management control. The shopping center must have at least one onsite manager or a designated individual whose office and residence is located within a reasonable distance of Kenhorst Borough as determined appropriate by Borough Council. The owner shall provide the Borough with a complete list of onsite managers or designated individuals on an annual basis. The list shall include the name, address and telephone number of each onsite manager or each designated individual.
- D. All means of ingress and/or egress shall be located at least 200 feet from any other intersecting street and shall be designed to accommodate traffic in a safe and efficient manner. The developer shall be responsible for the purchase and installation of any traffic control devices and the construction of additional acceleration and/or deceleration lanes as may be required by the Pennsylvania Department of Transportation or the Borough. The developer will also be responsible for any pertinent traffic studies that may be required by the Borough of Kenhorst, County of Berks, and/or the Pennsylvania Department of Transportation.
- E. Interior accessways shall be designed so as to prevent traffic congestion at points of ingress and egress. Areas designated for the loading or unloading of trucks and/or other commercial vehicles shall be planned and arranged so they may be utilized without interfering with the interior traffic circulation and parking facilities.
- F. Lighting for buildings, signs, accessways and parking areas shall be arranged so they do not reflect towards any public street or residential zoning districts.
- G. All principal buildings and structures for the shopping center shall be located a minimum of 50 feet from any street right-of-way and a minimum of 50 feet of any property line.
- H. All lot lines shall be screened by a buffer yard with a minimum depth of 30 feet. The buffer yard shall be consistent with standards specified under § 514(1), "Buffer Yards," of this Chapter.
- I. Exterior storage areas for trash and rubbish shall be properly screened. All containers shall be air-tight, vermin-proof and have adequate storage capacity to accommodate the projected volumes of solid waste. No such storage area will be permitted within 30 feet from any lot line.
- J. All signs shall be consistent with § 527 of this Chapter.
- K. All proposed shopping centers shall conform to the area, yard and height regulations that are specified under § 406(4) of this Chapter.

- L. All proposed shopping centers, including all expansions, additions and/or revisions are subject to the policies and provisions regarding land development specified in the Borough Subdivision and Land Development Ordinance [Chapter 20].

## § 537. Professional Office/Research Park.

[Ord. 458, 5/4/2000, § 537]

Professional office/research parks are permitted by conditional use in the C-2 Zoning District. All professional office/research parks shall be subject to all pertinent conditions and standards specified below:

- A. Office/research parks shall consist of harmonious land uses, structures and services.
- B. Permitted uses shall include business, professional or governmental offices, laboratory and research facilities and accessory uses associated with office/research parks.
- C. Retail business and service establishments are permitted; provided, they are designed and intended primarily to serve the employees within the office/research park. These uses shall not exceed 5% of the gross floor area of the office/research park.
- D. All means of ingress and/or egress shall be located at least 200 feet from any other intersecting street and shall be designed to accommodate traffic in a safe and efficient manner. The developer shall be responsible for the purchase and installation of any traffic control devices and the construction of additional acceleration and/or deceleration lanes as may be required by the Pennsylvania Department of Transportation or the Borough. The developer will also be responsible for any pertinent traffic studies that may be required by Kenhorst Borough, Berks County and/or the Pennsylvania Department of Transportation.
- E. Interior accessways shall be designed so as to prevent traffic congestion at points of ingress and egress. Areas designated for the loading or unloading of trucks and/or other commercial vehicles shall be planned and arranged so they may be utilized without interfering with the interior traffic circulation and parking facilities.
- F. Lighting for buildings, signs, accessways and parking areas shall be arranged so they do not reflect towards any public street or residential zoning districts.
- G. All principal buildings and structures for the professional office/research park shall be located a minimum of 50 feet from any property line and a minimum of 50 feet of any street right-of-way.
- H. All lot lines shall be screened by a buffer yard with a minimum depth of 30 feet. The buffer yard shall be consistent with standards specified under § 514(1), "Buffer Yards," of this Chapter.
- I. Exterior storage areas for trash and rubbish shall be properly screened. All containers shall be air-tight, vermin-proof and have adequate storage capacity to accommodate the projected volumes of solid waste. No such storage area will be permitted within 30 feet from any lot line.
- J. All signs shall be consistent with § 527 of this Chapter.
- K. All proposed office/research parks shall conform to the individual area, yard and height regulations that are specified under § 406(5) of this Chapter.
- L. All proposed office/research parks, including all expansions, additions and/or revisions are subject to the policies and provisions regarding land development specified in the Borough Subdivision and Land

Development Ordinance [Chapter 20].

## § 538. Wetlands.

[Ord. 458, 5/4/2000, § 538]

1. The United States Army Corps of Engineers in conjunction with the Pennsylvania United States Environmental Protection Agency have defined the term "wetlands" as those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. The three major characteristics of wetlands include vegetation, soil and hydrology.
2. All land designated as "wetlands" within Kenhorst Borough are regulated by State and Federal agencies and are subject to their regulations, controls and restrictions.
3. For all subdivision and land development applications, the Borough shall determine whether a wetlands delineation will be required by a qualified professional. Delineated wetlands shall be accompanied by a technical report and data forms.
4. Unless a jurisdictional determination has been completed by either the Army Corps of Engineers, Pennsylvania Department of Environmental Protection and/or United States Environmental Protection Agency, a twenty-five-foot buffer zone shall be applied to all areas delineated as wetlands. Within this twenty-five-foot buffer zone no earth disturbance or land development activity shall be permitted.
5. If the applicant disputes any provisions specified under this Section, the applicant shall be responsible for a jurisdictional determination conducted by either the Army Corps of Engineers, Pennsylvania Department of Environmental Protection and/or United States Environmental Protection Agency.
6. All pertinent costs incurred as a result of the jurisdictional determination shall be the responsibility of the applicant or developer and not the Borough.

## § 539. Floodplain Overlay District.

[Ord. 458, 5/4/2000, § 539]

1. The one-hundred-year floodplain shall be an overlay to the existing underlying districts as depicted on the latest update to the Kenhorst Borough Flood Insurance Rate Map prepared by the Federal Emergency Management Agency. As such, these provisions regulating floodplain management shall be a supplement to the underlying district provisions.
2. The purpose of establishing provisions for floodplain management is to promote and protect the general health, welfare and safety of the community, encourage the utilization of appropriate construction practices, minimize potential hazards to public health, reduce financial burdens imposed on the community and government and to regulate all development within the one-hundred-year floodplain.
3. The Borough of Kenhorst has adopted a floodplain ordinance. This floodplain ordinance shall be referenced as Ord. 350, 1/10/1978, as amended by Ord. 387, 6/4/1987, as amended through Ord. 442, 12/4/1997 [Chapter V, §§ 111, 114]. The purpose and intent of this floodplain ordinance is to provide controls, regulations and

procedural requirements for activities within the floodplain.

4. For the purposes of this Chapter all activities within the floodplain shall conform with the requirements outlined under the Kenhorst Borough Floodplain Ordinance [Chapter V, §§ 111, 114], as amended.

## § 540. Solar Energy Systems.

[Ord. 458, 5/4/2000, § 540]

1. The use of solar energy systems, including solar collectors, storage facilities, distribution components, heating and cooling facilities, is a permitted use in all zoning districts.
2. All developments and/or structures shall be oriented to the fullest extent possible to maximize the use of passive and/or active solar applications as would be appropriate for the site.
3. Solar energy collectors and equipment used for the mounting or operation of such collectors are exempt from the height limitations specified for the zoning district.
4. Apparatus necessary for the operation of solar energy systems, such as overhangs, moveable insulating walls and roofs and reflectors may project up to six feet into required yard setbacks; provided, that they are not located within six feet of any property line.
5. Detached solar collectors used solely for such purposes shall be considered permissible accessory structures in districts.
6. To obtain solar access protection, the owner of a solar collector shall file a statement with the Zoning Officer and/or the designated person or firm authorized by Borough Council that a solar energy system has been installed. At such time, the owner shall also document that he has located his solar collector on his property to obtain maximum protection from future lawful buildings or structures located on adjoining properties. The owner shall also document the land and airspace which must remain open to assure adequate solar access to his collector.
7. The solar collector shall be used as part of the functioning solar energy system.
8. After the effective date of this Chapter, no one shall erect a building or other structure and/or plant a tree, shrub or other flora, so as to block a solar collectors access to solar energy between the hours of 9:00 a.m. and 3:00 p.m.

## § 541. Filling, Excavating and Grading.

[Ord. 458, 5/4/2000, § 541]

1. All activities which require the moving of earth or the filling or excavating of an area shall submit a plan to the Borough showing site grading and erosion control measures. If required by the Borough, an erosion and sedimentation control plan shall be submitted to the Berks County Conservation District for their review.
2. The existing grade of an area shall not be increased so that unstable slopes are created.
3. The surface area of any yard adjacent to a building or structure shall be graded so that the surface water will be drained away from such structure.

4. Topsoil shall not be stripped from any site within Kenhorst Borough, unless it is directly affiliated with the subdivision and/or development of land. Unless otherwise permitted by the Kenhorst Borough Council, topsoil shall not be removed from any site or development within the Borough of Kenhorst.
5. The onsite burial of trees, stumps or construction materials is prohibited. Trees and stumps may be chipped and spread on the site or hauled from the site for proper disposal.

## § 542. Cellular and Wireless Communications.

[Ord. 458, 5/4/2000, § 542]

1. All cellular and wireless communication companies shall provide written notice to the Kenhorst Borough Council of the intent to provide service and/or structures within the Borough.
2. The cellular and wireless communication company shall research the feasibility of locating any facilities on municipal or community owned lands prior to executing any agreements with any landowner.
3. All development shall be consistent with the development standards and guidelines specified by the Pennsylvania Department of Transportation, Bureau of Aviation.
4. The Borough of Kenhorst has adopted a Telecommunication Facility Ordinance. This ordinance shall be referenced as Ord. 450, 8/13/1998 [Chapter XIII, Part 4]. The purpose and intent of this Chapter is to provide controls, regulations and procedural requirements for telecommunication facilities within the Borough.
5. For the purposes of this Chapter all telecommunication facilities shall conform with the requirements outlined under the Kenhorst Borough Telecommunication Facility Ordinance, as amended [Chapter XIII, Part 4].

## § 543. Blasting Requirements.

[Ord. 458, 5/4/2000, § 543]

1. All general blasting and/or detonation operations shall conform with the regulations enforced by the aforesaid agencies of the Commonwealth of Pennsylvania and the Federal government.
2. Blasting shall be permitted between the hours of 9:00 a.m. and 5:00 p.m. and shall not be permitted on Sundays and holidays.
3. Written notice of all blasting operations shall be given at least 24 hours prior to the commencement of blasting to the Borough and to the occupants of all properties within a radius of 1,000 feet of the location of blasting. In addition, notice shall be given to the regional fire department, police department and all sensitive business ventures.
4. All blasting operations shall be conducted by a licensed blaster. A copy of all applicable licenses and certificates of insurance shall be provided to Kenhorst Borough at least 24 hours prior to the commencement of blasting.
5. The storage of explosives shall not be permitted within the Borough of Kenhorst.

## § 544. Kennels.

[Ord. 458, 5/4/2000, § 544]

1. A kennel shall be considered as a commercial establishment, structure, lot or portion of a lot in which five or more domesticated pets more than six months old are kept for the purpose of breeding, boarding, sale and/or show.
2. The minimum area for a kennel operation shall be 10 acres.
3. No animal shelter shall be located within 100 feet (measured from the property line) of any property line. No animal runs shall be permitted within 50 of any property line.
4. The sewage disposal system and water supply system shall be sized and permitted for the proposed use. The storage of any manure or animal waste shall be kept in an enclosed structure and located at least 200 feet of any property line. A plan for manure management shall be submitted to the Borough for approval.
5. Retail sales of related items shall be limited to a maximum floor area of 1,000 square feet. Shows and/or competitions which occur on the property shall be limited to one per year.
6. The perimeter of the kennel operation shall be enclosed with a fence with minimum height of eight feet with gates.
7. No animal which is kept onsite shall be permitted outside between the hours of 9:00 p.m. to 7:00 a.m.

## Part 6. NONCONFORMITIES

### § 601. Application and Intent.

[Ord. 458, 5/4/2000, § 601]

1. Within the zoning districts established by this Chapter or subsequent amendments thereto, there exists or will exist certain nonconformities which, if lawful before this Chapter was passed or amended, may be continued, subject to certain limitations, although such nonconformities would be prohibited, regulated or restricted under the terms of this Chapter or future amendments thereto.
2. To avoid undue hardship, nothing in this Chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Chapter and on which actual building construction has been diligently carried on.

### § 602. Nonconforming Lots of Record.

[Ord. 458, 5/4/2000, § 602]

1. Any lot shown on a recorded subdivision plan on the effective date of this Chapter or after the enactment of subsequent amendments thereto which does not meet the minimum size or width requirements of the



zoning district in which it is located may be used for a use permitted by use regulations of that district; provided, that all yard, height, coverage and open space requirements of the zoning district shall be met; provided, however, that when a subdivider has had an application for approval of a preliminary or final subdivision plan approved prior to the effective date of this Chapter, no provision and/or regulation in this Chapter shall be applied to affect adversely the right of the subdivider to commence and complete any aspect of the approved preliminary or final plan within such time periods as are established within the Pennsylvania Municipalities Planning Code (Act 247, as amended).

2. Any lot held in single and separate ownership on the effective date of this Chapter or after the enactment of subsequent amendments thereto which does not meet the minimum size or width requirements of the zoning district in which it is located may be used for any use permitted in that district; provided, that all yard, height, coverage and open space requirements of the district are met; provided, however, that if two or more lots, combination of lots or portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Chapter, and if all or part of the lots do not meet the requirements established for lot width and/or area, the land involved shall be considered to be an undivided parcel for the purpose of this Chapter.
3. No portion of any lot or tract of land shall be used or sold in a manner which diminishes compliance with lot width or area requirements established by this Chapter, nor shall any division of any parcel be made which creates a lot with width or area below the requirements which are stated within this Chapter.

## § 603. Nonconforming Uses of Land.

[Ord. 458, 5/4/2000, § 603]

Lawful uses of land, which at the effective date of this Chapter or subsequent amendment thereto become nonconforming, such nonconforming use or uses may be continued by the present or any subsequent owner so long as it remains otherwise lawful, subject to the provision listed with the following subsections:

- A. Extension. A nonconforming land use shall not be enlarged, increased and/or extended in order to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Chapter.
- B. Discontinuance. Whenever a nonconforming use has been discontinued for a period of 12 consecutive months, such use shall not thereafter be reestablished, except if the owner of such property files, within 30 days of date of discontinuance, a certificate of intention to maintain such use. If such certificate is filed, the time period which a nonconforming use may be discontinued and still be re-established shall be extended by a twelve-month period.
- C. Changes or Moving of Use. A nonconforming use, if changed to a conforming use, shall not thereafter be changed back to any nonconforming use. A nonconforming use may be changed to a conforming use or to a nonconforming use of a less offensive nature. A nonconforming use shall not be moved in whole or in part to any portion of the lot or parcel other than that occupied by such at the effective date of adoption or amendment of this Chapter.
- D. Additional Structures. No additional structures not conforming to the requirements of this Chapter shall be erected in connection with such nonconforming use of land.

## § 604. Nonconforming Structures or Buildings.

[Ord. 458, 5/4/2000, § 604]

Lawful nonconforming structures or buildings which at the effective date of this Chapter or subsequent amendment thereto become nonconforming by reason of restrictions on area, lot coverage, height, yards, its location on the lot or other requirements concerning the building or structures, may be continued as long as they remain otherwise lawful, subject to the provisions listed in the following subsections:

A. Enlargement.

- (1) A nonconforming use, building or structure shall not be enlarged or increased upon land not owned, leased or under option to purchase at the time of the enactment of this Chapter.
- (2) A nonconforming building or structure shall not be enlarged, increased, repaired, maintained or modified in any manner which will further violate any applicable area, yard, and height regulation imposed by this Chapter, except that a principal building which existed at the effective date of this Chapter which is nonconforming as to a yard requirement may have repairs, improvements, modifications and/or additions made to those portions of the building located within the required yard; provided, that no repair, improvement, modification and/or addition shall be made which will cause any part of the building to project into the yard farther than the building did at the effective date of this Chapter.
- (3) Total future expansion of a nonconforming use shall not exceed 50% of the area occupied by the use at the time of the effective date of this Chapter.

B. Damage or Destruction. A nonconforming building or structure which has been damaged by fire, explosion, accident and/or calamity may be reconstructed and used for the same nonconforming use; provided, that the reconstructed building or structure does not exceed the area, volume and height of the destroyed buildings or structure. In addition, building reconstruction shall be started within one year from the date the building or structure was destroyed and shall be carried through without interruption.

C. Moving of Structure. No nonconforming structure or building shall be, for any reason, moved for any distance unless it shall thereafter conform to the regulations for the district in which it is located after it is moved.

## § 605. Nonconforming Use of Structures or Buildings or of Buildings and Land in Combination.

[Ord. 458, 5/4/2000, § 605]

Lawful nonconforming structures or buildings, or structures or buildings and land in combination, which exist at the effective date of this Chapter or subsequent amendments thereto, that would not be allowed under the terms of this Chapter, may be continued so long as it remains otherwise lawful, subject to the provisions listed under the following subsections:

A. Enlargement.

- (1) An existing structure devoted to a use not permitted by this Chapter in the district where it is located may be enlarged, extended, constructed, reconstructed or structurally altered up to, but not more than, 25% of its floor and/or use area as it existed at the time of the passage of this Chapter or subsequent amendment; provided, that the lot or lots upon which the nonconforming structure is situated where in single ownership or long-term lease and purchased or leased prior to the enactment or amending of this Chapter.

- (2) Any enlargement, extension, construction, reconstruction or structural alteration must conform to all other regulations of the district in which it is located. This provision may be used only once for each nonconforming structure.
  - (3) Any nonconforming use may be extended throughout the building which was in use for the nonconforming use at the time of adoption of this Chapter, but no such use shall be extended to occupy any land outside such building unless provided for under this Section.
- B. Change of Use. A nonconforming use of a structure, or premises and structure, may be changed to another nonconforming use; provided, that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. Such determination shall be made by a special exception granted from the Zoning Hearing Board which shall take into consideration, among other things, the intent of the provisions for the district.
- C. Discontinuance. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter comply with the regulations for the district and the nonconforming use may not thereafter be resumed. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for 12 consecutive months, the structure or structure and premises in combination, shall not thereafter be used, except in conformity with the regulations of the district in which it is located.
- D. Destruction. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land and use. Destruction for the purpose of this subsection is defined as damage to an extent of more than 75% of the market value at the time of destruction.

## § 606. Unsafe or Unlawful Structures.

[Ord. 458, 5/4/2000, § 606]

If a nonconforming structure or building or portions thereof containing a nonconforming use becomes physically unsafe due to lack of repairs and maintenance and is declared by an duly authorized official appointed by the Board of Borough Council to be unsafe by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt, except in conformity with the regulations of the district in which it is located.

## § 607. Permitted Special Exception Uses.

[Ord. 458, 5/4/2000, § 607]

Any use which is permitted as a special exception in a zoning district under the terms of this Chapter (other than a change through Zoning Hearing Board action from one nonconforming use to another nonconforming use) shall not be deemed a nonconforming use in such zoning district, but shall, without further action, be considered a conforming use.

## § 608. Registration of Nonconformities.

[Ord. 458, 5/4/2000, § 608]

To facilitate the administration of this Chapter, it shall be the property owner shall inform the Borough Zoning

Officer or the person of firm designated by Borough Council, as to the status of nonconforming uses, structures and buildings. The burden of proof that the use, lot, structure or building is a nonconformity shall be the responsibility of the property owner. All known nonconformities shall be a matter of public record and shall constitute sufficient notice and the limitations therein expressed and implied to any transferee acquiring any right to use or own such property.

## § 609. Certification of Intention.

[Ord. 458, 5/4/2000, § 609]

1. A certificate of intention shall be required in all instances where a nonconforming use of land or nonconforming use of a structure or building is discontinued if the owner or operator of such uses desires to maintain such a nonconforming use.
2. The Zoning Officer or the person of firm designated by Borough Council shall maintain proper forms for the registration of any certificate of intention. It shall be incumbent upon the owner or applicant to file such a form with the Zoning Officer or the person of firm designated by Borough Council. The filing of such form shall be considered a ministerial duty of the Zoning Officer or the person of firm designated by Borough Council, who shall not refuse to accept the completed form.
3. The Zoning Officer or the person of firm designated by Borough Council shall maintain a record of all certificates of intention.
4. Each certificate of intention shall be valid for three years.

## Part 7. ADMINISTRATION AND ENFORCEMENT

### § 701. General Procedures.

[Ord. 458, 5/4/2000, § 701]

1. Persons desiring to undertake any new construction, structural or site alteration, or changes in the use of a building or lot shall apply to the Borough Zoning Officer or the person of firm designated by Borough Council for a zoning permit by filling out the appropriate application form and by submitting the required fee.
2. The Zoning Officer or the person of firm designated by Borough Council shall either issue the zoning permit or shall refuse the permit, indicating in writing the reason for refusal. Certain construction, alterations or uses may require approval from the Kenhorst Borough Council, Planning Commission and/or Zoning Hearing Board.
3. If refused a permit by the Zoning Officer or the person of firm designated by Borough Council, the applicant may appeal to the Zoning Hearing Board for further consideration.
4. After the zoning permit has been received by the applicant, he may undertake the action permitted by the zoning permit.
5. Upon completion of such action, the applicant may apply to the Borough Zoning Officer or the person of

firm designated by Borough Council for an occupancy permit (where such a permit is required).

6. If the Zoning Officer or the person of firm designated by Borough Council finds that the action of the applicant is in accordance with the zoning permit and any other required permits, he shall issue an occupancy permit allowing the premises to be occupied.

## § 702. Permits and Certificates.

[Ord. 458, 5/4/2000, § 702]

1. Zoning Permit.
  - A. No person shall erect, alter, convert, move or add to any building, structure or sign, or alter the use of any land or structure, until the Zoning Officer or the person of firm designated by Borough Council issues a zoning permit to the person/applicant for said change or construction. No zoning permit is required for normal maintenance and repairs.
  - B. A zoning permit for a permitted use may be issued by the Zoning Officer or the person of firm designated by Borough Council. A zoning permit for a use requiring a special exception or variance shall be issued by the Zoning Officer or the person of firm designated by Borough Council only upon the written order and consent of the Zoning Hearing Board after all hearing procedures.
  - C. An application for a special exception, variance, or for interpretation of any part or provisions of this Chapter shall be made to the Zoning Hearing Board on forms which may be obtained from the Borough. Any uses permitted by right or by special exception is subject to any conditional uses to those applicable provisions which may apply to the use. Borough Council and the Planning Commission shall regulate all conditions specified under this Chapter.
  - D. All applications shall be made in writing and shall be accompanied by three sets of plans indicating or illustrating the following information if applicable:
    - (1) Actual dimensions and shape of the lot to be built upon prepared by a licensed surveyor or engineer.
    - (2) The exact size and location on the lot of buildings, structures or signs existing and/or proposed extensions thereto prepared by a licensed surveyor or engineer.
    - (3) The number of dwelling units if applicable.
    - (4) Parking spaces provided and/or loading facilities.
    - (5) Statement indicating the existing or proposed use.
    - (6) Height of structure, building or sign.
    - (7) All other information necessary for such Zoning Officer and/or the person of firm designated by Borough Council to determine conformance with and provide for enforcement of this Chapter.
    - (8) A detailed scaled drawing of the signs showing intended location and stating how it shall be affixed.
    - (9) A statement indicating the type of construction and the manner of installation for signs, together with the materials to be used.

- (10) A written agreement that the applicant is the owner of the premises on which the sign will be erected or that the applicant has obtained the consent of the owner or lessee of such premises to erect such sign.
  - (11) A written agreement that the sign shall be erected according to the accompanying plans and specifications.
- E. One copy of the plans shall be returned to the applicant by the Zoning Officer or the person or firm designated by Borough Council after he shall have marked such copies either as approval or disapproval and attested to the same by his signature on such copy. One copy of such plans shall be retained by the Zoning Officer or the person or firm designated by Borough Council for his permanent records and one copy shall be retained by Borough Council.
  - F. Approval or denial of the requested zoning permit shall be made not later than 30 days from the date of application. In denying a zoning application, the Zoning Officer or the person or firm designated by Borough Council shall inform the applicant of the reasons for denial and specify the provision(s) of this Chapter which have not been satisfied. Applicants shall be informed of their rights of appeal and provided with all necessary information to pursue such appeals.
  - G. Zoning permits shall expire within six months from date of issuance, if the work described in any permit has not begun. If work described in any zoning permit has begun, said permit shall expire after one year, exclusive of any time required for administration and permitting, from date of issuance thereof, within which time said work shall be completed.
2. Certificate of Use and Occupancy.
    - A. A certificate of use and occupancy shall be required upon the completion of the work authorized. It shall be unlawful to use and/or occupy any structure, building and/or portions thereof in any manner until a certificate of use and occupancy has been issued by the Zoning Officer or the person or firm designated by Borough Council.
    - B. The application for certificate of use and occupancy shall be submitted on such form as the Zoning Officer or the person or firm designated by Borough Council may prescribe.
    - C. The Zoning Officer or the person or firm designated by Borough Council shall inspect any structure, building, sign and/or land or portions thereof and shall determine the conformity therewith. If satisfied that the completed work is in conformity with this Chapter and with the work listed in the zoning permit, a certificate of use and occupancy shall be issued.
    - D. Certificate of use and occupancy shall be granted or refused, in writing, within 10 days from the date of application.
    - E. In zones in which performance standards are imposed, no certificate of occupancy shall become permanent until 30 days after the facility is fully operating and only after, upon reinspection by the Zoning Officer or the person or firm designated by Borough Council, it is determined that the facility is in compliance with all requirements. After said re-inspection the Zoning Officer or the person or firm designated by Borough Council shall notify the applicant that the facility is in full compliance with all performance standards and that the certificate of use and occupancy is permanent or that the facility does not comply and that the certificate of use and occupancy is still temporary. In no case shall a temporary certificate of use and occupancy extend 90 days past the date of re-inspection.
  3. Certificate of Nonconforming Use or Structure.

- A. The owner of the premises occupied by a lawful nonconforming use or structure may secure a certificate of nonconforming use or structure from the Zoning Officer or the person or firm designated by Borough Council.
- B. Such certificate shall be authorized by the Zoning Officer or the person or firm designated by Borough Council and shall certify to the owner his right to continue such nonconforming use or structure.

## § 703. Zoning Officer.

[Ord. 458, 5/4/2000, § 703]

1. Appointment.
  - A. For the purposes of this Chapter, the term "Zoning Officer" shall refer to the designated person, agent, firm or official authorized by the Kenhorst Borough Council to administer and enforce this Chapter.
  - B. The Zoning Officer or the person or firm designated by Borough Council to preform the duties of the Zoning Officer, shall be appointed by Borough Council and shall not hold any elective office that conflicts with his or her normal duties.
  - C. The Zoning Officer or the person or firm designated by Borough Council shall continue to serve the Borough until such time as Borough Council declares otherwise.
2. Duties and Powers. It shall be the duty of the Zoning Officer or the person or firm designated by Borough Council to enforce literally the provisions of this Chapter, as amended, and shall have such duties and powers as are conferred by this Chapter and as are reasonably implied for that purpose. The duties of the Zoning Officer or the person or firm designated by Borough Council shall include, but are not limited to, the following:
  - A. Receive applications for and issue zoning permits and sign permits as permitted by the terms of this Chapter.
  - B. Keep an official record of all business and activities, including written complaints of a violation of any of the provisions of this Chapter and of the action taken consequent to each such complaint. All such records shall be open to public inspection. File copies of all applications received, permits issued, reports and inspections made in connection with any structure, building, sign and/or land shall be retained as long as the structures, etc., remain in existence.
  - C. Make inspections as required to fulfill his duties. He shall have the right to enter any building or structure or enter upon any land at any reasonable hour in the course of his duties.
  - D. Issue permits for special exception uses, conditional uses and for variances only after such uses and/or buildings have been approved by the Zoning Hearing Board or Borough Council in accordance with the regulations of this Chapter.
  - E. Be responsible for keeping this Chapter and the zoning map up to date so as to include all amendments thereto.
  - F. Issue certificates of use and occupancy in accordance with the terms of this Chapter.
  - G. Identify and register nonconforming uses, nonconforming structures and nonconforming signs.

- H. Perform such other duties as may be required for the administration of this Chapter.
3. Notice of Violations. The Zoning Officer or the person or firm designated by Borough Council shall serve a notice of violation on any person, firm, corporation or partnership responsible for violating any of the provisions of this Chapter, or in violation of a detailed statement or a plan approved thereunder. Notice of violation shall be in writing, indicating the nature of the violation and action necessary to correct same. If the notice of violation is not complied with, the Zoning Officer or the person or firm designated by Borough Council is hereby authorized to file a complaint with the district magistrate located closest to the site of the alleged violation.

## § 704. Zoning Hearing Board.

[Ord. 458, 5/4/2000, § 704]

1. Creation and Membership.
  - A. The Borough Council hereby create a Zoning Hearing Board, herein referred to as the "Board," consisting of residents of the Borough appointed by the Borough Council pursuant to the Pennsylvania Municipalities Planning Code, as amended, who shall be appointed and serve and shall perform all the duties and have all the powers as prescribed by said Code and this Chapter.
  - B. The Borough Council may appoint alternate members of the Board pursuant to the provisions of the Code, as amended. The alternate members may serve as provided in the Code.
2. Organization.
  - A. The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board. The Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board as provided in § 705. The Board may make, alter and rescind rules and forms for its procedures, consistent with the ordinances of the Borough and laws of the State. Meetings shall be held at the call of the Chairman and at such other times as the Board may determine.
  - B. All meetings of the Board shall be open to the public. The Board shall keep full public records of its business and shall submit a report of its activities to Borough Council once a year.
3. Expenditures and Compensation. Within the limits of funds appropriated by Borough Council, the Zoning Hearing Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical services. Members of the Board may receive compensation for the performance of their duties, as may be fixed by Borough Council, but in no case shall it exceed the rate of compensation authorized to be paid to the members of Borough Council.
4. Procedures for Application. The Board shall act in strict accordance with the procedures specified by the Pennsylvania Municipalities Planning Code, as amended, and as it may be amended, and by this Chapter. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board. Every appeal or application shall refer to the specific provision of this Chapter involved and shall exactly set forth the interpretation that is claimed, the grounds for any challenges to validity of this Chapter, the use for which a special permit is sought or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be. In all cases, the Zoning Hearing Board shall request Borough Council and Planning Commission to review and comment on the application prior to



rendering a decision.

## § 705. Functions of the Zoning Hearing Board.

[Ord. 458, 5/4/2000, § 705]

The Zoning Hearing Board shall have the functions authorized in the Pennsylvania Municipalities Planning Code, as amended. The jurisdiction of the Zoning Hearing Board and the Borough Council, and the procedures to be followed by each, shall be as established in said Code.

- A. Variances. The Board shall hear requests for variances where it is alleged that the provisions of this Chapter inflict unnecessary hardship upon the applicant. In granting any variance the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Chapter and the Pennsylvania Municipalities Planning Code, as amended. The Board may, by rule, prescribe the form of application and may require preliminary application to the Zoning Officer or the person or firm designated by Borough Council. In all cases, the Zoning Hearing Board shall request Borough Council and Planning Commission to review and comment on the application prior to rendering a decision. The Board may grant a variance; provided, that all the following findings are made where relevant in a given case:
- (1) That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such condition and not circumstances or conditions generally created by the provisions of this Chapter in the neighborhood or district in which the property is located.
  - (2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
  - (3) That such unnecessary hardship has not been created by the appellant.
  - (4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare.
  - (5) That the variance, as granted by the Board, is the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
  - (6) The approval of a variance if authorized by the Board, which anticipates construction or modification of a structure, creation of new or revised lot lines or dimensional standards for a property or structure situated thereon, shall be valid and remain in effect for a term of one year from the date of said approval and shall thereafter expire and be void, unless said construction, modification, new or revised lot lines or dimensional standards or change of use or occupancy be initiated within said one-year term or said term is expressly extended as part of the initial approval. In the event that the activity anticipated by the variance should not be initiated within one year of the approval or such additional term as may be expressed in the approval or should the activity which is the subject of the variance be discontinued, the premises or structure or structure situated thereon shall not thereafter be used, except in conformity with the regulations of the district in which it is located.
  - (7) Until all fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

- B. Special Exceptions. The Board shall hear and decide, upon application, only such special exceptions which the Board, by the provisions of this Chapter, is specifically authorized to issue. The granting of a special exception when specifically authorized by the terms of this Chapter shall be subject to the following standards and criteria. The applicant for a special exception shall demonstrate, as a condition to approval of his application, compliance with these criteria and those criteria specified elsewhere in this Chapter for the use in question. In all cases, the Zoning Hearing Board shall request Borough Council and Planning Commission to review and comment on the application prior to rendering a decision.
- (1) Such use shall be one which is specifically authorized as a special exception use in the zoning district wherein the applicant seeks a special exception.
  - (2) Such special exceptions shall only be granted, subject to any applicable conditions and safeguards as required by this Chapter.
  - (3) Such use shall not adversely affect the character of the general neighborhood, nor the conservation of property values, nor the health and safety of residents or workers on adjacent properties and in the general neighborhood.
  - (4) Such use shall be of such size and so located and laid out in relation to its access streets that vehicular and pedestrian traffic to and from such use will not create undue congestion or hazards prejudicial to the general neighborhood.
  - (5) Services and utilities shall be made available to adequately service the proposed use by the applicant.
  - (6) The granting of the special exception shall be consistent with the Borough Comprehensive Plan.
  - (7) The approval of a special exception, if authorized by the Board, which anticipates construction or modification of a structure, creation of new or revised lot lines or dimensional standards for a property or structure situated thereon, shall be valid and remain in effect for a term of one year from the date of said approval and shall thereafter expire and be void, unless said construction, modification, new or revised lot lines or dimensional standards or change of use or occupancy be initiated within said one-year term or said term is expressly extended as part of the initial approval.
  - (8) In the event that the activity anticipated by the special exception should not be initiated within one year of the approval or such additional term as may be expressed in the approval or should the activity which is the subject of the special exception be discontinued, the premises or structure or structure situated thereon shall not thereafter be used, except in conformity with the regulations of the district in which it is located.
  - (9) Until all application fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.
  - (10) In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Chapter, as it may deem necessary to implement the purposes of this Chapter and the Pennsylvania Municipalities Planning Code, as amended.

## § 706. Hearings.

[Ord. 458, 5/4/2000, § 707; as amended by Ord. 484, 8/7/2003, § 3]

1. Procedures.

- A. Public notice, as defined by law, and written notice shall be given to the public, the applicant, adjoining property owners of the applicant property, the Zoning Officer or the person or firm designated by Borough Council 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 ordinance or, in the absence of ordinance provision, by rules of the Board. In addition to the written notice provided herein, notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.
- B. Borough Council may prescribe reasonable fees consistent with the Pennsylvania Municipalities Planning Code.
- C. The first hearing before the Board or Hearing Officer shall be commenced within 60 days from the date of receipt of the applicant's application, unless the applicant has agreed to writing to an extension of time. Each subsequent hearing before the Board or Hearing Officer shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing. Upon the request of the applicant, the Board or Hearing Officer shall assure that the applicant receives at least seven hours of hearings within 100 days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and municipality, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.
- D. 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.
- E. In all cases, 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.
- F. The chairman or acting chairman of the Board or the hearing officer presiding shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
- G. The parties shall have the right to be represented by counsel. All such representation shall be confirmed on the record and all statements presented on behalf of said party shall be binding for the purposes of administration and enforcement. All parties shall be afforded the opportunity to respond and present evidence and argument and cross examine adverse witnesses on all relevant issues.
- H. Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
- I. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the

Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer, or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either 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.

- J. The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved, except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda or other materials, except advise 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.
- K. The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefore. Conclusions based on any provisions of this Chapter or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. 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 the 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 subsection or fails to hold the required hearing within 60 days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of said decision within 10 days from the last day it could have met to render a decision in the same manner as provided in this Chapter. If the Board shall fail to provide such notice, the applicant may do so. Nothing in the subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.
- L. 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 decision or findings may be examined.

## § 707. Amendments.

[Ord. 458, 5/4/2000, § 707]

1. Initiation of Amendments. Proposals for amendment, supplement, change, rezoning, modification or repeal may be initiated by Borough Council on its own motion, by the Borough Planning Commission or by request of owners of property subject to the following provisions:
  - A. Proposals Initiated by Borough Council. Borough Council shall refer to every proposed amendment, supplement, change, modification, rezoning or repeal originated by them to the Borough Planning

Commission at least 30 days prior to the hearing on said proposal. The Planning Commission shall submit to the Council a report containing the Commission's recommendations, including any additional or modifications to the original proposal.

- B. Proposal Originated by the Borough Planning Commission. The Borough Planning Commission may at any time transmit to Borough Council any proposal for the amendment, supplement, change, rezoning, modification or repeal of this Chapter.
  - C. Proposals Initiated by Others. In the case of amendment, supplement, change, modification or rezoning proposed by other than Borough Council or Borough Planning Commission, such proposal shall be submitted to Borough Council, together with any application forms or fees as may be required by Borough Council. Such proposal shall be referred to the Borough Planning Commission for review and recommendation at least 30 days prior to the hearing on the proposal.
2. Referral to County Planning Agency. At least 30 days prior to the hearing on the proposed ordinance amendment, rezoning, modification, change, or supplement, Borough Council shall submit the proposal to the County planning agency for its recommendations.
  3. Hearings.
    - A. Before voting on the enactment of an amendment, Borough Council shall hold a public hearing thereon pursuant to public notice. No such amendment shall become effective until such hearing, at which parties in interest and citizens shall have an opportunity to be heard.
    - B. If, after any public hearing held on an amendment, the proposed amendment is revised or further revised, to include land previously not affected by it, Borough Council shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.
    - C. Public notice, as defined in Act 247, as amended, shall be given of the time, place and the general nature of such hearing and shall be published in a newspaper of general circulation in the Borough. Public notices of proposed zoning ordinances and amendments shall include either the full text thereof or a brief summary setting forth the principle provisions in reasonable detail, and a reference to a place where copies of the proposed ordinance or amendment may be examined.
  4. Post Enactment Procedures.
    - A. After enactment, if the advertisement of a zoning ordinance amendment is required by other laws respecting the advertisement of ordinances, such advertisement may consist solely of a reference to the place or places within the Borough where copies of the amendment are available for examination without charge or may be obtained for a charge not greater than the cost thereof.
    - B. Amendments may be incorporated into official ordinance books by reference with the same force and effect as if duly reported therein.
    - C. Within thirty day of enactment, the Borough shall forward an endorsed copy of the amendment to the Berks County Planning Commission.

## § 708. Curative Amendments.

[Ord. 458, 5/4/2000, § 708; as amended by Ord. 484, 8/7/2003, § 2]

1. Procedure for Landowner Curative Amendments.

- A. A landowner who desires to challenge on substantive grounds the validity of this Chapter which prohibits or restricts the use or development of land in which he has an interest, may submit a curative amendment to Borough Council with a written request that his challenge and proposed amendment be heard and decided as provided in §§ 609.1 and 916.1 of the Code (Act 247, as amended).
  - B. Borough Council shall commence a hearing thereon within 60 days of the request unless the landowner requests or consents to an extension of time.
  - C. The curative amendment shall be referred to the Borough Planning Commission and County Planning Commission at least 30 days prior to the hearing to provide both agencies with an opportunity to submit recommendations.
  - D. The hearing shall be conducted in accordance with procedures established in Section 609.1 of Act 247, as amended. Provided, however, that the deemed approval provisions of Section 908(1.2) and (9) shall not apply and the provisions of Section 916.1 of the Municipalities Planning Code shall control.
  - E. Within 30 days of enactment of a curative amendment, the Borough shall forward an endorsed copy of the ordinance/amendment to the Berks County Planning Commission.
2. Procedure for Municipal Curative Amendments.
- A. Pursuant to § 609.2 of Act 247, as amended, the Borough, by formal action, may declare this Chapter or portions thereof substantively invalid and propose the preparation of a curative amendment to overcome such invalidity. Within 30 days Borough Council shall:
    - (1) By resolution, make specific findings setting forth the declared invalidity of this Chapter. This may include references to specific uses which are either not permitted or not permitted in sufficient quantity, reference to a class of uses which require revision or reference to the entire ordinance which requires revisions.
    - (2) Begin to prepare and consider a curative amendment to correct the declared invalidity.
  - B. Within 180 days from the date of the declaration and proposal, the Borough shall enact a curative amendment to this Chapter or reaffirm the validity of this Chapter. The established procedures required by § 609 of Act 247, as amended, shall govern the process of enactment of the curative amendment.
  - C. Following the date of enactment of a curative amendment, or reaffirmation of this Chapter, the Borough may not utilize the curative amendment procedure for 36 months.
  - D. If, after the date of declaration and proposal there is a substantially new duty or obligation imposed on the Borough by statute or Pennsylvania appellate court decision, the Borough may utilize the provisions of this Section to prepare a curative amendment to this Chapter to fulfill said duty or obligation.
  - E. Within 30 days of enactment, the Borough shall forward an endorsed copy of the ordinance/amendment to the Berks County Planning Commission.

## § 709. Conditional Uses.

[Ord. 458, 5/4/2000, § 709]

1. Four copies of an application for permission to conduct a use permitted by condition shall be submitted to the Borough Secretary. Such application shall include all information specified for a zoning permit application and any other information necessary to allow the Borough Council to determine that all requirements of this Chapter have been met. The applicant shall be responsible for all pertinent costs incurred for the review of the application.
2. After receiving an application, Borough Council shall refer one copy of the application to the Borough Planning Commission for its review and one copy to the Borough Zoning Officer or the person or firm designated by Borough Council for his review.
3. The application shall be reviewed at one or more advertised meetings of the Borough Council.
4. Conditional uses shall meet the specific standard established for each use by this Chapter and all other applicable zoning district requirements and general regulations established by this Chapter. In addition, the following standards shall be met:
  - A. The use shall be one which is specifically authorized as a conditional use in the zoning district wherein the applicant is seeking a conditional use.
  - B. The use conforms with the goals, objectives and policies of the comprehensive plan.
  - C. The use conforms with the spirit, purposes and intent of all other applicable provisions of all other Borough ordinances.
  - D. The use conforms with all pertinent State and Federal laws, regulations and requirements.
  - E. Services and utilities shall be made available to adequately service the proposed use.
  - F. The use will not generate traffic such that hazardous or unduly congested conditions will result.
  - G. The use is appropriate to the site in question.
  - H. The use shall not adversely affect the character of the general neighborhood nor the health and safety of residents or workers on adjacent properties and in the general neighborhood.
5. Borough Council shall either approve or disapprove the application within 90 days after the date the application is received by the Borough Secretary.
6. The Borough Council may attach such additional reasonable conditions and safeguards as they deem necessary to implement the purpose of this Chapter and the Pennsylvania Municipalities Planning Code, as amended.
7. The granting of permission to conduct a use permitted by condition does not exempt an applicant from acquiring all approvals required by the Borough's Subdivision and Land Development Ordinance [Chapter **20**].
8. Until all application fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.
9. The approval of a conditional use, if authorized by the Board, which anticipates construction or modification of a structure, creation of new or revised lot lines or dimensional standards for a property or structure situated thereon shall be valid and remain in effect for a term of one year from the date of said approval and shall thereafter expire and be void, unless said construction, modification, new or revised lot lines or dimensional standards or change of use or occupancy be initiated within said one-year term or said term is expressly extended as part of the initial approval.

10. In the event that the activity anticipated by the conditional use should not be initiated within one year of the approval or such additional term as may be expressed in the approval, or should the activity which is the subject of the conditional use be discontinued, the premises or structure or structure situated thereon shall not thereafter be used, except in conformity with the regulations of the district in which it is located.

## § 710. Appeals.

[Ord. 458, 5/4/2000, § 710]

All appeals for securing review of this Chapter or any decision, determination or order of Borough Council, its agencies or officers issued pursuant to this Chapter shall be in accordance with all applicable Sections of Act 247, as amended. Question of an alleged defect in the process of enactment or adoption of this Chapter shall be raised by an appeal taken directly from the action of Borough Council to the court, filed not later than 30 days from the effective date of this Chapter or map.

## § 711. Filing Fees and Costs.

[Ord. 458, 5/4/2000, § 711]

1. The Borough Council shall establish a schedule of fees, charges and expenses and collection procedures for zoning permits, certificates of occupancy, special exceptions, variances and appeals and other matters pertaining to this Chapter.
2. The schedule of fees shall be available for inspection in the municipal offices for the Borough of Kenhorst and may be altered or amended by the Kenhorst Borough Council.
3. Until all application fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

## § 712. Remedies and Penalties.

[Ord. 458, 5/4/2000, § 712]

1. Remedies. In case any buildings or structures are erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used, in violation of this Chapter, the Borough Council or, with its approval, the Zoning Officer or the person or firm designated by Borough Council, in addition to other remedies, may institute in the name of the Borough any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises. The rights and remedies provided in this Chapter are cumulative and are in addition to all other remedies provided by law.
2. Penalties.
  - A. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Chapter shall, upon being found liable therefor in a civil enforcement proceeding by a municipality, pay a minimum judgment of \$25 up to a maximum of \$500 for a first offense and a



minimum of \$100 up to a maximum of \$500 for each consecutive offense.

- B. In addition to the judgment, the liable party shall be responsible for paying all court costs, including reasonable attorney fees incurred by the Borough as a result of the violation. Each day that the violation is continued shall constitute a separate offense.
- C. All fines collected for the violation of this Chapter shall be paid over to Kenhorst Borough. All fines and penalties may be collected by suit or summary proceeding brought in the name of the Borough before any district justice or other appropriate court with jurisdiction.