

# **CITY OF JOHNSTOWN**

## **ZONING ORDINANCE**



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**JANUARY 1, 2011**

Adopted December 20, 2010

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**ARTICLE I: TITLE**

**Section 22-101: General**

- A. This Ordinance adopted in accordance with the authority and provisions of General City Law, shall be known as “the Zoning Ordinance of the City of Johnstown.” The Zoning Ordinance of the City of Johnstown shall divide the City into Districts and regulate and restrict the location, construction and use of buildings, structures and uses of land in these Districts.

**ARTICLE II: PURPOSE**

**Section 22-201: Purpose**

- A. The Zoning Districts and Regulations set forth herein have been established in accordance with the City of Johnstown Comprehensive Plan.
- B. The purpose of establishing Zoning Districts and Regulations is to:
- 1) To implement the City of Johnstown’s Comprehensive Plan.
  - 2) To promote orderly development within the City.
  - 3) To protect and preserve areas, neighborhoods, properties, places, buildings, structures, sites and objects having special or distinctive character historic, aesthetic, cultural or architectural interests and which serve as reminders or symbols of the City’s history and heritage.
  - 4) To prevent the overcrowding of land.
  - 5) To provide adequate light and air.
  - 6) To lessen congestion on public streets.
  - 7) To protect and promote the public’s health, safety and general welfare.
  - 8) To protect and preserve the value of buildings.
  - 9) To encourage the most appropriate use of land in the City.
  - 10) To encourage design efficiencies and economy of scale of certain developments in the City.
- C. The provisions of this Chapter shall be held to be the minimum requirements adopted for the public health, safety, comfort, convenience and general welfare.
- D. It is not intended by this Chapter to repeal, abrogate, annul or in any way to impair or interfere with any existing provisions of law or ordinance, or any rules, regulations or permits previously adopted or issued, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises, nor is it intended by this Chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided however, that where this Chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger yards or other open spaces than are imposed or required by such existing provisions of law or ordinance, or by such rules, regulations or permits, or by such easements, covenants or agreements, the provisions of this Chapter shall control.

## ARTICLE III: DEFINITIONS AND INTERPRETATIONS

### Section 22-301: General

- A. For the purpose of this Ordinance, words used in the present tense include the future; the singular number includes the plural and the plural, the singular; the word “lot” includes the word “plot”; the word “structure” includes the word “building”; the word “occupied” includes the words “designated or intended to be occupied”; the word “used” includes the words “arranged”, “designed” or intended to be used.” “Shall” is used in the mandatory and not in the discretionary sense.
- B. Unless otherwise specifically denoted below, words or phrases used in this Ordinance shall be interpreted so as to attribute to them the meaning they have in common usage and to accord this ordinance its broadest and most reasonable application.

#### C. Definitions:

- |                         |  |
|-------------------------|--|
| Accessory Compost Bin   | ◆ A container less than 50 sq. ft. in area and less than 4’ in height used solely to compost organic materials.  |
| Accessory Dwelling Unit | ◆ A separate additional living unit, including separate kitchen, sleeping and bathroom facilities, either attached or detached from a principal, 1 family residential structure on a lot that shall not be used to rent or lease to non-family members except for a caregiver serving the needs of the occupant.   |
| Accessory Pet Kennel    | ◆ An accessory structure used for the safekeeping of up to 2 dogs or cats.   |
| Accessory Structure     | ◆ A structure subordinate to the principal structure on the same lot and serving a purpose customarily and distinctly incidental to the use of the principal structure and which accessory structure is compatible with the principal permitted uses or structures.  |
| Accessory Use           | ◆ A use subordinate and incidental to the primary use of a lot or occupancy of a structure.  |
| Adjoining               | ◆ When used in reference to land, lots, districts, uses, buildings or other structures on the land, shall mean only those which are contiguous and in contact at some point or line and shall not include those separated by a street.   |
| Adult Use               | ◆ Shall include the following:<br><br>a) Adult Bookstore:<br><br>1. An establishment having a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following: 1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, CD’s, DVD’s, slides, or other visual representations that are characterized by an emphasis upon depicting or relating to specific sexual activities or anatomical genital areas; or 2) instruments, devices, or paraphernalia that are designed for use in connection with sexual activities.<br><br>2. Adult bookstores shall not have enclosed viewing booths. |

3. For purposes of this paragraph, substantial shall mean more than 40 percent.

b) Adult Cabaret:

1. A nightclub, bar, restaurant, or similar establishment that regularly features live performances that are characterized by the exposure of anatomical genital areas or by specified sexual activities.
2. Adult cabarets shall not have enclosed viewing booths.

c) Adult Motion Picture Theatre:

1. An establishment where, for any form of consideration, films or motion pictures are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of sexual activities or anatomical genital areas.
2. Adult Motion Picture Theaters shall not have enclosed viewing booths.

d) Adult Hotel or Motel:

1. A hotel or motel or similar business establishment offering public accommodations for any form of consideration that:
  - a) provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions characterized by an emphasis upon the depiction or description of sexual activities or anatomical genital areas; and/or
  - b) rents, leases, or lets any room for less than a six-hour period, or rents, leases, or lets any single room more than twice in a 24-hour period.

e) Adult Massage Parlor:

1. An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the state.

f) Adult Modeling Studio:

1. An establishment whose primary business is the provision to customers of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in sexual activities or display

specified anatomical genital areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

g) Adult Sauna:

1. A sauna, which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, using steam or hot air as a cleaning, relaxing, or reducing agent, if the service provided is characterized by an emphasis on sexual activities or anatomical genital areas.

h) Sexual Encounter Establishment:

1. An establishment other than a hotel, motel, or similar establishment offering public accommodations, which, for any form of consideration, provides a place where two or more persons may congregate, associate, or consort in connection with sexual activities or the exposure of anatomical areas.
2. A hotel or motel or similar business establishment offering public accommodations for any form of consideration that:
  - a) provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions characterized by an emphasis upon the depiction or description of sexual activities or sexual activities or anatomical genital areas; and/or
  - b) rents, leases, or lets any room for less than a six-hour period, or rents, leases, or lets any single room more than twice in a 24-hour period.

Alcoholic Beverage	◆ Any beverage containing alcohol including but not limited to beer, liquor or wine.
Alley	◆ A public way providing a secondary public means of access to abutting properties.
Alter	◆ To change, enlarge or rearrange the structural parts of the exit facilities of a structure or to move a building from one location or position to another.
Alteration	◆ As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.
Animal Hospital	◆ A structure where animals or pets are given medical or surgical treatment, including veterinary clinic and offices. May include an incinerator.
Antenna	◆ A structure or devices used for the transmission or reception of radio or electromagnetic frequency signals, lights, sound or other communication signals. Antennas shall not include TV/radio transmission towers licensed by the FCC.
Antique Shop	◆ A retail store specializing in the selling of antiques.

Apartment	◆ A dwelling unit used for lease or rent as a residence.
Apartment Building	◆ A building containing 3 or more apartments.
Apartment, Garage	◆ An Accessory Dwelling Unit consisting of an apartment located above a private garage.
Appeal	◆ Shall mean a request for review of the Code Enforcement Official's interpretation of any provisions of this Article or a request for a variance from the requirements of this Article.
Applicant	◆ The person, persons, partnership, corporation, association or other entity named as applicant in an application for a Building and Zoning Permit, zone change, variance, or other approval required by this Ordinance. An Applicant must either: own the real property, have a signed purchase contract, hold an executed written contract giving the applicant the right to purchase, hold an executed lease or possess some other means of property control acceptable to the Code Enforcement Official.
Arcade	◆ A building or area used to store and utilize computer games for retail use.
Area of Special Flood Hazard	◆ Lands in the City of Johnstown located in the floodplain, subject to a one-percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1 to A99, V, VO, VE or V1 to V30. It is also commonly known as the "base floodplain" or "one-hundred-year floodplain."
Area, Building	◆ The total area of a lot covered by all buildings thereon, both principal and accessory, measured by the exterior dimensions of such buildings, but not including uncovered porches, steps and terraces. Also known as Building Coverage.
Area Variance	◆ The authorization by the Zoning Board of Appeals for the use of land in a manner, which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.
Art Gallery	◆ A place where works of art, such as paintings and sculptures are exhibited, loaned, appraised or sold.
Artist Studio	◆ The working place of one or more painters, print makers, photographers, jewelry makers, sculptors or artisans working with paper, ceramics, clay and/or other fine art or craft materials, of persons working in the graphic or computer arts, or performing artists such as musicians, dancers or theater artists. Tattoo appliers and body piercers shall not be considered artists for the purpose of this use.
Attic	◆ Any area under a roof, with or without a finished floor, which does not meet other requirements for livable floor area.
Auto Junkyard	◆ Two or more old or secondhand motor vehicles no longer intended or in condition for legal use on the public highways.
Automobile Dealership	◆ A place authorized by applicable state regulations where new or used motor vehicles, including recreational vehicles, are sold, leased, displayed and maintained for commercial sale.
Automobile Parts	◆ A retail building used for the display and sale of new and used parts and supplies for motor vehicles.
Automobile, Rental	◆ A structure used for the storage and rental of automobiles and trucks.

Automobile Service Station	◆ A building where gasoline, oil and greases, batteries, tires and automobile accessories are supplied and dispensed directly to the motor vehicle trade, at retail, and where minor repair service is rendered including automobile painting, body repair and customizing.
Aquaculture	◆ Shall mean the production of aquatic plants or animals under controlled conditions for harvesting and processing of food for human consumption.
Bakery	◆ A building used either for the preparation of or retail sale of baked products on-site or goods for consumption off-site.
Bank or Financial Institution	◆ A building open to the public that is utilized for making deposits, loans, investments and similar financial transactions.
Banquet Hall	◆ A building leased or rented for private parties or functions.
Bar, Night Club or Tavern	◆ A business establishment licensed by the State of New York to serve alcoholic beverages which serves such beverages for consumption on the premises and may include the serving of food and other beverages along with entertainment as accessory uses.
Barber Shop	◆ An establishment used for the practice of barbering.
Barn	◆ A building, often found on a farm, used for storage or keeping animals such as cattle or for storing grain or animal feed.
Beauty Salon	◆ An establishment wherein cosmetology is offered or practiced for compensation.
Base Flood	◆ The flood having a one-percent chance of being equaled or exceeded in any given year.
Basement	◆ A story partly underground but having at least ½ of its height above the average level of the adjoining ground. A “basement” shall be counted as a story for the purposes of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five feet or if it is used for business or dwelling purposes.
Bed-and-Breakfast	◆ An owner-occupied one-family dwelling unit that also contains a maximum of six (6) guest rooms, where short-term lodging, food and drink are provided for compensation.
Berm	◆ A man-made mound of earth designed for decorative, screening or buffering purposes.
Boarding Home	◆ A dwelling or other residential structure in which more than two (2) but less than ten (10) rooms are used, rented or hired out for pay, with or without meals, over an extended period of time. The term “Boarding Home” shall include “rooming house”, “lodging house” and “tourist house”.
Body Painting Studio	◆ An establishment wherein patrons apply paint or similar matter onto another person for compensation.
Bookstore	◆ An establishment used for the sale, rental or other distribution of books, magazines, newspapers, greeting cards, video tapes, computer software and similar materials for compensation.
Bowling Alley	◆ An establishment providing bowling alleys, equipment and playing area.
Brew Pub	◆ A bar or restaurant, as defined herein, that includes as an accessory use the brewing of malt beverages for consumption on premises. The area used for brewing, including bottling and kegging, shall not exceed 30% of the gross floor area of the commercial space and shall not produce more than 5,000 barrels of beverage per year.

Brewery Building	◆ A facility used to manufacture, brew beer, ales and similar beverages. A brewery manufactures more than 5,000 barrels annually.
Building	◆ Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.
Building Height	◆ The vertical distance measured from the average elevation of the proposed finished grade of the building to the highest point of the roof for flat roofs and to the mean height between eaves and ridge of gable, hip, mansard, pitched or gambrel roofs.
Building Line	◆ The line or setback beyond which a building shall not extend.
Building, Detached	◆ A building surrounded by open space on the same lot.
Building, Principal	◆ A building in which is conducted the main or principal use of the lot on which said building is situated.
Building, Semidetached	◆ A building attached by a party wall to another building normally of the same type on another lot but having one side yard.
Business Services	◆ Shall mean establishments primarily engaged in providing services to businesses for a fee including advertising, mailing, building maintenance, employment services, consulting services, protective services, equipment rental and leasing, copying, photo finishing and personal supply services.
Bulk	◆ A term used to describe the size, volume, area, and shape of buildings and structures and the physical relationship of their exterior walls or their location to lot lines, other buildings and structures, or other walls of the same building, and all open spaces required in connection with a building, other structure, or tract of land.
Car Wash	◆ A building, lot, or portions thereof where vehicles are washed either by the patron or others using machinery and mechanical devices specifically designed for washing motor vehicles.
Carport	◆ An open-sided automobile shelter usually formed by an extension of a roof attached to the side of a building.
Cemetery	◆ A place used for the interment of the dead.
Church or Place of Worship	◆ A building or group of buildings used for regular public worship by members or representatives for conducting religious services and accessory uses.
Club Membership	◆ An organization catering exclusively to members and their guests, including premises and buildings for recreational or athletic purposes, which are not conducted primarily for gain, provided that there are not conducted any vending stands, merchandising or commercial activities except as required generally for the membership and purposes of such club.
Code Enforcement Official	◆ Shall mean the Code Enforcement Official or one of his staff of the City of Johnstown.
Commercial	◆ Any use involving the sale or rental or distribution of goods, services or commodities, either retail or wholesale, or the provision of recreational facilities or activities for fee.
Commercial Recreation	◆ A place designed for the conduct of sports, leisure-time activities and other customary recreational activities, including playgrounds, bowling, swimming pools and skating rinks; may include as accessory uses retail sales and repair of equipment directly related to the activities provided on site as well as food and beverage service for recreation users.

Community Residential Facility	◆ A residence for a dependent population sponsored by a charitable, religious or government agency providing a home like environment and supervision for dependent persons within a setting that is integrated within the community. It shall be established similar to a single-family residence with shared living areas, kitchen and bathroom facilities.
Composting Facility	◆ A facility where organic material, derived off-site, is processed by composting for use off-site.
Comprehensive Plan	◆ The City of Johnstown Comprehensive Plan.
Condominium	◆ A building or groups of buildings wherein each unit is individually owned and is able to be sold, mortgaged or exchanged independent of the other units and the owner owns the structure and common areas. Each condominium unit shall be considered as a single-family dwelling.
Convenience Store	◆ A retail establishment of less than 5,000 sq. ft. of gross floor area typically located within another use where groceries, convenience and household goods are sold and may include the sale of gasoline.
Corner Lot	◆ A lot that exists on two streets that meet at the lot.
Copy Store	◆ An establishment engaged in reproduction of printed or electronic material.
Coverage, Lot	◆ That percentage of the lot area covered by the combined area of all buildings or structures on the lot.
Dancing Studio	◆ An establishment used to provide dancing instruction.
Day-Care Center	◆ Shall mean an establishment operated under 18NYCRR 418.1(b)(1) as amended.
Day Spa	◆ See Health Club.
Deck	◆ A platform, without a roof, either free standing or attached to a building.
Destination Stops	◆ A specific location along a trail for people to stop and get off the Rail Trail.
Distribution Center	◆ A building where goods and products are received and/or stored for distribution to other locations.
Dormitory	◆ A building with rooms used for sleeping, having either individual or common bathroom facilities but no kitchen facilities.
Driveway	◆ That designated portion of a lot used primarily as a means for motor vehicle ingress and egress from said lot and the temporary parking of one or more vehicles which are generally associated with the owner of said lot.
Drugstore	◆ An establishment engaged in the retail sale of prescription drugs, non-prescription medicines and related supplies.
Dry Cleaner	◆ An establishment used for cleaning fabrics, textiles and clothing.

Dwelling	<ul style="list-style-type: none"> <li>◆ A building designed and used as the living quarters for one or more families, but not including a building of mixed occupancy.</li> <li>➤ <u>1-Family Dwelling</u>: A dwelling with one (1) dwelling unit used exclusively for occupancy by one (1) family. Includes modular home. Excludes manufactured home.</li> <li>➤ <u>2-Family Dwelling</u>: A dwelling with two (2) dwelling units. Includes modular home. Excludes manufactured home.</li> <li>➤ <u>Multi-Family</u>: A dwelling with three (3) or more dwelling units.</li> </ul>
Dwelling Unit	<ul style="list-style-type: none"> <li>◆ A dwelling or a portion thereof providing complete living facilities, including cooking, sanitary and sleeping facilities, for one family.</li> </ul>
Dwelling Unit, Attached	<ul style="list-style-type: none"> <li>◆ A dwelling unit having common walls with two or more other dwelling units.</li> </ul>
Dwelling Unit, Detached	<ul style="list-style-type: none"> <li>◆ A dwelling unit having no common walls, floors or ceiling with another dwelling unit.</li> </ul>
Educational, Private	<ul style="list-style-type: none"> <li>◆ A structure or use dedicated primarily to teaching/education but not defined as public and may include business, trade, artist, evening or similar types of uses.</li> </ul>
Education, Public	<ul style="list-style-type: none"> <li>◆ A structure or use dedicated primarily to public education, K-College, and accredited by the State of New York to teach.</li> </ul>
Enlargement	<ul style="list-style-type: none"> <li>◆ An increase in floor area of an existing building or an increase in the area of land used for an existing open use.</li> </ul>
Establishment	<ul style="list-style-type: none"> <li>◆ The headquarters of a single business including both owner occupants and tenants.</li> </ul>
Façade	<ul style="list-style-type: none"> <li>◆ The main exterior face of a building, sometimes distinguished from the other faces by elaboration of architectural or ornamental details.</li> </ul>
Family	<ul style="list-style-type: none"> <li>◆ One or more individuals occupying a dwelling unit, living as a single household.</li> </ul>
Farmers Market	<ul style="list-style-type: none"> <li>◆ A market, held in either indoor or outdoor public spaces, where farmers can sell produce to the public.</li> </ul>
Fence	<ul style="list-style-type: none"> <li>◆ Any artificially constructed barrier of any material or combination of materials erected or maintained to enclose or screen areas of land, to divide a piece of land into distinct portions or for use as a boundary.</li> </ul>
Filed Map	<ul style="list-style-type: none"> <li>◆ A map, survey or plat filed in the County Clerk's office of Fulton County.</li> </ul>
Flea Market	<ul style="list-style-type: none"> <li>◆ A lot or parcel, or portion thereof, with outdoor stalls, booths, or selling spaces used for the display of used or new goods, wares, merchandise, antiques, collectibles and arts and crafts.</li> </ul>
Flood	<ul style="list-style-type: none"> <li>◆ A temporary increase in stream flow or stage that results in water inundating areas adjacent or near to the usual channel.</li> </ul>
Flood, One-Hundred-Year	<ul style="list-style-type: none"> <li>◆ The highest level of flood that, on the average, is likely to occur every 100 years or that which has a one-percent change of occurring in any year.</li> </ul>
Flood-prone Areas or Floodplain	<ul style="list-style-type: none"> <li>◆ The channel of a watercourse and its adjacent areas subject to inundation by the one-hundred-year recurrence interval flood.</li> </ul>

Floodproofing	◆ Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
Floor Area	◆ The sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior face of exterior walls or from the center line of walls separating two buildings, and excluding breezeway and garage areas and basement and attic floor areas used only for accessory uses.
Florist	◆ An establishment used for selling of plants and flowers which are not grown on-site.
Fraternal Organization	◆ An establishment used by a body of people associated with a common interest or purpose.
Frontage	◆ The extent of a building or a lot along a street as defined herein.
Funeral Home	◆ A structure used for furnishing funeral supplies and services to the public, including facilities intended for the preparation of the dead human body for interment or cremation.
Garage, Residential	◆ An accessory structure or portion of main building used primarily for the storage of one or more motor vehicles, owned by the occupants of the principal structure, provided that no business, occupation, or service is conducted therein, nor space therein is leased to a nonresident of the premises.
Garage Sale	◆ A sale of used personal or household items held on the seller's premises.
Gazebo	◆ A freestanding, roofed, open-sided building used in a garden, lawn, park or for aesthetics.
Government Use	◆ Any place used by a public agency or public authority for a bona fide governmental function.
Grade, Established	◆ The permanently established elevation of the center line of a street in front of the midpoint of the lot.
Grade, Finished	◆ The elevation at which the finished surface of the surrounding lot intersects the walls or supports of a building or structure. If the line of intersection is not reasonably horizontal, the finished grade, in computing height of a building and structure, shall be the mean elevation of all finished grade elevations around the periphery of the building.
Greenhouse, Commercial	◆ A building or structure used for growing flowers, plants, shrubs, trees and similar vegetation, used for retail or wholesale sales.
Greenhouse, Residential	◆ An accessory structure used for growing flowers and plants.
Health Care Facility	◆ A place where medical, dental, vision, nutrition, physical therapy, chiropractic, and other similar health care services are furnished to persons on an out-patient basis by two (2) or more physicians or professional health care providers who have common offices in a building which may also offer laboratory/testing facilities, medical or surgical procedures, and similar health care services.
Health Club	◆ An establishment designed and equipped for the conduct of sports, exercise, leisure time activities or other recreational uses open only to members or for a fee. A day spa shall be a Health Club.

Heat Exchanger	◆ A device that transfers heat from one liquid to another without allowing them to mix.
Historic Property	◆ A place located on the State or National Register of Historic Places.
Home Improvement Center	◆ An establishment utilized for retail sale of basic hardware, building materials and supplies, tools, equipment, garden supplies, appliances and similar materials.
Home Occupation	◆ A business conducted entirely within a dwelling by the residents of said dwelling which business is clearly secondary to the use of the dwelling for living purposes and which said business does not change or impact the character of the neighborhood.
Hospital	◆ A structure licensed by the State of New York and for the diagnosis, treatment or other care of physical or mental human ailments, including inpatient care and/or outpatient treatment programs and clinics, and which may offer a variety of services such as laboratories, physical therapy, medication education, health screening and referral rehabilitation programs, day treatment programs and private doctors' offices. The term shall not include a rest home, nursing home or convalescent home.
Hotel/Motel	◆ A building containing sleeping rooms in which lodging is provided primarily for transient guests for compensation, which may include public dining facilities and may also include accessory uses such as conference/meeting rooms, restaurant and recreational facilities.
House Trailer	◆ See Manufactured Home.
HVAC Equipment	◆ A device utilized to heat, ventilate or air condition a building or space.
Industrial	◆ The use of land or buildings for the manufacturing, processing, fabricating, finishing, blending or assembly of raw materials, parts, goods substances or any combination thereof.
Jewelry Store	◆ An establishment used to buy, sell and repair new and used jewelry.
Junk	◆ Any worn-out, cast-off or discarded articles or material, either mechanical or semi-mechanical, automotive or semi-automotive, which is ready for destruction or has been collected or stored for salvage or for conversion to some other purpose or use of, if automotive, cannot be readily moved at any time under its own power.
Junk Business	◆ An establishment where junk, waste, discarded or salvaged materials are bought, sold, exchanged, sorted, stored, baled, packed, disassembled, handled or abandoned, but not including pawnshops, or establishments for the sale, purchase or storage of used furniture, household equipment, clothing, or used motor vehicles capable of being registered or machinery to be reused for the purpose for which originally manufactured.
Junkyard	◆ A lot or structure primarily used for the outside storage and collection or sale of used and discarded materials, including but not limited to wastepaper, rags, metal, building materials, house furnishings, machinery, vehicles or parts thereof, including "junk" as defined in this section, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. The placement, storage, parking or deposit of two or more unlicensed motor vehicles, two (2) or more junk Manufactured Homes, four (4) or more junk appliances or the major parts of two or more such vehicles, shall be deemed to make the lot a "junkyard".

Kennel	◆ A structure used for the safekeeping, breeding, boarding or training of more than four (4) dogs, cats six (6) months and older for which a fee is charged.
Laboratory	◆ A place used for scientific research, investigation, testing or experimentation but not for manufacturing or sale of products except as an accessory use to the laboratory.
Landmark	◆ A notable building or place with architectural, historical, cultural, aesthetic or geographical significance.
Landowner	◆ A person, firm, partnership or other legal entity owning a parcel of land.
Landscaped Area	◆ An area that is permanently devoted and maintained for the growing of shrubbery, grass and other planted material.
Landscaping	◆ The improvement of a lot, parcel or tract of land with grass and shrubs, trees, and/or other planted material. Landscaping may include pedestrian walks, flower beds, ornamental objects such as fountains, statuary, and other similar natural objects designed and arranged to produce an aesthetically pleasing effect.
Laundromat	◆ A building or use where laundry machines are made available to the public for the purpose of cleaning and drying.
Line, Street	◆ The dividing line between the street and the lot.
Liquor Store	◆ An establishment used to store, display and sell alcoholic beverages.
Loading Space	◆ Any off-street space available and used for the loading or unloading of raw materials, goods and products.
Lot	◆ A piece, parcel, tract or plot of land in one ownership to be occupied by one principal building and accessory buildings or utilized by one principal building and accessory structure or utilized for one principal use or uses accessory thereto, and including such open spaces as required by this chapter.
Lot Area	◆ The total horizontal area included within lot boundaries. Lot area shall exclude areas within a public right-of-way.
Lot Coverage	◆ The lot area or percentage of lot area covered by buildings, including accessory structures, and all other impervious surfaces.
Lot Depth	◆ The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.
Lot Frontage	◆ A lot line which is coincident with a street line.
Lot Line, Front	◆ In the case of a lot abutting upon only one street, the line separating the lot from the street; in the case of any other lot, the street lot line as selected by the property owner. ◆ Where a lot abuts upon only one street, the lot line along such street shall be the front lot line. Where a lot abuts upon more than one street, the assessment roll of the city shall determine the front lot line.
Lot Line, Rear	◆ The lot line which is generally opposite the front lot line; if the rear lot line is less than 10 feet in length or if the lot comes to a point at the rear, the rear lot line shall be deemed to be a line parallel to the front line not less than 10 feet long, lying wholly within the lot and farthest from the front lot line.
Lot Line, Side	◆ The property line or lines extending from the front lot line to the rear lot line.
Lot Line, Street	◆ A lot line separating the lot from a street.
Lot Lines	◆ The property lines bounding a lot.

Lot Width	◆ The horizontal distance between the side lot lines, measured at right angles to the lot depth.
Lot, Corner	◆ A lot located at the junction of and fronting on two or more intersecting streets.
Lot, Depth	◆ The distance between the front and rear lot lines measured along side lot lines.
Lot, Double Frontage	◆ A lot in which the front lot line and rear lot line abut a street.
Lot, Interior	◆ A lot other than a corner lot.
Lot, Nonconforming	◆ Any district lot, lawfully existing at the enactment of this chapter, where the owner (owners) of said lot does not own any adjoining property, the subdivision of which would create one or more conforming lots, which does not conform to the minimum width, depth and area dimensions specified for the district in which said lot is located.
Lot of Record	◆ Any lot which has been established as such by plat, survey record, or deed prior to the date of this Chapter as shown on the records in the Office of the County Clerk.
Lot, Through	◆ A lot which faces on two streets at opposite ends of the lot and which is not a corner lot.
Lot, Width	◆ The distance between side lot lines measured parallel to the front lot line at a distance from the front lot line equal to the front yard specified for the district. For purposes of new building construction and in the case the lot width as measured above is substandard and in the case all other dimensional requirements of the lot as prescribed by this Chapter are satisfied, the lot width shall be measured at a length defined as parallel to and 15 feet from the face of the proposed structure as it is oriented to the front lot line.
Manufacturing	◆ The manufacture from previously prepared materials, of finished products or parts including processing, fabrication, assembly, treatment and packaging of such products, as well as the incidental storage, sale and distribution of such product or parts.
Manufactured Home	◆ A building transportable in one or more sections with a trailer hitch and permanent chassis and which is built in compliance with federal regulations or built prior to June 15, 1976, and is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes plumbing, heating, ventilating and electrical systems contained therein. Manufactured homes are certified by the Federal Department of Housing and Urban Development and shall have a seal affixed to them attesting to such. The term “manufactured home” shall include a Manufactured Home and travel trailer but shall not include a modular home.
Manufactured Home Park	◆ A plot or tract of land separated into two or more spaces or lots, which are rented or leased or offered for rent or lease to persons for the installation of manufactured homes for use and occupancy as residences, provided that the lease or rental agreement.

Massage Establishment	◆ Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths or steam baths. This definition shall not be construed to include a hospital, nursing home or medical clinic or the office of a physician, surgeon, chiropractor, osteopath, duly licensed physical therapist or duly licensed massage therapist or barbershop or beauty salon, athletic club, health club, school, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental accessory service.
Medical Clinic	◆ A place where medical care is provided to persons on an outpatient basis only, without overnight accommodations, by one or more members of the medical profession, dentists, chiropractors, osteopaths, therapists or other licensed professionals.
Microbrewery	◆ A facility for the production, packaging and sampling of malt beverages of alcoholic and/or nonalcoholic content for retail or wholesale distribution, on or off the premises, which does not produce more than 15,000 barrels of beverage per year.
Mixed Use	◆ A combination of permitted uses within a Zoning district and whereby specified uses may be co-located in the same structure.
Modular Home	◆ Shall mean a dwelling unit constructed on site in accordance with New York State Building Code and municipal codes and bearing insignia of approval by the Secretary of State of New York which is composed of components substantially assembled in a manufacturing plant and transported to a building site for final assembly on a permanent foundation.
Motel	◆ See “Hotel”.
Museum	◆ A building serving as a repository and display for a collection of natural, scientific, cultural or literacy curiosities, objects of interest or works of art, and arranged for public observation and appreciation, with or without an admission charge, together with customary accessory uses including, for example, retail sale of goods to the public; café food service; art, dance and music performances; literary readings and showing of films.
Neighborhood Store	◆ A structure containing less than 3,000 gross sq. ft. of floor area used for the retail sale of foodstuffs and household supplies.
Nonconforming Building	◆ A building that was lawfully erected prior to the adoption of these amendments of the City of Johnstown’s Zoning Ordinance but that no longer complies with all regulations applicable to the zoning district in which the structure is located.
Nonconforming Lot	◆ A lot of record which does not comply with the area, shape, frontage, or locational provisions of this Ordinance for the district in which it is located.
Nonconforming Use	◆ A building, structure lot or use of land which does not conform to the use or density regulations for the district in which such building or use is located, either at the effective date of this chapter or as a result of subsequent amendments thereto.
Nursery	◆ Any place used as a garden for the open cultivation and growing of trees, shrubs and other plants, including the replanting of said plants grown at places other than the nursery.
Nursery, School	◆ A place, building or structure designed or utilized to provide regular care or instruction for two or more children under six years of age.

Nursing or Adult Home	◆ A building, other than a hospital, licensed for nursing care by the State of New York, where persons are habitually housed, furnished with meals and nursing care for remuneration.
Office	◆ A business, office or agency providing service to the general public by a non-NYS licensed profession.
One-Hundred-Year Flood	◆ See “Base Flood”.
Open Space	◆ An unoccupied space open to the sky on the same lot with a building.
Outdoor Wood Boiler	◆ A wood-fired furnace located outdoors or separate from the space the boiler is heating wholly. The furnace heats water that is circulated through a structure through underground piping.
Parcel	◆ An individual lot of land with its own legal description.
Parking Lot	◆ An off-street, ground-level open area for the temporary storage of motor vehicles. Does not include an area used exclusively for the display of motor vehicles for sale as part of a motor vehicle sales establishment.
Parking, Shared	◆ Two or more land uses or a multi-tenant building that merge parking needs based on different operating hours to gain a higher efficiency in vehicular and pedestrian circulation, economize space, reduce impervious surface and result in a superior grouping of building(s).
Parking Space	◆ A stall or berth which is arranged and intended for parking a vehicle in a garage or parking lot.
Parking Structure	◆ A structure used to park motor vehicles or an off-street area containing two (2) or more parking spaces both of which include means of ingress and egress.
Patio	◆ A paved concrete, brick, flagstone, etc. outside area, in the rear of the property, used for dining, recreation or similar purposes.
Person	◆ An individual, proprietorship, partnership, corporation, association or other legal entity.
Planning Board	◆ The City of Johnstown Planning Board.
Playground	◆ A publicly-owned area used for recreational activities by children.
Playhouse	◆ A small building that children play inside of.
Porch	◆ An accessory structure consisting of a roofed-over structure, projecting out from the wall or walls of a main structure and often open to the weather.
Preconstructed Home	◆ See “Manufactured Home”.
Principal Use	◆ Shall mean the main or primary use of a building, structure, or parcel of land.
Print Shop	◆ A business that provides graphic design services or prints, reproduces or copies documents, cards, magazines or similar products for customers.
Professional Medical Building	◆ A building utilized or occupied by licensed medical professional for the purpose of providing medical care to patients. Includes Medical Clinic.
Professional Offices	◆ A business office or agency providing services to the general public by a professional licensed by the State of New York such as a lawyer, engineer, architect, accountant, physician, chiropractor, therapist, dentist, or similar licensed occupation.
Public Buildings and Uses	◆ A federal, State, County or City building, police station, fire station, library, church, also including playgrounds and City parks.

Public Park	◆ A lot, or portion thereof, owned by any public agency, used or intended to be used for recreation purposes including parks, playgrounds, play fields or other outdoor recreation facilities.
Public Utility	◆ Persons, firms or corporations supplying gas, electricity, water, power, transportation, television, cable or telephone service to the general public, excluding wireless telecommunication services facilities. It shall include facilities constructed, altered or maintained by utility corporations, either public or privately owned, or government agencies, necessary for the provision of electricity, gas, steam, heat, communication, collection or other such service to the general public. It shall include poles, wires, mains, drains, sewers, pipes, conduits, cables, alarms and call boxes and other similar equipment, but shall not include office or administration buildings.
Rail Trail	◆ A publicly-owned recreational trail located on the former FJ & G Railroad Right-of-Way.
Recreation Facility	◆ An outdoor or indoor establishment used to provide recreational activities such as swimming, exercise equipment, weightlifting equipment, tennis courts, basketball, baseball, bowling, golf, skateboarding and other similar activities.
Regulatory Floodway	◆ The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study.
Repair	◆ Replacement or renewal, excluding additions, of any part of a building, structure, device or equipment with like or similar materials or parts for the purpose of maintenance of such building, structure, device or equipment.
Restaurant	◆ An establishment that sells food and beverage not defined as a fast food restaurant.
Restaurant, Fast Food	◆ An establishment that sells food and beverages to customers for both on and off-site consumption and where the menu is posted and not printed, customers wait on themselves and where drive-thru service is available.
Retail Store	◆ An establishment that provides goods and/or services directly to customers/consumers where said goods and/or services are available for immediate purchase and removal from the establishment.
Rummage Sale	◆ A sale of assorted secondhand objects contributed by donors to raise money for a charity or a charitable purpose.
Satellite Dish	◆ A dish used to receive or to receive and transmit voice data or video programming services, including but not limited to direct broadcast satellite programming services or high-speed internet access.
Seasonal Setback	◆ A time period not to exceed 180 days. ◆ The least horizontal distance from an existing or proposed building or structure to the nearest point in an indicated lot line or street line.
Shed	◆ A small building used for storage.
Shoe Repair	◆ An establishment used to perform repairs on shoes and footwear.
Shopping Center	◆ A group of three or more retail stores in a single structure, depending mostly on customers coming by automobile, and having parking facilities which are integrated with the site plan and the design of the stores.

Site Plan	◆ A drawing prepared by a NYS licensed engineer, architect or land surveyor to specifications and containing necessary elements, as set forth in this Article, which shows the arrangement, layout and design of the proposed use of a single parcel of land.
Solar Panels	◆ Panels located either on the ground or roof of a building, which use the sun's energy directly to heat water, without using electricity.
Special Use	◆ A use which, because of its unique characteristics, requires individual consideration in each case by the Planning Board before it may be permitted in a District.
Storage Facility	◆ A building, or group of buildings, designed and constructed for short or long-term storage of individual or business property for a fee. A storage facility does not include a warehouse/distribution center, truck terminal or other transfer facility for goods, wares or merchandise.
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 is no floor above it, then the space between any floor and the ceiling next above it.
Street	◆ A public or private way accepted by the City for public use which affords the principal means of access to abutting properties, including the sidewalks.
Street Line	◆ A line separating a lot from a street that is used for the purposes of determining lot area and setback requirements.
Street Width	◆ The width of the right-of-way or the distance between property lines on opposite sides of a street.
Structural Alterations	◆ Any change in the supporting members of building or structure, including but not limited to bearing walls, retaining walls, columns, beams or girders.
Structure	◆ See Building.
Supermarket	◆ A structure containing more than 3,000 sq. ft. of gross floor area used for the retail sale of food and perishable and non-perishable goods.
Swimming Pools	◆ Any private outdoor artificial body of water or receptacle for water having a depth at any point greater than two feet and used or intended to be used for swimming or bathing and constructed, installed or maintained in or above the ground.
Tailor	◆ An establishment in which a person or persons make repairs and alterations to suits, coats, dresses and other articles of clothing.
Tanning Studio	◆ An establishment that utilizes artificial lighting to provide a tan to an individual's body. Tanning studio's exclude day spas and health clubs.
Tattoo Parlor	◆ An establishment that creates tattoos using inks or other substances.
Telecommunication Antenna	◆ A system of electrical conductors that transmit or receive radio frequency waves.
Telecommunication Facility	◆ Any or all of the physical elements of the central cell facility that contains all the receivers, transmitters, and other apparatus needed for cellular/pc's operation (also known as Base Transceiver Station (BTS)).
Telecommunication Tower	◆ A structure on which one or more antenna will be located, that is intended for transmitting and/or receiving radio, television, telephone, wireless or microwave communications for an FCC licensed carrier.
Terrace	◆ A platform extending out from a building.
Theater	◆ A place used for the commercial showing of films or presentation of live entertainment, specifically not including adult entertainment as defined in this code.

Tourist Home	◆ A dwelling, except a hotel or boarding home, as defined elsewhere in this chapter, in which overnight accommodations are provided or offered for transient guests.
Townhouse	◆ A building consisting of a series of one-family attached dwelling units having common party walls between each dwelling unit and each unit is separated from another by one or more vertical, common, fire-resistant walls.
Travel Trailer	◆ See “Manufactured Home”.
Tree House	◆ A Tree House is a building constructed among the branches, around or next to the trunk of one or more mature trees is raised above the ground.
Truck Stop	◆ A place for the storage and transfer of goods, wares or merchandise by truck transport.
Use	◆ The specific purpose for which land, a structure or a building is designed, arranged or intended or for which it is or may be occupied or maintained. The term “permitted use” or its equivalent shall not be deemed to include any nonconforming use.
Use, Principal	◆ The main or primary purpose of which a building, structure and/or lot is designed, arranged or intended, or for which they may be used, occupied or maintained. The use of any other building, other structure and/or land on the same lot and incidental or supplementary thereto and permitted under this Chapter shall be considered an accessory use.
Use, Prohibited	◆ A use of a building, structure, lot or land, or part thereof, which is not listed as an allowable permitted use or a use requiring a special permit.
Use Variance	◆ The authorization by the Zoning Board of Appeals for the use of land for a purpose, which is otherwise not allowed or is prohibited by the applicable zoning regulations.
Variance	◆ A grant of relief from one or more of the requirements of this Chapter.
Veterinary Hospital/Office	◆ The use of a structure or lot for the treatment and/or examination of animal illnesses, including facilities for boarding animals receiving examination or treatment.
Wall	◆ A structure of wood, stone or other materials or combination thereof intended for security, screening or enclosure or for the retention of earth, stone, fill or other materials as in the case of retaining walls or bulkheads.
Warehouse	◆ The use of a structure or lot for the storing of goods, wares, and merchandise, whether for the owner or for others, prior to shipment elsewhere.
Woodshed	◆ A small building used to store wood.
Yard	◆ An unoccupied space open to the sky on the same lot between a building or structure and a lot line.
Yard, Front	◆ A yard extending between the side lot lines and situated between the street line and the front line of the principal building or use projected to the side lines of the lot.
Yard, Rear	◆ A yard extending between the side lot lines of a lot and situated between the rear lot line and the rear line of the principal building or use projected to the side lot lines; or, on a corner lot, a yard extending between the interior side lot line and the exterior side yard and situated between the rear lot line and the rear line of the principal building or use projected to such interior side lot line and exterior side yard.

Yard, Required	<ul style="list-style-type: none"> <li>◆ A yard having a depth or width set forth in the applicable district regulations. Such width or depth shall be measured perpendicular to lot lines.</li> </ul>
Yard, Side	<ul style="list-style-type: none"> <li>◆ A yard extending between the front yard and the rear yard of a lot and situated between the side lot line and the adjacent side line of the principal building or use; or, on a corner lot where a side lot line abuts a street, a yard extending between the front yard and the rear lot line and situated between the side lot line and the side line of the principal building or use projected to the rear lot line. <ul style="list-style-type: none"> <li>(1) Exterior side yard means a side yard abutting on a street line.</li> <li>(2) Interior side yard means a side yard abutting on a lot line of an adjoining lot.</li> </ul> </li> </ul>
Zoning Board of Appeals	<ul style="list-style-type: none"> <li>◆ Shall mean that entity charged with carrying out the requirements delegated to it by this Zoning Ordinance, including but not limited to: interpreting the provisions of the Zoning Ordinance; reviewing actions of the Code Enforcement Official; and the granting or denial of Special Permits or variances.</li> </ul>
Zoning District	<ul style="list-style-type: none"> <li>◆ Shall mean a classification within which the regulations specified in this Ordinance are uniform and which is assigned to a particular area of the City by delineation upon the Zoning District Map.</li> </ul>
Zoning Map	<ul style="list-style-type: none"> <li>◆ Shall mean that map identified by the signature of the Mayor and dated and attested to by the City Clerk following the words: “This is to certify that this is the official Zoning Map of the City of Johnstown”.</li> </ul>

## **ARTICLE IV: ADMINISTRATION AND ENFORCEMENT**

### **Section 22-401: Code Enforcement Official**

- A. This Chapter shall be administered and enforced by the Code Enforcement Official, his/her assistants or deputies as authorized and directed by the Code Enforcement Official as well as the Planning Board and Zoning Board of Appeals as specified herein.
- B. The Code Enforcement Official shall have the following powers, duties and responsibilities:
1. Applications: Receive and process all applications for Building and Zoning Permits.
  2. Permits: Issue, revoke and renew Building and Zoning and Certificate of Occupancy Permits.
  3. Inspections: The Code Enforcement Official shall have the right to enter and inspect any building or land at any reasonable hour as necessary in the execution of these duties, subject to the following conditions:
    - (a) The Code Enforcement Official should make efforts in good faith to notify the owner and/or tenant before conducting any inspection.
    - (b) The Code Enforcement Official should display proper identification upon commencing an inspection.
    - (c) Inspections should be conducted in the presence of the owner or the owner's representative or tenant if he/she so requests in writing. A written report of each inspection shall be prepared and kept on file in the office of the Code Enforcement Official. A copy of the inspection report shall also be sent to the owner or the owner's representative.
  4. Violations: Issue Notice of Violations.
  5. Stop-Work Orders: Whenever the Code Enforcement Official has reasonable grounds to believe that work on any building or structure or any use of land is occurring either in violation of the provisions of this chapter, not in conformity with any application made, permit granted or other approval issued hereunder, or in an unsafe or dangerous manner, the Code Enforcement Official shall issue a Stop Work Order to the appropriate person responsible to stop work on any such building, structure or land. All Stop Work Orders shall be in writing, shall state the reasons why the work shall be stopped and shall state the conditions under which the work or use may be resumed. All Stop Work Orders shall be served upon the person to whom it is directed either by delivering it personally to that person or by posting the Stop Work Order upon a conspicuous portion of the building or structure under construction or on the land in use and additionally sending a copy of the same by certified mail to the appropriate, responsible person.
  6. Emergency Actions: If in the opinion of the Code Enforcement Official, a violation exists which requires immediate action to avoid a direct hazard or imminent danger to the health, safety or welfare of occupants of a building or to the public or the environment, the Code Enforcement Official may direct that such violation be immediately remedied or may take direct action on his/her own initiative to abate the hazard or danger. Any costs incurred by such action shall be paid for by the owner, occupant or person responsible for the violation. The Code Enforcement Official shall keep on file an affidavit stating the items of expense and date of execution of action taken and is furthermore authorized to institute a suit, if necessary, against the person liable for such expenses, or place a lien against property, in order to recover the said costs.
  7. Consultants: Retain the services of a professional consultant to assist in the review of an application for a Building and Zoning Permit.

8. Records. The Code Enforcement Official shall maintain files of all Applications for Building and Zoning Permits, Building and Zoning Permits issued, Special Use Permits, Site Plan Review approvals, Zoning Board of Appeals decisions, Certificate of Occupancy Permits, Inspection Reports, complaints and violations.

#### **Section 22-402: Building and Zoning Permit**

- A. No building or use shall be allowed on a property without the property owner first applying for and receiving a Building and Zoning Permit from the Code Enforcement Official except as provided herein.
- B. No Building and Zoning Permit shall be issued by the Code Enforcement Official unless the Code Enforcement Official has determined that the proposed building or use complies with all provisions of this Chapter, the NYS Uniform Fire Prevention and Building Code and all other applicable State and local laws, codes, rules and regulations.

#### **Section 22-403: Application for Building and Zoning Permit**

- A. Any person, firm or corporation owning property seeking a Building and Zoning Permit under this Chapter shall file an application with the Code Enforcement Official. The Application shall be on a form provided by the Code Enforcement Official.
- B. Each Application shall, at a minimum, contain the following information:
  - (1) A surveyed plot plan made by a licensed surveyor, showing the actual shape, dimensions, radii, angles and area of the lot on which the building is proposed to be erected, or if an existing building, of the lot on which it is situated as well as the size and location of all buildings to be located on the lot.
  - (2) The section, block and lot number of the parcel of land involved.
  - (3) The exact size, height and location on the lot of the proposed building or buildings or alternation of an existing building, and the location on the lot of other existing buildings, if any on the same lot.
  - (4) The location, nature and dimensions of all yards, access driveways, off-street parking, planting and screening.
  - (5) The minimum distance between all sides of the subject building and all property lines and other existing buildings on the same lot.
  - (6) The existing and intended use of all buildings, existing or proposed, the use of land and the number of dwelling units the building is designed to accommodate.
  - (7) Such topographic or other information with regard to the building, the lot or neighboring lots as may be necessary to determine that the proposed construction will conform to the provisions of this chapter.
  - (8) Such other information as requested by the Code Enforcement Official.
- C. Upon receipt of an Application for a Building and Zoning Permit, the Code Enforcement Official shall sign and date the application to signify its receipt. The Code Enforcement Official shall review the Application to determine if it is complete or if additional information may be required from the applicant. If additional information is required, the Code Enforcement Official shall notify the applicant, within seven (7) working days, of what additional information will be required to complete the Application.
- D. Once an Application is determined to be complete, the Code Enforcement Official shall, within fourteen (14) calendar days, notify the applicant that either:

- (1) The proposed building or use complies with all requirements of this Chapter and all other applicable State and local laws, codes, rules and regulations, no other approvals are required and that a Building and Zoning Permit is issued.
  - (2) The proposed building or use does not comply with one or more of the requirements of this Chapter and therefore a Building and Zoning Permit is denied. The Code Enforcement Official shall advise the applicant of the specific requirements of this Chapter that the application did not comply with.
  - (3) The proposed building or use requires one or more reviews or approvals before a final decision can be made. In this case, the Code Enforcement Official shall notify the applicant of:
    - (a) The reviews and approvals that the Application must receive.
    - (b) The information that will be required in order to have these reviews conducted.
- E. If and when the required reviews and approvals have been completed and obtained, the Code Enforcement Official shall, within seven (7) calendar days of receiving notice of these approvals, issue a final decision on said Application.

#### **Section 22-404: Certificate of Occupancy Permits**

- A. No building or use for which a Building and Zoning Permit is issued by the Code Enforcement Official shall be occupied, utilized or maintained until a Certificate of Occupancy Permit is issued by the Code Enforcement Official.
- B. Once a building or use is ready to be occupied, utilized or maintained, the applicant who applied for the Building and Zoning Permit shall notify the Code Enforcement Official, in writing, and request that a final inspection be conducted to verify compliance with the Building and Zoning Permit.
- C. The Code Enforcement Official shall inspect the building or use to verify that all conditions and stipulations in all approvals and permits have been satisfied and complied with.
- D. Based upon the inspection, the Code Enforcement Official shall notify the Applicant, within ten (10) calendar days of conducting the inspection that:
  - (1) All work was completed in complete compliance with all requirements of the Building and Zoning Permit and that a Certificate of Occupancy Permit has been issued. A copy of the Certificate of Occupancy Permit shall be transmitted to the Applicant.
  - (2) All work required by the Building and Zoning Permit has not been completed. The Code Enforcement Official shall advise the applicant of the specific requirements of the Building and Zoning Permit that have not been complied with.

#### **Section 22-405: Complaints**

- A. Any person, firm or corporation may file a written complaint with the Code Enforcement Official alleging a violation of this Chapter and request an enforcement action by the Code Enforcement Official.
- B. The Code Enforcement Official shall record the receipt of all complaints and conduct the necessary investigations regarding the complaint to verify whether a violation of this Chapter exists and should be processed in accordance with Section 22-406 of this Chapter.

#### **Section 22-406: Violations**

- A. It shall be a Violation of this Chapter if any building, structure, development or land use is:

- (1) Occupied, utilized or maintained prior to the issuance of a Certificate of Occupancy Permit.
  - (2) Not occupied, utilized or maintained in strict accordance with any provision of this Chapter and any condition or stipulation in an approved Building and Zoning Permit, Certificate of Occupancy Permit, Special Permit, Site Plan approval, Subdivision approval, Zoning Board of Appeals variance or SEQR approval.
- B. Upon determining a Violation exists, the Code Enforcement Official shall:
- (1) Issue a Notice of Violation to the property owner/applicant that a violation exists. The written notification shall identify the specific reason(s) for the violation.
  - (2) Afford the property owner/applicant up to thirty (30) calendar days to correct the violation.
- C. At the end of the time period designated, the Code Enforcement Official shall inspect the Violation to verify if it has been corrected:
- (1) If the Code Enforcement Official verifies the Violation has been satisfactorily corrected, the property owner/applicant shall be notified in writing.
  - (2) If the Code Enforcement Official verifies the Violation was not corrected, the Code Enforcement Official:
    - (a) May issue a Stop Work Order.
    - (b) Order the Violation corrected.
    - (c) Issue an appearance ticket directing the alleged violator to appear in a designated local criminal court.

**Section 22-407: Penalties for Offenses**

- A. Penalty. Violation of any provision or requirement of this chapter or violation of any statement, plan, application, permit or certificate approved under the provisions of this chapter shall be considered an offense punishable by a fine of not more than \$1,000 and/or imprisonment for not more than 15 days for each offense. The owner, general agent or contractor of a building premises, or part thereof, where such violation has been committed or does exist, and any agent, contractor, architect, builder, corporation or other person who commits, takes part or assists in such violation, shall be liable for such an offense. Each and every month (or week or day) that any such violation continues after notifications that such violation exists shall constitute a separate offense.
- B. Court action. The imposition of penalties herein prescribed shall not preclude the City or any person from instituting appropriate legal action or proceeding to prevent an unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, or to restrain, correct or abate a violation or to prevent the illegal occupancy of a building, land or premises.

**Section 22-408: Expiration of Building and Zoning Permits**

- A. A Building and Zoning Permit shall be valid for one (1) year from the date the permit is signed by the Code Enforcement Official.
- B. The Code Enforcement Official may renew a Building and Zoning Permit for a period to not exceed one (1) additional year from the date said permit would have expired as long as said renewal includes all of the conditions and stipulations contained in the original Building and Zoning Permit.

## **Section 22-409: Revocation of Building and Zoning Permit**

- A. If the Code Enforcement Official determines that an application for a Building and Zoning Permit contained false or misleading information, or that work being done on a building or use differs materially from what is allowed by the approved Building and Zoning Permit, the Code Enforcement Official shall revoke the Building and Zoning Permit.
- B. The Code Enforcement Official shall, within three (3) calendar days, notify the property owner/applicant, in writing, that:
  - (1) Their Building and Zoning Permit has been revoked and the reason(s) why.
  - (2) All work activity in use on the property shall cease immediately.
  - (3) Failure to comply shall constitute a Violation and be subject to a fine under Section 22-407 of this Chapter.

## **Section 22-410: Fees**

- A. The Common Council, by resolution, shall establish and may, from time to time, amend a fee schedule for all applications, permits, inspections, consultants or other City actions stipulated in this chapter.
- B. All fees shall be paid with the filing of applications and prior to the issuance of permits.
- C. All fees shall be paid to the Code Enforcement Official, who shall transmit said fees to the City Treasurer.

## **Section 22-411: Consultants**

- A. If the Code Enforcement Official determines that the Code Enforcement Official, Planning Board, Zoning Board of Appeals, Common Council or other City Agency or personnel needs or requires the services of a professional consultant to assist in the review of an application for a Building and Zoning Permit, the Code Enforcement Official shall:
  - (1) Contact a consultant to obtain a quote for the services desired to be rendered.
  - (2) Notify the applicant, in writing, of this determination and the projected cost to retain the consultant.
- B. The applicant shall deposit with the Code Enforcement Official an amount anticipated to fully reimburse the City for the cost of hiring the consultant.
- C. The City shall utilize these funds to pay for the cost and fees of the consultant.
- D. The consultant shall submit regular invoices to the City detailing the number of hours expended by all staff and expenses. The City shall afford the applicant the opportunity to review all invoices prior to the City paying the invoice.
- E. If additional funds are needed to complete the work the City desires of the consultant, the applicant shall deposit additional funds with the City.
- F. At the completion of the consultant's work, all funds remaining from the applicant's deposits shall be returned to the applicant.

**ARTICLE V: DISTRICTS AND REGULATIONS**

**Section 22-501: Zoning Districts**

- A. There are hereby established the following Zoning Districts that are intended to promote the public health, safety and general welfare of the City of Johnstown:

SF-1	: One & Two Family Dwellings	: Low Density
SF-2	: One & Two Family Dwellings	: Medium Density
SF-3	: One & Two Family Dwellings	: High Density
MF-1	: Multi-Family (1, 2 & 3+ Family)	: High Density
R-P	: Residential-Professional	
MH	: Manufactured Home	
C-1	: Commercial 1	: Commercial
C-2	: Commercial 2	: Arterial Commercial
C-3	: Commercial 3	: Central Business District
Industrial		
Public		
PDD	: Planned Development District	
POD	: Preservation Overlay District	
Rail Trail		

**Section 22-502: Zoning Map**

- A. The aforesaid Zoning Districts are bounded and defined as shown on a map entitled “City of Johnstown Zoning Map”. This Map accompanies this Chapter and is hereby determined to be a part hereof.

**Section 22-503: Intent of Zoning Districts**

- A. SF-1 District:  
This District is intended to create, preserve and enhance areas of the City consisting exclusively of single-family residences on larger lots with lower densities. Limited related uses may be allowed. These residential areas are very stable and should be protected from the introduction of any land use that is incompatible with the intent of this District and the vision of the Comprehensive Plan.
- B. SF-2 District:  
This District is intended to create, preserve and enhance areas of the City consisting primarily of single-family residences with higher densities than the SF-1 District. Many of the existing residences and lots in this district were developed years ago when residences and lots were smaller than the larger more recently developed residences and lots located in the SF-1 District. These areas are stable and should be protected from the introduction of land uses incompatible with the intent of this district and the vision of the Comprehensive Plan.
- C. SF-3 District:  
This District is intended to create, preserve and enhance areas of the City that are primarily residential in character, but unlike the SF-1 and SF-2 Districts, contain both one and two-family dwellings on high density lots. Certain related uses are allowed. This district’s primary location

is in a buffer area between the City's Central Business District and surrounding single-family neighborhoods of the SF-1 and SF-2 Districts. There are also pockets of the MF-1 District located along and adjacent to primary travel corridors and other miscellaneous areas of the City.

D. MF-1 District:

This District is intended to create, preserve and enhance areas of the City that are primarily high-density residential in character and contain one, two and three (+) family dwelling units, apartment buildings and townhouses. Certain related uses are allowed. These areas are intended to provide for the highest density residential development in the City.

E. Residential-Professional District:

This District is intended to create, preserve and enhance certain areas of the City that have large residential dwelling units with distinctive architectural features located adjacent to the Central Business District that should be used for professional offices such as doctors, lawyers, accountants, etc. The intent is to encourage the utilization of these properties to create clusters of professional offices while retaining and promoting the architectural features of each building.

F. Manufactured Home District:

This District is intended to create, preserve and enhance one area of the City for utilization of Manufactured Homes in a Manufactured Home park setting.

G. C-1 District:

This District is intended to create, preserve and enhance areas of the City used primarily for commercial uses. These areas would include various commercial activities essential to the City's economy. This District shall include all such areas of the City not located along NYS Route 30A and in the Central Business District.

H. C-2 District:

This District is intended to create, preserve and enhance the commercial strip along NYS Route 30A. It is intended to include commercial and retail activities essential to the City's economy. These activities can range in size from small retail/commercial business to large shopping malls. The District shall be regulated to promote harmonious development that should not create undo traffic impacts on Route 30A.

I. C-3 District:

This District is intended to create, preserve and enhance the City of Johnstown's Central Business District. The intent of this District is to create a personable environment that attracts people to reside and conduct business in downtown. The Central Business District is centered around Main Street in downtown. This District has a blend of multi-story buildings along Main Street and one and two-story structures elsewhere. This District should consist of a blend of commercial, retail, professional and residential uses intermingled to form a cohesive environment to live, shop and conduct business. This District has historic significance that should be preserved, protected and enhanced.

J. Industrial District:

This District is intended to create, preserve and enhance two (2) areas of the City to locate manufacturing, warehousing, distribution and industrial businesses integral to providing employment opportunities and tax base for the City and to stabilize and strengthen the City's economy.

- K. Public District:  
This District is intended to create, preserve and enhance areas of the City for municipal, educational and governmental and related public buildings and uses.
- L. Planned Development District:  
This District shall not exist on the City of Johnstown Zoning Map until a Zoning Amendment is approved by the Common Council to create a Planned Development District. This District is intended to encourage flexibility and economies of scale in the development of certain areas in the City.
- M. Preservation Overlay District:  
This District is intended to protect and preserve properties, places, buildings, structures, sites and objects within the Central Business District having special or distinctive character, historic, aesthetic, cultural or architectural interest and which serve as reminders or symbols of the City's history and heritage. The District shall "overlay" the underlying zoning. All uses, density standards, supplemental and other regulations of the underlying zoning district shall apply as well as the regulations contained in Article VI.
- N. Rail Trail District:  
This District is intended to protect and preserve the FJ & G Rail Trail that traverses through the City on the former FJ & G Railroad Right-of-Way. The Rail Trail is an integral recreational trail that provides City residents and others with a resource to enjoy outdoor exercise.

**Section 22-504: Applicability of Regulations**

- A. No building, structure or use shall hereinafter be erected, constructed, utilized, established, created or altered unless in conformity with all regulations contained within this Chapter that are applicable to the Zoning District said building, structure or use is located within.
- B. No building or structure shall hereinafter be erected, constructed or altered to exceed the density standards of the Zoning District said building or structure is located within.
- C. Any use not specifically listed in Schedule A as an allowed use in a Zoning District shall be prohibited in that District.
- D. No part of the yard, or other open space, or loading space required about or in connection with any building for the purpose of complying with this Chapter, shall be used or included as a building site or as part of a yard, open space, or loading space similarly required for any other building.
- E. No yard or lot existing at the time of passage of this Chapter shall be reduced in dimension or area below the minimum requirements set forth herein.
- F. Yards or lots created after the effective date of this Chapter shall meet the minimum requirements established by this Chapter.

**Section 22-505: Zoning Map**

- A. The location and boundaries of all Zoning Districts hereby established shall be shown on the City of Johnstown Zoning Map.
- B. The City of Johnstown Zoning Map, as may be amended from time to time by the Common Council, shall be incorporated into and made a part of this Chapter.
- C. The Common Council shall, upon authorizing or approving any change to the boundary of a Zoning District, immediately have the City of Johnstown Zoning Map updated and reprinted.

## **Section 22-506: Zoning District Boundaries**

- A. When the Code Enforcement Official is uncertain of the exact location of boundaries of the various districts as shown on the official Zoning Map, the following rules shall apply:
- Boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed to follow such center lines.
  - Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
  - Boundaries indicated as approximately following city limits shall be construed as following city lines.
  - Boundaries indicated as following shore or center lines of streams shall be construed to follow the shore of said stream.
  - Distances not specifically indicated on the official Zoning Map and not covered by the above circumstances shall be determined by the scale of the map.
  - If, after the application of the foregoing rules, uncertainty exists as to the exact location of a district boundary, the Board of Appeals shall determine and fix the location of said line.

## **Section 22-507: Allowable Land Uses**

- A. Allowable land uses in each Zoning district are contained in Schedule A: Allowable Land Uses in Zoning Districts.

## **Section 22-508: Prohibited Land Uses**

- A. The following land uses are prohibited:
1. Uses considered dangerous or unsafe.
  2. Uses considered objectionable or a nuisance by reason of odor, soot, smoke, noise, vibration, refuse, dust matter or water carried waste.

**Schedule A**

**CITY OF JOHNSTOWN ZONING ORDINANCE  
ALLOWABLE LAND USES IN ZONING DISTRICTS**

LAND USE	RESIDENTIAL						COMMERCIAL			INDUSTRIAL	RAIL TRAIL	PUBLIC USE	SUPPLEMENTAL USE REGULATIONS APPLY
	SF-1	SF-2	SF-3	MF-1	R-P	MH	C-1	C-2	C-3				
Accessory Dwelling Unit	A	A	A	A	A		A		A				X
Accessory Structure	A	A	A	A	A	A	B	B	B	B	B		X
Accessory Use	A	A	A	A	A	A	B	B	B	B	B		X
Adult Use							C						
Animal Hospital							C	C					
Antenna		A	A	A	A	A	A	A		A			X
Antique Shop							B	B	B				
Apartment		A	A	A	A	A	B		B				
Apartment Building			B	B			B		B				
Aquaculture										B			
Arcade							B	B	B				
Art Gallery					B		B		B				
Artist Studio	C	C	C	C	A		B		B				
Automobile Dealership							B	B					
Automobile Parts							B	B					
Automobile, Rental							B	B					
Automobile Service Station							B	B					X
Bakery							B	B	B				
Bank or Financial Institution							B	B	B				
Banquet Hall							B	B	B				
Bar, Nightclub or Tavern							B	B	B				
Barber Shop							B		B				
Beauty Salon							B		B				
Bed-and-Breakfast			B	B			B		B				X
Boarding Home				B			B						
Body Painting Studio							B	B	B				
Bookstore							B	B	B				
Bowling Alley							B	B	B				
Business Services							B	B	B				
Brewery							B	B		B			
Car Wash							B	B					X
Carport	A	A	A	A	A	A	A	A					X
Cemetery												B	
Church or Place of Worship		B	B	B					B			B	
Club Membership							B	B	B				

LAND USE	RESIDENTIAL						COMMERCIAL			INDUSTRIAL	RAIL TRAIL	PUBLIC USE	SUPPLEMENTAL USE REGULATIONS APPLY
	SF-1	SF-2	SF-3	MF-1	R-P	MH	C-1	C-2	C-3				
Commercial Recreation							B	B	B				
Community Residential Facility			C	C			B						
Condominium				B			B						
Convenience Store							B	B	B				
Copy Store							B	B	B				
Dancing Studio							B	B	B				
Day Care Center							B	B	B				X
Deck	A	A	A	A	A	A	A	A	A				
Destination Stops											B		
Distribution Center							C	C		B			
Dormitory			B	B			B		B				
Drugstore							B	B	C				
Dry Cleaner							B	B	C				
Dwelling, One-Family	A	A	A	A	A	A	B		B				
Dwelling, Two-Family		A	A	A			B		B				
Dwelling, Multi-Family			A	A			B		B				
Educational, Private							B	B	B				
Educational, Public												B	
Fence	A	A	A	A	A	A	A	A	A	A			X
Florist							B	B	B				
Fraternal Organization							B	B	B				
Funeral Home							B	B	C				X
Garage, Residential	A	A	A	A	A	A	B		B				X
Government Use												B	
Greenhouse, Commercial							B	B					X
Health Care Facility							B	B	B			B	
Health Club							B	B	B				
Home Improvement Center							B	B					
Home Occupation	C	C	C	C		C	B		B				
Hospital												B	
Hotel							B	B	B				
Industrial										B			
Jewelry Store							B	B	B				
Junk Business							C						
Kennel							C						
Laboratory							B	B	B				
Laundromat							B	B	B				
Liquor Store							B	B	B				
Manufacturing										B			
Manufactured Home						A							

LAND USE	RESIDENTIAL						COMMERCIAL			INDUSTRIAL	RAIL TRAIL	PUBLIC USE	SUPPLEMENTAL USE REGULATIONS APPLY
	SF-1	SF-2	SF-3	MF-1	R-P	MH	C-1	C-2	C-3				
Manufactured Home Park						B							
Massage Establishment							B	B	B				
Microbrewery							B	B	B				
Museum							B	B	B		B		
Neighborhood Store		C	C	C			B	B	B				
Nursery							B	B					
Nursery, School							B		B			X	
Nursing or Adult Homes				B			B						
Office							B	B	B	B			
Parking Structure							B	B	B				
Planned Unit Development		B	B	B			B						
Professional Medical Building					B		B	B	B				
Professional Offices					A		B	B	B	B			
Public Buildings and Uses											B		
Public Park	B	B	B	B							B		
Public Utility	C	C	C	C			C	C		C	C	X	
Rail Trail											B		
Recreation Facility							B	B	B				
Restaurant		C	C	C			B	B	B				
Restaurant, Fast Food							B	B	C				
Retail Sales							B	B	B				
Satellite Dish	A	A	A	A	A		A	A	A			X	
Shoe Repair							B	B	B				
Shopping Center								B					
Storage Facility							B	B					
Supermarket							B	B					
Swimming Pools: Residential	A	A	A	A		B	A					X	
Tailor							B	B	B				
Tanning Studio							B	B	B				
Tattoo Parlor							B	B	B				
Telecommunications Towers and Facilities							C	C		C			
Theater							B	B	B				
Tourist Homes							B		B				
Townhouse	B	B	B	B			B						
Truck Stop								B		B			
Veterinary Hospital/Office							B	B					
Warehouse							B	B		B			

A: Use Allowed by Right  
B: Use Allowed by Site Plan Review  
C: Use Allowed by Special Use Permit

## **ARTICLE VI: PRESERVATION OVERLAY DISTRICT**

### **Section 22-601: Intent and Purpose**

A. This Article is intended to:

1. Create a Preservation Overlay District.
2. Establish standards and procedures that shall apply to those uses and actions located in a Preservation Overlay District.
3. To protect and preserve areas, neighborhoods, properties, places, structures, sites and objects having special or distinctive character, historic, aesthetic, cultural or architectural interests and which serve as reminders or symbols of the City's history and heritage.
4. To protect and preserve the interest in the health, safety and welfare of the public.

### **Section 22-602: Preservation Overlay District**

- A. The Preservation Overlay District is hereby established as a zoning district which overlays and overlaps underlying zoning districts.
- B. The boundaries of the Preservation Overlay District shall be shown on the City's official Zoning Map.
- C. All uses, density standards, supplemental and other regulations of the underlying zoning district shall continue to apply to properties located in a Preservation Overlay District.
- D. The provisions of this Article shall also apply to those properties located in a Preservation Overlay District.

### **Section 22-603: Planning Board**

- A. The Planning Board shall review all applications for a Building and Zoning Permit filed with the Code Enforcement Official for the following actions located in a Preservation Overlay District:
  - (a) Any exterior alteration, restoration, reconstruction, demolition, new construction, or moving a building located in a Preservation Overlay District.
  - (b) Any material change in the exterior appearance of a building or property, its light fixtures, sidewalks, fences, steps, paving or other exterior elements which affect the appearance and cohesiveness of a property in a Preservation Overlay District.
  - (c) Install or replace a sign on a building or property in a Preservation Overlay District.
  - (d) Any exterior work to a building or property in a Preservation Overlay District that requires a building permit under the NYS Uniform Fire Prevention and Building Code.
  - (e) Demolish or remove a building in a Preservation Overlay District.
- B. The following activities may be determined by the Code Enforcement Official to be exempt from having to be reviewed by the Planning Board under this Article:
  - (a) Repair, replacement and installation of electrical, plumbing, heating, and ventilation systems, provided that such work does not affect the exterior of the building.
  - (b) Caulking, weatherstripping glazing and repainting of windows, frames and sashes.
  - (c) Installation of new window jambs or jamb liners that does not affect the exterior character of the building.
  - (d) Repair, replacement or installation of gutters and downspouts.
  - (e) Installation of insulation where exterior siding or trim is not altered or damaged.
  - (f) Repair or replacement of water, gas, storm and sewerlines.
  - (g) Emergency repairs necessitated by a casualty to the property (fire, storm, flood, etc.).

(h) Interior renovations not visible from a public street.

C. Application Procedures:

1. If the Code Enforcement Official determines that an application for a Building and Zoning Permit requires a Planning Board review in accordance with this Article, the Code Enforcement Official shall forward the application to the Planning Board.
2. The Planning Board may require additional information from the applicant prior to conducting its review of the application.

D. Actions of the Planning Board:

1. For any application received, the Planning Board may take one of the following actions:
  - a. Approve.
  - b. Approve with conditions.
  - c. Disapprove.
2. For each decision, the Planning Board shall include written findings within the Board's meeting minutes.
3. The Planning Board may impose appropriate conditions and safeguards to ensure compliance with the Preservation Standards included in Section F of this Article.
4. Applications which have been approved by the Planning Board shall be signed and dated by the Chair of the Board.
5. The Planning Board must act on all applications within sixty (60) days of its receipt of a completed application.
6. The Planning Board shall return the application with its written decision to the Code Enforcement Official.
7. A vote of the majority of all members of the Planning Board shall be required to decide on any application.

E. Criteria for Approval:

1. The Planning Board's decision to approve, conditionally approve or disapprove an application for a Building and Zoning Permit shall be based upon the following principles:
  - a. The importance of historic, cultural, architectural, aesthetical and environmental attributes of the building or property.
  - b. Buildings which contribute to the historic, architectural or overall character of a neighborhood shall be retained, with their features altered as little as possible.
  - c. Any alteration of existing buildings or properties shall be compatible with their historic, architecture or overall character.
  - d. New construction shall be compatible with the historic, architectural, aesthetic and character of the adjoining buildings or properties in a Preservation Overlay District.
  - e. The removal or alteration of any historic, cultural or material of character or distinctive architectural feature shall be avoided to the fullest extent possible.
  - f. Deteriorated architectural features should be restored rather than replaced wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities.

- g. Repair or replacement of missing architectural features should be based on accurate duplication of features, substantiated by historic, physical, or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other structures.
- h. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials or historic landscape features shall not be undertaken.

F. Preservation Standards:

1. The Planning Board shall review applications for compliance with the following Preservation Standards:

a. Proportion.

- (1) Front Façade. The relationship of the width of a structure to the height of the front elevation shall relate to the surrounding structures.
- (2) Openings. The relationship of the width of windows and doors to their height shall relate to the surrounding structures.

b. Orientation.

- (1) The orientation of a new structure to open space between it and adjoining structures shall relate to the character of the surrounding area.

c. Setback.

- (1) The front yard setback for the building line of all new construction shall be no closer to the street than the closest, or no further from the street than the farthest, of the next two (2) abutting structures on each side of the building site, provided such structures are in conformance with area regulations of the Zoning District.

d. Major Building Elements.

(1) Storefronts.

- (a) Existing storefronts shall be retained and rehabilitated whenever possible to retain their character as well as their architectural or historic features.
- (b) Storefronts which have been altered or removed shall be repaired or compatibly redesigned to restore their character as well as their architectural or historic features.

(2) Doors.

- (a) Existing doors and door openings shall be retained and rehabilitated wherever possible to retain their character as well as their architectural or historic features.
- (b) Restoration of openings shall be encouraged where they have been previously altered. Where doorways must be altered to meet current building code and safety requirements, doors and entranceways shall be designed also to respect the exterior architectural integrity of the structure.

(3) Windows.

- (a) Existing windows and window openings shall be retained and rehabilitated wherever possible to retain their character as well as their architectural or historic features.
- (b) Restoration of historic openings is to be encouraged where they have been previously altered.

(4) Roofs.

- (a) Features which give a roof its essential character shall be preserved whenever possible to retain their character as well as their architectural or historic features.
- (b) Roof designs for new structures shall be compatible with adjoining properties in a Preservation Overlay District.

e. Materials.

- (1) Materials shall be compatible with those used in adjoining properties in a Preservation Overlay District. Contemporary materials such as glass, concrete, synthetic siding etc., may be acceptable, provided that the design for their use demonstrates compatibility with the overall context of adjoining properties.

f. Landscaping.

- (1) Landscaping shall be compatible with the character of the individual structure as well as with the surrounding structures in adjoining properties in a Preservation Overlay District.

g. Demolition.

- (1) If the application for a Building and Zoning Permit involves the demolition of a building purported to be unsafe, the Board shall refer the application to the Code Enforcement Official and City Engineer for their advisory review and reports. The Board shall review their advisory reports and make a determination whether the structure can or cannot reasonably be repaired in such a way to remove the unsafe condition.
- (2) In the case of a building having architectural, cultural, character or historical significance, the applicant shall be required to show good cause as to why said structure cannot be preserved. All applications for demolition shall be required to show why buildings cannot be preserved, except in the case of structures identified as having no architectural or historical significance.
- (3) An application for demolition of a building with architectural, cultural or historical significance shall include plans for development of the site following demolition. Such plans shall include an acceptable timetable and guarantees which may include performance bonds/letters of credit for demolition and completion of the project.
- (4) Relocating building of architectural, cultural or historical significance may be permitted as an alternative to demolition.
- (5) The Planning Board shall have no authority to act in cases where an appropriate legal action or procedure has resulted in a judgement order by a court of competent jurisdiction which determined that a structure endangers the health, safety and welfare of the public and shall be demolished.

h. Paint Colors.

- (1) Paint colors shall be determined by the property owner.
- (2) Property owners shall be encouraged by the Planning Board to utilize exterior paint colors consistent with the character of the structure and surrounding structures.

**Section 22-604: Effect of Planning Board's Actions**

A. Building and Zoning Permits:

1. The Code Enforcement Official shall deny an application for a Building and Zoning Permit for an action in a Preservation Overlay District disapproved by the Planning Board under this Article.
2. The Code Enforcement Official may approve an application for a Building and Zoning Permit for an action conditionally approved by the Planning Board as soon as the conditions specified in such conditional approval have been fulfilled and satisfied.
3. If the Planning Board approved an application for a permit under this Article and such application shall otherwise be in conformance with all codes and ordinances of the City of Johnstown, the Code Enforcement Official shall issue the Building and Zoning Permit applied for.
4. The Code Enforcement Official shall issue a Building and Zoning Permit as applied for in the case of any completed building permit application referred to such Board and on which such Board has failed to act in accordance with the provision of this Article within sixty (60) days of the receipt of said application by the Board.

**Section 22-605: Appeals**

A. Types of Appeals:

1. Proposed Alterations/Renovations:

- a. An applicant whose permit for a proposed alteration/renovation has been denied by the Planning Board may apply for relief to the Zoning Board of Appeals on the ground of hardship.
- b. In order to prove the existence of hardship, the applicant shall establish that the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible.

2. Proposed Demolition Work:

- a. An applicant whose permit for demolition work has been denied by the Planning Board may appeal to the Zoning Board of Appeals on the grounds that the Board's standards and decision are working a hardship upon the applicant.
- b. In order to prove the existence of a hardship, the applicant shall establish that:
  - (1) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible, if the application is denied. "Dollars and cents proof" shall be presented to the Zoning Board of Appeals by the applicant which demonstrates to the satisfaction of the Zoning Board of Appeals that the applicant's claim of hardship is well founded.
  - (2) The property cannot be adapted for any other use permitted by the Zoning Ordinance in the Zoning District in which the property is located, whether by the current owner or by a purchaser, which would result in a reasonable return.

- (3) Reasonable good faith efforts to find a purchaser interested in acquiring the property and preserving were made and have failed.

**B. Appeals Procedure:**

1. After receiving written notification from the Planning Board of the denial of an application, an applicant may appeal to the Zoning Board of Appeals.
2. The Zoning Board of Appeals shall consult with the Planning Board to learn the Board's reason for denial. No building permit or demolition permit shall be issued unless the Zoning Board of Appeals determines that a hardship exists and approves an appeals application.
3. The Zoning Board of Appeals shall hold a public hearing on the application within forty-five (45) days of filing of the hardship application. Notice of the hearing shall be printed in a newspaper of general circulation in the City of Johnstown at least ten (10) days, before the hearing.
4. The Zoning Board of Appeals shall act on all appeals applications within forty-five (45) days of the date of the public hearing.
5. All decisions of the Zoning Board of Appeals shall be in writing and filed with:
  - City Clerk
  - Code Enforcement Official
  - City Engineer
  - Mayor
  - City Attorney
  - City Planning Board
6. The Zoning Board of Appeals' written decision shall state the reasons for granting or denying the hardship application.

**Section 22-606: Expiration**

- A. Unless otherwise specified or extended by the Planning Board, decisions on all applications approved under the provisions of this Article shall expire if the applicant fails to achieve substantial completion of the project within 1 year of the date of the Planning Board's final approval or such earlier deadline as may be imposed by the Planning Board as a condition to the Planning Board's approval.
- B. Unless otherwise specified or extended by the Planning Board, all approvals on applications granted prior to the adoption of this Ordinance shall expire if the applicant fails to obtain the necessary Building and Zoning Permit and begin actual construction or comply with the conditions of said authorization within ninety (90) days of the adoption of this Article.
- C. The Planning Board shall have the authority to grant an extension to any approval granted under this Article.

**Section 22-607: Landmarks**

**A. Landmarks:**

1. The Common Council may designate an individual building or property as a Landmark if it:
  - (a) Possesses special architectural character, historic, cultural, geographic or aesthetic interest or value as part of the cultural, political, economic or social history of the City, region, state or nation; or
  - (b) Has a unique location, singular physical characteristic or represents an established and familiar visual feature of the neighborhood or community.

2. Once designated as a Landmark, any work proposed to be undertaken on the building or property shall be performed in accordance with Section 22-603(F) of this Article.
3. Once designated as a Landmark, this designation shall remain with the building or property even if property ownership changes.

B. Review Process:

1. In order for a building or property to be designated a Landmark by the Common Council, the building or property owner shall submit an application to the Common Council requesting such designation.
2. Within 30 days of the receipt of a completed application, the Common Council shall set a day and time for a public hearing to obtain public input on an application to designate a building or property as a Landmark.
3. The Common Council shall, within ten (10) days of the public hearing, mail a “Notice of a Proposed Landmark Designation” to the owner of the building or property proposed for designation as a Landmark and to all adjacent property owners.
4. The Common Council shall hold a public hearing on the proposal to designate a Landmark. The Common Council, property owners and any interested parties may present testimony or documentary evidence at the hearing regarding the historic, architectural, or cultural importance of the proposed landmark. The evidence may also contain staff reports, public comments, or other information.
5. The Common Council shall complete a SEQR Review of the proposed action prior to making its final decision.
6. The Common Council shall make a determination to approve, approve with modifications or disapprove the application to create a Landmark within ninety (90) days of the date of the public hearing.
8. After Common Council approval, the City Clerk shall forward a written notice of each property designated as a Landmark to:
  - a. Fulton County Clerk for recordation.
  - b. City Clerk.
  - c. City Code Enforcement Official.
  - d. City Attorney.
  - e. City Assessor.
  - f. City Planning Board.
  - g. Fulton County Planning Board.
  - h. Others as needed.

## **ARTICLE VII: PLANNED DEVELOPMENT DISTRICT**

### **Section 22-701: Purpose**

- A. The Common Council shall have the authority to create a Planned Development District anywhere in the City by amending the Zoning Ordinance in accordance with the procedures identified in this Article.
- B. The intent of creating a Planned Development District is to:
  1. Provide design flexibility and economies of scale in a proposed development.
  2. Allow innovative designs on certain properties that may not otherwise be allowed through the application of the use, area, bulk and density requirements of the Zoning District.
  3. Preserve and integrate historically significant sites and structures with viable adoptive uses.
  4. Advance the goals of the City's Comprehensive Plan.

### **Section 22-702: Application Procedure**

- A. Application:
  1. Three (3) copies of an Application to create a Planned Development District shall be filed with the Code Enforcement Official.
  2. An Application shall consist of the following information:
    - a. Site Plan, drawn to scale, prepared by a Licensed Land Surveyor, Architect or Professional Engineer that includes the following information regarding existing conditions:
      - 1) Project Boundaries:
        - Boundaries of the land area proposed to be rezoned to Planned Development District.
        - List of all tax parcels proposed to be included in the Planned Development District including tax parcel number, property owner and acreage of each tax parcel.
        - Location of all existing property lines, easements and rights of way within the area proposed to be rezoned to Planned Development District.
      - 2) Topography:
        - Existing topography of site shown with a 5' contour or larger interval.
      - 3) Existing Buildings and Utilities:
        - Location of all existing buildings, roads and above and below ground utilities.
      - 4) Location of key physical features, including wetlands, streams and key natural and man-made features of land including the location of all trees.

- b. Site Plan, drawn to scale, prepared by a licensed Registered Architect or Professional Engineer that includes the following information regarding proposed development:
  - Total acres to be included in the Planned Development District.
  - Proposed development density of the Planned Development District.
  - Proposed land uses in the Planned Development District, the location of each use and the total acres allocated to each use.
  - Proposed streets, sidewalks and utility extensions.
  - Proposed topography at 5' or smaller contour interval.
  - Proposed off-street parking and loading facilities.
  - Proposed site lighting.
  - Proposed landscaping and signage.
  - Stormwater Management Plan.
- c. A written narrative fully describing the proposal including:
  - How the Planned Development District advances the goals of the City's Comprehensive Plan.
  - Why the proposed project could not be achieved without the creation of a Planned Development District.
  - How the property in the Planned Development District would be owned.
  - Infrastructure needs of the Planned Development District and how they will be addressed.
  - The architectural design of proposed buildings.
  - How the proposed project satisfies the intent of this Article.
  - The density calculations of all proposed uses.
  - Full Environmental Assessment Form.
3. Upon receipt of an Application to create a Planned Development District, the Common Council shall review said Application to determine if it is complete. If additional information is required by the Common Council, the Code Enforcement Official shall notify the applicant of the additional information required.
4. Referral:
  - a. Once an Application to create a Planned Development District is determined by the Common Council to be complete, the Common Council shall forward a copy of said application to:
    - City Planning Board for a recommendation.
    - County Planning Board for a review in accordance with Section 239 m of the General Municipal Law.
  - b. The City Planning Board and County Planning Board shall, within sixty (60) days of the receipt of an application to create a Planned Development District, submit their written recommendations to the Common Council.
5. SEQR:
  - a. The Common Council shall conduct a SEQR review of the proposed Planned Development District.

- b. No final action(s) regarding the Planned Development District shall be taken by the Common Council until the SEQR review has been completed and a Determination of Significance has been issued and filed.
- 6. Public Hearing:
  - a. The Common Council shall, within 30 days of the receipt of the recommendations from the City Planning Board and County Planning Board, conduct a public hearing.
  - b. The public hearing may be conducted prior to completing the SEQR review if the Common Council finds that the public hearing may assist in its review of the proposed action's potential impacts on the environment.
- 7. Conditions:
  - a. The Common Council may establish any reasonable conditions to address potential impacts the Planned Development District may create and to insure the Planned Development District satisfies the purpose of this Article.
- 8. Decision of Common Council:
  - a. Within sixty (60) days of the public hearing, the Common Council shall decide whether to approve, disapprove or approve within conditions the application to create a Planned Development District.
  - b. The decision to approve an application shall result in the amendment of the City's Zoning Map as a Planned Development District to the parcels the Common Council agreed to include in the Planned Development District subject to whatever conditions are established by the Common Council.
  - c. In rendering its decision, the Common Council shall consider the following guidelines:
    - 1) The need for, or suitability of, the proposed land use or uses in the subject location.
    - 2) The compatibility of the proposed Planned Development District with the surrounding area or neighborhood and the existing uses located on the adjacent properties in which the Planned Development District will be located.
    - 3) Adequate safeguards have been included to minimize possible detrimental effects or impacts that the proposed Planned Development District may have on adjoining properties.
    - 4) Adequate drainage, water supply and sewerage disposal facilities, traffic access and municipal services are available or will be provided to serve the Planned Development District.
    - 5) Whether a positive or beneficial increase in tax base can be expected when compared with cost of municipal services.
    - 6) Whether the proposed Planned Development District will further the general welfare, health and safety of the residents of the City.
- 9. Findings of Common Council:
  - a. The Common Council shall prepare written findings that document the facts and information utilized in making its decision on all applications to create a Planned Development District.

- b. The following findings and the specific reasons supporting each finding shall be made and recorded in the meeting minutes in order to approve a Planned Development District:
  - 1) The proposed Planned Development District would be consistent with the purpose of this Article.
  - 2) The proposed Planned Development District would be consistent with the Planned Development District design standards contained in Section 22-703.
  - 3) The proposed Planned Development District would be consistent with the City's Comprehensive Plan.
  - 4) The proposed Planned Development District would be compatible with the surrounding neighborhoods.
  - 5) The proposed Planned Development District would protect the general public, health, welfare and safety of the residents of the City.
  - 6) The requirements of SEQRA have been satisfied and fulfilled.

### **Section 22-703: Planned Development District Design Standards**

#### **A. Allowable Uses:**

1. The following uses shall be allowed by the Common Council in a Planned Development District:
  - Commercial
  - Retail
  - Offices
  - Industrial
  - Residential
  - Recreation
  - Mixed Use
  - Mixed Occupancy
2. No use shall be established or approved if determined by the Common Council to not protect the health, safety and welfare of the residents of the City.

#### **B. Development Density:**

1. The density of development within a Planned Development District shall be established and approved by the Common Council.
2. The development density shall be based upon the total buildable land area within a Planned Development District.
3. Lands meeting the following criteria shall be excluded from the calculation of buildable area:
  - Freshwater wetlands under the jurisdiction of the New York State Department of Environmental Conservation regulations.
  - Waters of the United States, including wetlands under the jurisdiction of the U.S. Army Corps of Engineers.
  - Streams that are classified or classifiable by the New York State Department of Environmental Conservation.

- Critical environmental areas as designated by the New York State Department of Environmental Conservation.
  - Lands within a 100 year flood zone.
  - Slopes in excess of 15 percent.
  - Other areas of environmental or scenic significance as may be identified by the Planning Board, Common Council, or the City's Comprehensive Plan.
4. An application for a Planned Development District may be able to request a higher development density if the proposed Planned Development District includes one or more of the following features:
- The inclusion of City-wide public recreational facilities, other community facilities, or some combination thereof.
  - The provision of open space above and beyond the requirements outlined in this Article, especially if the open space is creatively connected with existing open space for purposes such as recreational trails or similar benefits of public importance.
- C. Natural Features of Planned Development District Site:
1. Significant natural features of a proposed Planned Development District site shall be preserved whenever possible to:
- a. Enhance the quality of development.
  - b. Provide screening and buffering between the Planned Development District and surrounding properties.
  - c. Preserve or improve the character of existing neighborhoods.
  - d. Protect important environmental resources.
- D. Streets:
1. A Planned Development District involving the construction of new roads proposed to become a City street shall be constructed to the specifications of the City.
  2. Access points of proposed new streets to existing City streets shall be approved by the City. The design of these access points shall provide safe, controlled turning movements and minimize hazards to vehicles and pedestrians.
- E. Pedestrian Access:
1. A Planned Development District shall provide safe and accessible pedestrian access.
- F. Historic Sites and Buildings:
1. If a Planned Development District site involves a historic site or building, said site or building shall be preserved and incorporated into the Site Plan whenever possible.
- G. Off-street Parking and Loading:
1. The Common Council shall determine the number of off-street parking spaces and loading facilities shall be required for the Planned Development District.

H. Utilities:

1. All utilities within a Planned Development District shall be underground unless approved otherwise by the Common Council.

I. Lighting:

1. Exterior lighting within a Planned Development District shall be located and arranged to prevent glare and interfere with adjoining properties and streets.

J. Open, Natural and Recreational Spaces:

1. Planned Development Districts shall integrate open and recreational spaces within the Site Plan.
2. Common areas, natural open spaces, pedestrian walkways, sitting and observation areas, natural habitats, parks and recreational facilities should, to the extent practical, be integrated into a Planned Development District.

K. Stormwater Drainage:

1. An approved Stormwater Permit from the NYS Department of Environmental Conservation and a copy of the approved Stormwater Plan shall be filed with the Code Enforcement Official.

L. Signage:

1. The location, quantity and design of all proposed signage shall be approved by the Common Council.

**Section 22-704: Other Provisions**

A. Planned Development District Repealer:

1. The Common Council may act to return the property in a Planned Development District to its prior zoning district classification if it finds that:
  - a. Conditions or performance requirements specified by the Common Council in its Planned Development District approval have not been met or achieved.
  - b. The Planned Development District approval expired by the failure of the applicant to make substantial and continuing progress in the development of the project for more than three (3) years from the date of final approval. The determination of substantial and continuing progress shall be determined solely by the Common Council which may consider any factors in making its determination, including the securing of project financing and changed market conditions.
2. If a Planned Development District is repealed, any buildings constructed or used may continue as a non-conforming use and such shall continue to be bound by the previous Planned Development District approval.

## ARTICLE VIII: SUPPLEMENTARY USE REGULATIONS

### Section 22-801: Accessory Uses

#### A. General.

1. Accessory Uses shall be permitted only in those Zoning Districts identified in the Land Use Table.
2. Accessory Uses shall only be permitted if there is an existing permitted principal use on the lot.
3. Accessory Uses shall be permitted in the rear yard only unless otherwise specified.

#### B. Supplementary Regulations for Certain Accessory Uses.

1. Garage Sales: Garage Sales shall be permitted in any Zoning District without a Building and Zoning Permit provided that the sale shall not exceed three (3) consecutive days in length and shall not be conducted more than three (3) times per year. Garage Sales shall require the issuance of a permit by the City Clerk.
2. Rummage Sales: Rummage Sales shall be permitted in any Zoning District without a Building and Zoning Permit provided that the Rummage Sale does not exceed four (4) consecutive days in length and shall not be conducted more than three (3) times per year.
3. Farmer's Markets: Farmer's Market events may be conducted during the months of June through September in Commercial or Public Use Districts if said Market:
  - a) Does not exceed three (3) consecutive days in length and
  - b) Is not conducted more than weekly.

### Section 22-802: Accessory Structures

#### A. General.

1. Accessory Structures shall be permitted only in those Zoning Districts identified in the Land Use Table.
2. Accessory Structures shall only be permitted if there is an existing permitted principal structure on the lot.
3. No more than two (2) Accessory Structures shall be allowed on any single lot or adjoining lot of the same ownership used for residential purposes.
4. Accessory Structures shall include Outdoor Wood Boilers, Storage Buildings, Accessory Pet Kennels, Accessory Compost Bins and similar structures.
5. The maximum height of an Accessory Structure shall be 12'.
6. Detached Accessory Structures in Residential Zones shall:
  - Not be allowed in a front yard.
  - Be no closer than 5' to any property line.
7. Attached Accessory Structures in Residential Zones:
  - a. An Accessory Structure attached to the principal structure in a residential zoning district shall comply with all requirements applicable to the principal structure as well as those requirements in Section 22-902(B)(10) and (11).

8. Accessory Structures in Commercial Zones:

- a. All Accessory Structures in Commercial and Industrial and Public Zones shall comply with the front and side yard setbacks applicable to the principal structure to which they are accessory to and no closer than 10' to a rear property line.

9. Building and Zoning Permits:

- a. The following Accessory Structures shall require the issuance of a Building and Zoning Permit by the Code Enforcement Official:
  - Barns.
  - Gazebos.
  - Hobby Shops.
  - Outdoor Wood Boilers.
  - Playhouses.
  - Pool Bath Houses.
  - Solar Panels.
  - Storage Buildings.
  - Tree Houses.
  - Woodsheds.

**B. Supplementary Regulations for Certain Accessory Structures.**

1. Outdoor Wood Boilers:

- a. An Outdoor Wood Boiler shall be designed, constructed and operated in accordance with the following standards:
  1. Only firewood and untreated lumber shall be used as fuel. The combustion of garbage, domestic waste or other materials in outdoor wood boilers is prohibited.
  2. Outdoor wood boilers shall not operate any closer than 100 feet to a residential or commercial structure not occupied or controlled by the operator of the wood boiler. In no case shall a wood boiler operate closer than 30 feet from the lot line of a parcel having a residential or commercial structure not occupied or controlled by the operator of the wood boiler.
  3. Outdoor wood boilers shall be installed, maintained, and operated in conformance with manufacturer's specifications and all other applicable laws.
  4. All outdoor wood boilers shall be equipped with an operable spark arrestor.
  5. The operator of outdoor wood boilers shall take all reasonable measures to limit or avoid the flow of odors and smoke to neighbors, the interference with the enjoyment of life and property, damage to vegetation or property; and harm to human health. Measures such as the provision of additional distance or the use of a smoke stack should be considered by the operator.
  6. Nothing in this subsection shall authorize burning which is prohibited by other applicable laws or regulations.
- b. The Code Enforcement Officer shall annually report to the Common Council on the use of Outdoor Wood Boilers in the City for the Common Council to use to assess if there is a need for permits to be issued for Outdoor Wood Boilers to protect the public health, safety and welfare.

2. Accessory Pet Kennels:

- a. Accessory Pet Kennels may be placed in the rear yard of any residential district upon the issuance of a Building and Zoning Permit provided that:
  1. The kennel is located not closer than five (5) feet from a lot line;
  2. The kennel is placed on a pad of concrete, asphalt, or course stone or gravel;
  3. The kennel is enclosed by a fence not less than four (4) feet nor more than six (6) feet in height;
  4. The kennel shall not exceed two hundred (200) square feet in area.

3. Accessory Compost Bin:

- a. Accessory Compost Bins shall be permitted without a Building and Zoning Permit provided that such bin is less than 50 sq. ft. in area, less than 4 feet in height and shall be located at least five (5) feet from a lot line.
4. Patios: Patios constructed at or below yard grade may be erected without a Building and Zoning Permit. Patios may be adjacent to the permitted principal structure and shall be located at least three (3) feet from a lot line.
5. Playhouses, tree houses and children's swing sets: Playhouses, tree houses and children's swing sets shall be permitted without a Building and Zoning Permit, provided they are less than 100 sq. ft. in size and shall be located at least three (3) feet from a lot line.
6. Heat exchangers, compressors and related HVAC equipment: Heat exchangers, compressors and similar HVAC equipment shall be permitted in the rear or side yard without a Building and Zoning Permit, provided that this equipment shall be located at least three (3) feet from a lot line. Where it is determined that it is impractical to locate a heat exchanger, compressor or similar HVAC equipment in the side or rear yard, the Code Enforcement Official may permit placement in the side yard provided that the equipment is screened from view.

**Section 22-803 : Accessory Dwelling Unit**

A. Purpose.

1. Accessory Dwelling Units shall be permitted in those Zoning Districts identified in the Land Use Table.
2. Accessory Dwelling Units are intended to:
  - a. Provide a mix of housing that responds to changing family needs and smaller households.
  - b. Provide a means for residents, particularly seniors, single parents, and families with grown children, to remain in their homes and neighborhoods.
  - c. Provide a broader range of accessible and affordable housing.
3. Accessory Dwelling Units shall not be used to rent or lease to non-family members, except for a caregiver serving the needs of the occupant of the principal dwelling unit on the property.
4. The creation of an Accessory Dwelling Unit shall require the issuance of a Building and Zoning Permit by the Code Enforcement Official.

B. Ownership.

1. Either the principal residential structure or Accessory Dwelling Unit shall be owner-occupied.

C. Number of Units.

1. One (1) Accessory Dwelling Unit shall be allowed per lot.

D. Floor Area.

1. The floor area of an Accessory Dwelling Unit shall not exceed 750 square feet or one-third of the floor area of the principal residential structure on the lot, whichever is less.

E. Design Standards.

1. The design standards for Accessory Dwelling Units shall be considered minimum requirements. Applicable standards from the underlying zoning district shall also apply.
2. An Accessory Dwelling Unit may only be created through the following methods:
  - a. Internal conversion of existing living area, attic, basement or garage within the principal residential structure.
  - b. Adding floor area to the principal residential structure.
  - c. Constructing a detached accessory dwelling unit on a site with an existing residential structure.
  - d. Constructing a new residential structure with an internal or detached accessory dwelling unit.
3. Accessory Dwelling Units shall comply with the following standards:
  - a. Accessory Dwelling Units shall be placed no closer than 15 feet behind the plane of the façade of the principal residential structure.
  - b. Detached Accessory Dwelling Units shall either be recessed behind, or flush with, the front elevation of the principal residential structure.
  - c. The building height of an Accessory Dwelling Unit shall:
    - 1) For detached units, the maximum building height shall be 16' or to the height of the principal residential structure on the lot, whichever is less.
    - 2) For attached units, the maximum building height shall be the height of the principal residential structure on the lot.
    - 3) For units located in a garage, the maximum building height shall be the same height as the principal residential structure or a total height of 24', whichever is less.
  - d. All applicable setbacks for the zoning district in which the Accessory Dwelling Unit is proposed shall apply including for detached accessory dwelling units.
  - e. The orientation of an Accessory Dwelling Unit shall, to the maximum extent practical, maintain the privacy of residents in adjoining dwellings as determined by the character of the surrounding neighborhood, including landscape screening, fencing, and window and door placement.
  - f. Exterior finishing materials, roof pitch, eaves, trim, doors, and windows of Accessory Dwelling Units shall be similar in kind, style, color and proportion to the principal residential structure.

4. Parking:
  - a. One (1) off-street parking space shall be provided for each Accessory Dwelling Unit.
5. Buffering:
  - a. Buffering:
    - 1) Where a detached Accessory Dwelling Unit is within 20 feet of a lot line, a minimum 6 foot high hedge or fence between the detached accessory dwelling and the lot line shall be required to abate noise, light, and other disturbances arising from residential occupancy.
6. Primary Entrance for Attached Dwelling Unit:
  - a. The primary dwelling unit and accessory dwelling unit shall have separate outdoor entrances.
  - b. No more than one entrance shall be readily visible from the street.

F. No Subdivision of Land.

1. No detached Accessory Dwelling Unit shall be subdivided from the parcel where the principal residential structure is located, if such subdivision results in a lot or residence that fails to meet applicable density standards of the zoning district in which the unit is located.

G. Reports to the Planning Board.

1. Code Enforcement Official shall report annually to the Planning Board regarding the number of Accessory Dwelling Units established, the geographic distribution of the units, the average size of the units, the number and type of complaints, and completed and ongoing enforcement actions.
2. Such information shall be used by the Planning Board to assess whether modifications are necessary to this Section.

**Section 22-804: Antennas**

- A. A ground mounted antenna shall not exceed ten feet (10') above finished grade.
- B. A ground mounted antenna shall only be located in a rear yard.
- C. In commercial and industrial districts, antennas may be roof mounted as long as the total height of the antenna from finished grade shall not exceed the height restrictions for the Zoning District in which the antenna is located.
- D. Antennas may be allowed on a garage or house roof if:
  1. The antenna extends no further than 6' above the peak of the roof.
  2. Is located on the rear side of the building away from the front yard.

**Section 22-805: Automobile Service Station**

- A. Ingress and egress points shall be at least 50' from any intersection of rights of way lines of any streets.
- B. No new or used motor vehicles shall be exhibited or sold on any part of the lot.
- C. All service and repair work shall be performed wholly within a structure.
- D. No materials, parts or components shall be stored outdoors.

- E. No partially dismantled or wrecked motor vehicles or motorized equipment shall be stored outdoors.
- F. With respect to a Station selling motor vehicle fuels:
  1. Fuel pumps shall be at least 15' from any street line.
  2. Except for underground storage tanks, all other structures shall be at least 40' from street lines, 10' from side lot lines, and 20' from rear lot lines, except when a gasoline service station abuts a Residential Property or Residence District in which case no structure shall be closer than 20' to any side lot line.
  3. When an Automobile Service Station abuts a Residential Property or Residential District, there shall be provided maintained, in a suitable condition, a landscaped area at least 10' wide or a solid screen fence 6' high along the lot line abutting such Residential Property or Residential District.
  4. No part of any Automobile Service Station shall be used as a residence or sleeping purposes.

**Section 22-806: Bed and Breakfast:**

- A. A bed and breakfast shall comply with all New York State Laws and Regulations as they pertain to the operation of bed and breakfast establishments, specifically Section AJ-701 of the Residential Code of New York State.
- B. An annual fire inspection shall be conducted by the Code Enforcement Official to ensure compliance and conformance with the City of Johnstown's Zoning Ordinance and any other State regulations, standards and codes.
- C. The outward appearance of a bed and breakfast shall be that of a one-family dwelling and there shall be no indication of the bed and breakfast establishment from the exterior of the building, except for the sign. A separate entrance into the building for the bed and breakfast use shall not be permitted.
- D. Seating for food and beverage service shall be limited to the maximum occupancy of the bed and breakfast establishment and used only by guests.
- E. The lodging provided shall be for periods of less than two (2) weeks in duration.
- F. The maximum number of guest bedrooms at a bed and breakfast establishment shall be six, except that the Planning Board may, at its discretion, allow additional guest bedrooms up to a maximum of 10 where the Planning Board determines that the size and shape of the lot on which the establishment is proposed can accommodate the additional patrons and parking.

**Section 22-807: Car Wash**

- A. All washing and machine-drying operations shall be conducted within a structure.
- B. The building exit for automobiles shall be set back sufficiently from the nearest point of any right-of-way line, for purposes of safe ingress and egress.
- C. No washing, vacuuming, steam-cleaning, waxing, polishing, nor machine-drying operation, nor building within which such operations are conducted, shall be permitted within 100 feet of a pre-existing residential building.
- D. All lot lines abutting residentially zoned or used property shall be screened by means of a solid masonry wall, fence, or evergreen hedge of a design acceptable to the Planning Board. Such screen shall not be less than six feet (6') nor more than eight feet (8') in height and shall be maintained in good condition throughout the life of the use.
- E. Stormwater shall not be allowed to flow onto adjoining properties.

### **Section 22-808: Garages and Carports**

- A. Stormwater runoff from a garage or carport shall not flow onto an adjoining property.

### **Section 22-809: Funeral Homes**

- A. An off-street loading area shall be provided. Said off-street loading area shall be enclosed or surrounded by a solid fence and shield the off-street loading area from adjoining properties.

### **Section 22-810: Greenhouse, Commercial**

- A. Commercial Greenhouses shall be a maximum of 15' wide, 30' long and 8' tall.
- B. No manure, fertilizer, mulch or any other dust/odor producing material shall be delivered to or stored in a greenhouse or on the site upon which a greenhouse is located.
- C. There shall be adequate off-street parking.

### **Section 22-811: Nursery School and Day Care Centers:**

- A. The front yard of the site shall not be used for outdoor play space for children.
- B. Any other part of the site used for play space shall be surrounded by a fence at least 6' in height.
- C. No nursery school shall have more than thirty (30) children enrolled in any session.
- D. A safe and convenient location shall be provided for children to be dropped off and picked up. Said location shall not present a hazard to children, staff or vehicular drivers nor shall said location interfere with the flow of traffic along the public street.

### **Section 22-812: Public Utility**

- A. Transmission lines shall be so constructed to not endanger the public or surrounding property.
- B. Public utility substations shall be on lots of not less than 10,000 square feet in area.
- C. Suitable fencing shall be provided for protection of the public and in Residence Districts or when such utility transmission lines and/or substations abut a Residence Property, suitable landscaping and screening shall also be provided.

### **Section 22-813: Satellite Dishes**

- A. A satellite dish shall not exceed five feet (5') in diameter.
- B. A satellite dish less than three feet (3') in diameter may be mounted onto a residential structure below the roof line in a rear or side yard.
- C. A ground mounted satellite dish may be located in a rear yard only.

### **Section 22-814: Swimming Pools, Residential**

- A. Swimming pools shall be permitted in those Zoning Districts identified in the Land Use Table subject to the following regulations:
  - a. Swimming pools shall only be located in a rear or side yard.
  - b. Swimming pools shall not occupy more than 25% of the rear and side yard area.
  - c. Swimming pool area shall be entirely enclosed with a durable fence not less than 4' in height. For pools projecting above the ground and which are self-enclosed by the exterior projections thereof, said enclosures shall be construed to satisfy the requirements of this

provision, provided they are not less than 4' in height above the ground, and provided further that any openings in the enclosure affording access to the pool proper be provided with a gate containing an automatic or manual locking device affixed in such a manner as to exclude small children.

- d. Every gate or other opening in the fence enclosing any swimming pool shall be kept securely closed and latched at all times when such pool is not in use.
  - e. Swimming pools constructed on corner lots shall conform to the setbacks required for the principal building.
  - f. Artificial lighting for swimming pools shall be designed, constructed, located and maintained so that no direct light shall cross any property line.
- B. A swimming pool to be constructed or installed as an accessory use to a hotel, recreational or commercial facility shall be permitted after application to and issuance of a Building and Zoning Permit by the Code Enforcement Official. Such swimming pool shall be so located as not to cause a hazard to public safety or nuisance to adjoining uses and shall be designed and located in accord with acceptable engineering standards and any applicable City or state requirements. The fencing requirements identified in Section 22-814(c) shall apply.

### **Section 22-815: Fences**

- A. The construction of any fence shall require the issuance of a Building and Zoning Permit.
- B. All fences shall comply with the requirements in Article IX.

## ARTICLE IX: DENSITY STANDARDS

### **Section 22-901: Density Standards Schedule**

- A. The Density Standards establishing the minimum land area and dimensional requirements applicable to properties in each Zoning District are set forth in Schedule B and are made part of this Chapter.

### **Section 22-902: Additional Density Standards**

#### **A. Minimum Lot Size Requirements:**

1. Every building shall be located on a lot containing the minimum area for the Zoning District said lot is located in.
2. There shall be no more than one (1) building and two (2) accessory structures on one (1) lot, except for multi-family apartments and non-residential structure in districts where such uses are allowed.
3. The minimum lot size shall not be reduced to less than the minimum required. If a lot is already less than the minimum required by Schedule A, the lot may be continued but shall not be further reduced.
4. A lot of required or larger than required size as set forth in this Article shall not be reduced in size for transfer of ownership if such lot so subdivided will form two or more lots which shall not be in compliance with the minimum lot size requirements for the Zoning District in which such lot or lots are situated.

#### **B. Yard Setback Requirements:**

##### **1. Corner Lot:**

- a) A vacant corner lot to be developed shall provide a front and side yard which shall be designated by the owner in the application for a Building and Zoning Permit.
- b) When the two (2) street frontages of a corner lot are the same length, the Owner shall select which streets are to be deemed the front and side yards.
- c) The front yard depth of a corner lot shall be not less than the required front yard depth from the front lot line, and the width of the side yard on the side street shall be not less than the depth of the front yard required for the adjoining lot which abuts said side streets.

##### **2. Corner Lot Setbacks:**

- a) No fence, wall, hedge or other structure or planting more than 4 feet in height shall be erected, placed or maintained so as to obstruct visibility of vehicular traffic within the triangular area formed by the intersecting street right-of-way lines and a straight line joining said lines at points 20 feet from the point of intersection, measured along said lines.

**3. Transition Yard Requirements:**

- a) Where the side or rear yard of a lot abuts a side or rear yard of a lot in a district more restrictive by reason of setbacks, there shall be provided along such abutting line or lines a side or rear yard equal in depth to that required in the more restricted district.

**4. Porches:**

- a) No porch may project into any yard setback.

**5. Decks and Terraces:**

- a) A deck or terrace not to exceed 18 inches above grade or paved terrace that are unroofed and without walls shall not be considered as part of a building in the determination of yard sizes or lot coverage.
- b) Such deck or terrace is restricted to not less than 10 feet from side or rear lot line.

**6. Driveways and Sidewalks:**

- a) Driveways and sidewalks may be constructed in any yard setback area.

**7. Swimming Pools:**

- a) Swimming pools shall only be placed in side or rear lots.
- b) Swimming pools shall comply with side and rear property line setbacks.
- c) In the case of a corner lot, pools shall be placed no closer to the side property line than the principle building would be allowed in that particular district.

**8. Fences, Walls and Hedges:**

- a) All fences, hedges and walls in all residential districts shall be setback at least 2' from the front lot lines and shall comply with the visibility requirements contained in Paragraph B(2) of this Article.
- b) All side and rear yard fences, walls and hedges shall be maintained so they do not encroach upon or over adjacent property lines.
- c) No gate shall be placed, erected or maintained which shall swing outward over any sidewalk.

**9. Handicapped Ramps:**

- a) Handicapped ramps shall be exempt from setback requirements.
- b) Handicapped ramps shall not encroach on any public way or adjoining lot.
- c) In no event shall handicapped ramps be constructed in such a manner as to create a hazard to the general public.

**10. Accessory Structures in Rear and Side Yards:**

- a) Accessory Structures may be located within rear and side yards provided that all Accessory Structures shall be located no closer than 5' from any property line.

**11. Accessory Structures on Corner Lots:**

- a) Accessory Structures on corner lots shall not extend closer to a side yard lot line than the principal building on said corner lot.

**12. Use of Yard Setback Space:**

- a) No yard or other open space provided for one (1) building shall be included as any part of the yard or open space for any other building.
- b) No yard or any other open space on one lot shall be considered as a yard or open space for a building on any other lot.

**C. Height Requirements:**

**1. Fences and Walls:**

- a) Fences and walls in all residential districts shall be a maximum of 4' in height in all front yards.
- b) Fences and walls in all residential districts shall be a maximum of 8' in height in all side and rear yards.

**2. Hedges:**

- a) All hedges in all residential districts shall be a maximum of 4' in all front yards.
- b) There shall be no height restriction on hedges in residential districts for hedges in side and rear yards.

- 3. The height requirement of this Article shall not apply to farm buildings, belfries, church spires, cupolas, penthouses and domes which are not used for human occupancy. Such features, however, shall be erected only to such height as is necessary to accomplish the customary purpose for which they are intended.
- 4. On through lots one hundred (100) feet or less in depth, the height of a building may be measured from the grade of either street. On through lots more than one hundred (100) feet deep, the height of a building for the street permitting the greater height shall apply to a depth of not more than one hundred (100) feet from that street.
- 5. Chimneys, water towers, mechanical appurtenances, flag poles, monuments, transmission towers and cables, radio, small wind energy systems, television and similar structures exceeding the height requirements of a Zoning District shall be subject to Site Plan Review.

**D. Maximum Lot Development:**

- 1. In determining the percentage of a lot developed or the size of yards for the purpose of this Chapter, accessory buildings and structures, porches, patios and decks, opened or closed, roofed or unroofed, shall be considered part of the principal building.

**E. Projections:**

- 1. Every part of a required yard shall be open from its lowest point to the sky unobstructed, except for the ordinary projections of sills, belt courses, pilasters, leaders, chimneys, cornices, eaves and ornamental features, provided that no such projection shall extend more than two feet (2') into any required yard.

2. Bays, including their cornices and eaves, may extend not more than two feet (2') into any required yard provided that the sum of such projections on any wall shall not exceed one-third the length of such wall.
3. An exterior stairway may extend not more than five feet (5') into any required yard setback.

**F. Miscellaneous:**

1. **Required Yards to be Maintained:** The required yards surrounding an existing building shall not be separated in ownership from that portion of the lot upon which the building is located and no part shall be considered as providing a required yard for any other existing building on the same or on an adjacent lot. A yard shall not be reduced to less than the required dimensions and shall not be further reduced in any manner.
2. **Irregularly Shaped Lots:** Where a question exists as to the proper application of any of the requirements of this Chapter to a particular lot or parcel because of the peculiar or irregular shape of the lot or parcel, the Board of Appeals shall determine how the requirements of the Chapter shall be applied.
3. **New Buildings on Lots Less than the Minimum Area:**
  - a) A Building and Zoning Permit may be issued for the erection of a building on a lot for which a valid conveyance has been recorded or contract of sale has been signed and the conveyance recorded prior to the adoption of this Chapter, notwithstanding that the area or dimensions of such lot is less than that required for the Zoning District in which such lot lies, provided that all yard setbacks and other requirements which are in effect at the time of the obtaining of the Building and Zoning Permit are complied with and provided that the owner of such lot does not own other lots contiguous thereto.
  - b) If this is the case, such other lots or so much thereof as might be necessary shall be combined with the first named lot to make a single conforming lot, or a lot that conforms to the fullest extent possible, whereupon a permit may be issued, but only for such combined lots.

**Schedule B**

**DENSITY STANDARDS**  
**IN**  
**ZONING DISTRICTS**

DENSITY STANDARD	RESIDENTIAL							COMMERCIAL				INDUSTRIAL	PDD	RAIL TRAIL	PUBLIC USE
	SF-1*	SF-2*	SF-3	MF-1	MF-1*	R-P	MH	C-1	C-2	C-3*	C-3**				
Minimum Lot Size	12,000 SF	5,000 SF	5,000 SF	5,000 SF	5,000 SF	5,000 SF	--	5,000 SF	1 ACRE	--	--	2 ACRES	* *** *	--	2 ACRES
Minimum Front Yard Setback	30'	25'	20'	20'	20'	20'	20'	30'	50'	0'	5'	30'	* * *		30'
Minimum Side Yard Setback	10'	5'	5'	5'	10'	5'	5'	5'	10'	0'	5'	20'	***		20'
Minimum Rear Yard Setback	30'	25'	20'	20'	20'	20'	20'	30'	30'	20'	20'	30'	***		30'
Maximum Lot Development	30%	40%	40%	40%	40%	40%	40%	40%	40%	--	--	50%	***	--	50%
Maximum Building Height	35'	35'	35'	35'	35'	35'	35'	50'	50'	50'	50'	50'	***	--	50'
Creek Buffer Zone Setback <sup>1</sup>	25'	25'	25'	25'	25'	25'	25'	25'	25'	25'	25'	25'	***	25'	25'

SF-1\* and SF-2\* : No building shall be erected and no building shall be reconstructed or altered so as to project beyond the average setback line observed by the building on the same side of the street within the block. Where there are existing buildings on one (1) side of the street within the block, then the setback line on the vacant side shall be 30' back from the property line. Where there is no existing building on either side of the street within the block, no new building shall be erected nearer to the property line on either side of the street than 30'.

MF-1\* : These minimum setbacks shall apply to Apartment Buildings, condominiums, Garden Apartments and Townhouses. These minimum setbacks may be increased by the Planning Board as part of the Site Plan Review process.

C-3\* : These minimum setbacks shall apply to all properties in the geographic area described as follows:

1. All property fronting Main Street from its intersection with Melcher Street to Glebe Street.
2. All properties fronting N. Perry, N. Market and N. William Streets from Main Street to Green Street.
3. All properties fronting S. Perry, S. Market and S. William Streets from William Street to Clinton Street.

C-3\*\* : These minimum setbacks shall apply to all other properties in the C-3 District not included in the geographic areas described above in C-3\*.

PDD\*\*\* : Density standards to be determined by Common Council when creating a Planned Development District.

<sup>1</sup> Creek Buffer Zone Setback applies to all lands bordering Cayadutta, Comrie, Hale, Hall and Mathew Creeks located within the City. No buildings or structures shall be constructed, placed or located within 25' of the centerline of the Creek.

## ARTICLE X: MANUFACTURED HOME PARKS

### **Section 22-1001: Manufactured Home Parks**

#### A. Intent

1. The intent of this Section shall be to promote the health, safety and welfare of the City by establishing regulations and requirements for the occupancy and maintenance of manufactured home parks and manufactured homes.

#### B. Manufactured Home Park Permit

1. No person, partnership or corporation owning land located in the City shall utilize or allow to be utilized said land for a Manufactured Home Park without first obtaining a permit in accordance with this Section.
2. The Code Enforcement Officer shall issue all permits for a Manufactured Home Park.
3. The Code Enforcement Officer shall only issue a Manufactured Home Park Permit upon the receipt of the following:
  - A written application from the property owner.
  - The required fee.
  - NYS Department of Health Permit issued in accordance with Part 17 of NYS Sanitary Code.
  - Written approval of the Manufactured Home Park plans from the City Planning Board.
4. A Manufactured Home Park permit issued in accordance with this Section shall not be assigned or transferred.
5. The expansion of any Manufactured Home Park approved pursuant to this Section shall file an application with the Code Enforcement Official. Said application shall be processed in the same manner as an application to create a new Manufactured Home Park.
6. The fees for Manufactured Home Park permits shall be set by the Common Council.

#### C. Enforcement

1. The Code Enforcement Official shall be responsible for enforcing all provisions of this Section and all Manufactured Home Park permits issued.
2. The Code Enforcement Official shall have the right and authority to, at all times, enter and inspect a Manufactured Home Park to verify compliance with the provisions of this Section and Manufactured Home Park permit.

#### D. Application Procedure

1. An application to create a Manufactured Home Park shall be submitted to the Code Enforcement Official and shall include the following information:

a) Background Information:

- 1) Name, address and phone number of applicant.
- 2) The tax parcel identification number(s) of the parcel(s) of land to be included in the park.
- 3) The number of lots to be created in the park.
- 4) Existing zoning of parcel(s) to be included in the park.

b) A Site Plan prepared by a New York State licensed Registered Architect or Professional Engineer showing the following:

- 1) The layout of the park showing:
  - All lots: current and future.
  - Roads
- 2) Topographic contours at 2-foot intervals: existing and proposed
- 3) Location of water courses, streams, federal and State-regulated wetlands, flood hazard areas and other critical environmental areas.
- 4) The location, arrangement and dimensions of all lots.
- 5) Location and dimensions of all roads, sidewalks and intersections.
- 6) Location of all proposed water and sewer lines.
- 7) Location of all proposed electric, gas and other utility lines.
- 8) Location of all proposed exterior lighting.
- 9) Location and details of all proposed signage.

c) Landscaping Plan.

d) Stormwater Management Plan.

e) Full Environmental Assessment Form.

2. Three (3) complete copies of an application shall be submitted to the Code Enforcement Official.
3. Upon receipt of an application, the Code Enforcement Official shall determine if all required information has been submitted. If not, the Code Enforcement Official shall notify the applicant of what information is missing.
4. Once the Code Enforcement Official deems an application to be complete, the Code Enforcement Official shall forward copies of the application to:
  - 1) NYS Department of Health.
  - 2) City Planning Board.
5. The Planning Board shall review the application for compliance with the standards and requirements for Manufactured Home parks contained in this section.
6. The Planning Board shall fix a time within 45 days from the day the Planning Board determines an application for a Manufactured Home park permit to be complete, for a public hearing on the application. A public notice of such hearing shall be published in the City's official newspaper.
7. Within 30 days after such public hearing, the Planning Board shall approve, approve with modifications or disapprove the application for a Manufactured Home Park Permit. Failure of the Planning Board to act on such matter within 30 days shall constitute approval of the application.

8. The written decision of the Planning Board on an application for a Manufactured Home Park Permit shall be immediately filed with the City Clerk and Code Enforcement Official.

E. Standards for Manufactured Home Parks

1. Manufactured Home Parks shall comply with the Part 17 of the New York State Sanitary Code, as amended.
2. The following additional standards shall apply to the layout, development and operation of a Manufactured Home Park in the City of Johnstown.

a) General:

- 1) A Manufactured Home built after January 15, 1974 that does not meet the State Code for Construction and Installation of Manufactured Homes (9 NYCRR) shall not be installed in a Manufactured Home Park.
- 2) A Manufactured Home built after June 15, 1976 that does not meet the U.S. Department of Housing and Urban Development Manufactured Home Construction and Safety Standard (CFR, Title 24, Part 3280) shall not be installed in a Manufactured Home Park.

b) Manufactured Home Lots:

- 1) Each Manufactured Home Park shall be marked off into lots.
- 2) Each lot shall have a total area of not less than 5,000 square feet with a minimum dimension of 50 feet.

c) Manufactured Homes:

- 1) No Manufactured Home shall be parked or otherwise located nearer than a distance of:
  - i. At least 25 feet from an adjacent Manufactured Home in any direction.
  - ii. At least 30 feet from an adjacent property line.
  - iii. At least 100 feet from the right-of-way line of a public street or highway, unless by Special Use Permit.
  - iv. At least 10 feet from the nearest edge of any roadway located within the park.

d) Manufactured Home Stand:

- 1) Each Manufactured Home Lot shall have a sufficient sized Manufactured Home stand.
- 2) The stand shall be constructed of a durable, nonporous material adequate to support maximum anticipated loads. Minimum accepted standard would be a 6" concrete monolithic pad reinforced per American Concrete Institute Standards.
- 3) The stand shall be suitably graded to permit proper surface drainage.
- 4) All Manufactured Homes to be provided with full skirting or equal per National Manufacturers Home Standards.

e) Accessibility:

- 1) A Manufactured Home Park shall be easily accessible from an existing public highway or street.
- 2) Where a Manufactured Home Park has more than 16 Manufactured Homes, 2 points of entry and exit shall be provided, but in no instance shall the number of entry and exist points exceed 4. Such entrances and exits shall be designed and strategically located for safe and convenient movement into and out of the park and to minimize friction with the free movement of traffic on a public highway or street.
  - i. All entrances and exits shall be essentially at right angles to the existing public highway or street.
  - ii. All entrances and exits shall be free of any material which would impede the visibility of the driver on a public highway or street.
    - (a) All entrances and exits shall be of sufficient width to facilitate the turning movements of vehicles with Manufactured Homes attached.
  - iii. Each park shall have improved streets to provide for the convenient access to all Manufactured Home lots. Streets shall be constructed to the City's specifications.

f) Parking:

- 1) One (1) off-street parking space shall be provided on each Manufactured Home lot. The parking space shall be of similar construction and grading as the mobile streets. Such space shall have a minimum width of 9 feet and a minimum length of 30 feet.
- 2) Additional off-street parking spaces shall be provided at strategic and convenient locations for guests and delivery and service vehicles.
- 3) There shall be one (1) such parking space for each two (2) Manufactured Home lots within the Park.
- 4) Such parking space shall be provided in bays which shall provide for adequate maneuvering space.

g) Water and Sewage Facilities.

- 1) The following utilities and service facilities shall be provided in each Manufactured Home Park, which shall be in accordance with the regulations and requirements of the City of Johnstown, the New York State Department of Health, the New York State Department of Environmental Conservation and New York State Sanitary Code:
  - a. Water Supply.
    1. Each Manufactured Home lot shall be provided with an adequate quantity and quality of drinking water. Each Manufactured Home lot shall be provided with proper water connections.

2. A minimum water pressure of 20 psi shall be provided to each lot.
3. Each Manufactured Home lot shall be provided with a water service connection consisting of a service box with a shut-off valve installed below the frost line and a three-quarter inch riser pipe shall be supplied on each site. Surface drainage shall be diverted from the connection. The park operator shall be responsible for maintaining the shut-off and riser pipe, except where the responsibility for the riser pipe has been transferred to the Manufactured Home occupant by formal written agreement.

b. Sewage Facilities.

1. Each Manufactured Home lot shall be provided with a sewer, which shall be connected to the Manufactured Home situated on the lot, to receive the waste from each Manufactured Home.
2. All sewage facilities shall be designed, constructed and maintained in accordance with the appropriate standards of the Departments of Health or Environmental Conservation.
3. No construction of new or modified facilities shall commence until approval from the agency have jurisdiction in writing has been received by the operator. All construction shall be in accordance with approved plans.
4. Each site shall be provided with a minimum of four-inch sewer pipe below the ground surface and a four-inch rise pipe.
5. The connecting pipe (minimum of three-inch diameter) from the Manufactured Home to the riser pipe shall be non-collapsible and semi-rigid. All connections shall be watertight.
6. The riser pipe shall be provided with a watertight seal when not connected to a Manufactured Home.
7. Inadequately treated sewage on the surface of the ground shall be prohibited.

h) Other Facilities:

- 1) Garbage cans with secure covers shall be provided in quantities adequate to permit the disposal of all garbage. The cans shall be kept in sanitary condition at all times. The cans can be located no further than two hundred (200) feet from any Manufactured Home lot. Garbage and rubbish shall be collected and disposed of as frequently as may be necessary to ensure that such cans shall not overflow.
- 2) Each Manufactured Home lot shall be provided with weatherproof electrical service connections and outlets which are a type approved by the New York State Board of Fire Underwriters.
- 3) Provision of a phone or other form of communication shall be made available for the contact of emergency services.

i) Open Space.

- 1) Each Manufactured Home Park shall provide common open space for use by the occupants of such park. Such open space shall be conveniently located

in the park. Such space shall have a total area equal to at least 10 percent of the gross land area of the park.

j) Landscaping.

- 1) Lawn and ground cover shall be provided on those areas not used for the placement of Manufactured Homes and other buildings, walkways, roads and parking areas. Planting shall be provided to the extent needed in order to provide for the screening of objectionable views, adequate shade and a suitable setting for the Manufactured Homes and other facilities.
  - a. Screen planting shall be provided to screen objectionable views, Views which shall be screened included laundry facilities, other non-residential uses, garbage storage and collection areas and all abutting yards of adjacent properties.
  - b. Other planting may be required along those areas within the park which front upon existing public highways and streets to reduce glare and provide pleasant outlooks for the living units.

k) Property Maintenance.

- 1) Each stand or lot shall be maintained in an orderly manner. The use of a storage shed on each stand or lot shall be considered for the storage of equipment and other personal property.

l) Recording.

- 1) The owner or operator of each Manufactured Home Park shall keep a written record of all persons occupying or using the facilities of such park. This record shall be available for a period of at least 1 year from date of occupancy. This record shall include:
  - a. The name and address of the occupant of each Manufactured Home.
  - b. The name and address of the owner of each Manufactured Home which is not occupied by same owner.

m) Revocation of Permits.

1) Written Order.

- i. If the Code Enforcement Officer finds that a Manufactured Home Park for which a permit has been issued is not being maintained in a clean and sanitary condition or is not being operated in accordance with the provisions of this Section, the Code Enforcement Officer shall notify the owner and operator, in writing, to correct the conditions specified within ten (10) days after the receipt of said written notice.

2) Revocation of Permit.

- i. If an owner or operator of a Park refuses or fails to correct the condition or conditions specified in such order within ten (10) days, the Code Enforcement Officer shall revoke such permit and the holder of the permit shall thereupon terminate the operation of such Manufactured Home Park.

3) Correction of Violations.

- i. If the owner or operator of such Manufactured Home Park shall thereafter correct such conditions and bring the Manufactured Home Park into compliance with this Section, such owner may then apply for the issuance of a new permit for such park.
- ii. If the application is approved and a permit is granted, the applicant shall pay to the Code Enforcement Official the fee required by this Section without any credit for the fee paid for the permit which was revoked.

## ARTICLE XI: SIGNS

### **Section 22-1101: Purpose**

- A. The purpose of this Article is to regulate the use, size and location of signs in order to:
  - 1. Protect the public health, welfare and safety.
  - 2. Ensure the orderly placement of signs in the City.
  - 3. Create an attractive appearance in the City.
- B. No sign may be installed, erected or altered except in conformance with the requirements of this Article.

### **Section 22-1102: Sign Permit**

- A. No sign shall be erected, placed, installed, attached, hung, altered, enlarged or relocated without first obtaining a Sign Permit from the Code Enforcement Official in accordance with this Article.

### **Section 22-1103: Application for Sign Permit**

- A. Any person, firm or corporation owning property seeking a Sign Permit under this Chapter shall file an application with the Code Enforcement Official. The Application shall be on a form provided by the Code Enforcement Official.
- B. Each Application shall, at a minimum, contain the following information:
  - 1. The section, block and lot number of the tax parcel upon which the sign is proposed to be installed.
  - 2. The specific location of the sign.
  - 3. The design of the sign including:
    - Size: length, width and height
    - Material
    - Colors
    - Wording
    - Type of Illumination, if any
    - Method of installation/attachment.
    - Location of installation/attachment.
    - For Freestanding Signs height of top of sign above finish grade.
  - 4. Any other information as requested by Code Enforcement Official.
- C. Upon receipt of an application for a Sign Permit, the Code Enforcement Official shall sign and date the application to signify its receipt. The Code Enforcement Official shall review the Application to determine if it's complete or if additional information may be required from the applicant. If additional information is required, the Code Enforcement Official shall notify the applicant, within seven (7) working days, of what additional information will be required to complete the Application.

- D. Once an Application is determined to be complete, the Code Enforcement Official shall, within seven (7) calendar days, notify the applicant that either:
  - 1. The proposed sign complies with all requirements of this Chapter and all other applicable State and local laws, codes, rules and regulations, no other approvals are required and that a Sign Permit is issued.
  - 2. The proposed sign does not comply with one or more of the requirements of this Chapter and therefore a Sign Permit is denied. The Code Enforcement Official shall advise the applicant of the specific requirements of this Chapter that the application did not comply with.

#### **Section 22-1104: Certificate of Occupancy Permits**

- A. Once a sign has been erected, placed, installed, attached, hung, altered, enlarged or relocated, the applicant who applied for the Sign Permit shall notify the Code Enforcement Officer, in writing, and request that a final inspection be conducted to verify compliance with the Zoning Permit.
- B. The Code Enforcement Official shall inspect the sign to verify that all conditions and stipulations in all approvals and permits have been satisfied and complied with.
- C. Based upon the inspection, the Code Enforcement Official shall notify the applicant, within ten (10) calendar days of conducting the inspection that:
  - a. The sign is in complete compliance with all requirements of the Sign Permit and that a Certificate of Occupancy Permit has been issued. A copy of the Certificate of Occupancy Permit shall be transmitted to the Applicant.
  - b. The sign is not in compliance with the Sign Permit. The Code Enforcement Official shall advise the applicant of the specific requirements of the Sign Permit that have not been complied with.

#### **Section 22-1105: Nonconforming Signs**

- A. Any sign which after the adoption of this Chapter becomes nonconforming due to lack of compliance with the signage requirements of this Chapter, said signs shall be considered a nonconforming sign.
- B. A nonconforming sign shall be considered as complying with the sign regulations contingent upon compliance with the following requirements:
  - 1. No nonconforming sign shall be enlarged, altered or modified that would result in an increase in its nonconformity.
  - 2. If a nonconforming sign is to be replaced, the new sign shall conform to all requirements of this Chapter.

#### **Section 22-1106: Sign Regulations**

- A. Definitions
  - 1. General:

Building Fascia: That portion of any elevation of a building extending vertically from the grade to the top parapet wall or eaves, and horizontally across the entire

width of the building elevation, including slanted wall surfaces sometimes referred to as a mansard.

Frontage: Refers to that part of the building that borders a sidewalk or parking lot.

Awning/Canopy/Marquee: A frame often made of metal and glass projecting over a door or window.

Non-Conforming Sign: Any sign lawfully existing on the effective date of this Chapter which does not comply with the standards and regulations contained in this Chapter or any amendment hereto.

Sign – Any permanent, temporary or portable device affixed to or painted or represented directly or indirectly upon a building, structure, inflatable device, or land and which visibly directs attention to either: 1) an object, product, project, activity, event, person, institution, organization or business or 2) convey information. Each display surface shall be considered to be a sign.

Sign Face: The graphic, design, work, letter, numeral, symbol, insignia, model or combination thereof which is considered integral to the message of the sign.

Sign Structure: The supports, uprights, bracing and framework for the sign. In the case of a sign structure consisting of two or more sides where the angles formed between any two of the sides or the projections thereof exceed 30 degrees, each side shall be considered a separate sign structure.

Sign Surface Area: The entire area within a single, continuous perimeter enclosing all elements which form an integral part of the sign. The structure supporting the sign shall be excluded, unless the structure is designed in a way to form an integral background for the display. Both faces of a double-faced sign shall be included as surface or area of such a sign.

Supports: The material with which the sign is attached to a building or placed in the ground that keeps the sign in place.

Temporary Sign: Any outdoor sign that is not intended for permanent installation.

## 2. Types of Signs:

### A. Permanent:

Address Sign: A sign containing only the name or symbol of an owner, occupant of a lot or building or use and/or the number of the building or premises.

Advertising Sign: A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

Awning, Canopy or Marquee Sign: A sign that is mounted, sewn or painted on or attached to an awning, canopy or marquee that is mounted on the exterior of a building and located over a window or door.

Billboard: A free standing sign having a sign face of between 100 and 999 square feet.

Bulletin Board Sign: A sign which identifies an institutional organization on whose premises it is located and which contains the name of the institutional organization, the name or names of the person connected to it, and greetings, announcements of events or activities occurring at the institution.

Business Sign: A sign which directs attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured, or to an entertainment offered, on the premises where the sign is located.

Directional Sign: A sign that provides information and direction to pedestrians or vehicular traffic.

Directory Sign: A sign that identifies the name and location of tenants or occupants in a building or a development consisting of two (2) or more buildings.

Flag: A sign composed of any fabric, banner, or lightweight material used to signify a government, political subdivision, cause, institution, business, open houses, grand openings, event or other similar entity or use. A flag smaller than twenty-four (24) square feet shall not be considered a sign.

Flashing Sign: A sign, the illumination of which is not kept constant in intensity at all times when in use, and which exhibits sudden or marked changes in such light or color effects.

Freestanding Sign: A non-portable sign not attached to a building or is part of a self-supporting structure.

Governmental Sign: A sign erected and maintained pursuant to and in discharge of any governmental rules, regulations or laws.

Ground Sign: Any sign, other than a pole sign, placed upon or supported by the ground independent any other structures.

Historic Marker: A sign used to designate a building or location of historic significance.

Home Occupation Sign: Any sign that announces a home-based business located on that site.

Illuminated Sign: A sign, any part of which, is internally or indirectly illuminated by any type of artificial light.

Joint Identification Sign: A sign which serves as a common or collective identification for two (2) or more commercial, business or industrial uses sharing an office, plaza, shopping center or industrial park.

LED Sign: Electronic sign that illuminates when electricity passes through light emitting diodes (LED).

Memorial Sign: A sign or tablet memorializing a person, event, structure or the like.

Off-Premises Sign: A sign which directs attention to, announces or advertises a business, product, activity or service not conducted, manufactured, sold or offered on the premises where such sign is located.

On-Site Informational Sign: A sign commonly associated with, and limited to, information and directions necessary or convenient for persons coming on the property, including signs and symbols of handicapped accessibility, as required by the New York State Uniform Fire Prevention and Building Code, and signs marking entrances and exits, parking areas, one-way drives, restrooms, pickup and delivery areas and the like.

Pole Sign: A sign that is mounted on a freestanding pole or other supports.

Portable Sign: A sign not permanently attached to the ground or a building or structure and may be easily moved or relocated for reuse.

Product Sign: A sign that directly or indirectly names, advertises or calls attention to a business, product, service, sale, logo, trademark or other commercial activity which is not the actual name of the business. Logos of national chains are considered to be product signs.

Projecting Sign: A sign attached to a building with its faces perpendicular to the building fascia.

Public Service Sign: A sign capable of transmitting by intermittent lighting variable information to the public, such as the date, time and temperature, stock report, storm warnings, weather information, traffic control messages, news stories, etc., and noncommercial messages. Public service messages shall not include advertising or announcements of private sales.

Roof Sign: A sign mounted on the roof of a building that extends wholly or in part above any exterior wall.

Wall Sign: A sign mounted flat against and projecting less than 6 inches from a building or structure with its face parallel to the building fascia.

Warning Signs: Signs limited to messages of warning, danger or caution.

Window Sign: A sign displayed to the exterior or interior of a window.

B. Temporary:

Banner: A sign composed of lightweight material used for decoration advertising or promotional use. Excludes the American Flag.

Community Sign: A sign advertising coming events, special sales, contests, promotional activities, sponsored by a non-profit organization.

Construction Sign: A sign erected on premises on which construction is taking place the period of such construction, indicating the names of the architects, engineers, landscape architects, contractors and similar artisans and the owners, financial supporters, sponsors and similar persons or firm having a role or interest with respect to the structure or project.

Garage Sale Sign: A sign advertising a garage sale.

Holiday Decorations: Signs in the nature of decorations clearly incidental to and customarily and commonly associated with any national, local or religious holiday.

Political Sign: A sign announcing or supporting political candidates or issues in connection with any national, state or local election or a noncommercial message constituting a form of expression.

Private Event Sign: A sign advertising private events such as bingo games or fairs.

Private Sale Sign: A sign advertising private sales of personal property at house sales, rummage sales and the like.

Real Estate Sign: A sign pertaining to the sale or lease of the premises, or a portion of the premises, which the sign is located.

B. **General Regulations:**

1. Exempt Signs:

- a. The following types of signs shall not be subject to any of the provisions of this Article:
  - a. Address Signs.
  - b. Directional Signs.
  - c. Flags.
  - d. Government Signs.
  - e. Historic Markers.
  - f. The following temporary signs:
    - A. Construction Signs.
    - B. Garage Sale Signs.
    - C. Holiday Decorations.
    - D. Political Signs.
    - E. Private Event Sign.

F. Private Sale Sign.

G. Real Estate Sign.

2. Prohibited Signs:

- a. No roof signs shall be allowed.
- b. No off-site signs shall be allowed except billboards.
- c. No sign shall be attached to a mansard.
- d. No sign or part thereof shall contain or consist of pinwheels, posters, pennants, ribbons, streamers or other similar moving, fluttering or revolving devices. Such devices, as well as strings of light, shall not be used for the purposes of advertising or attracting attention when not part of a sign.

3. Non-Conforming Signs:

- a. Any sign which after the adoption of this Chapter becomes nonconforming due to lack of compliance with the signage requirements of this Chapter, said signs shall be considered a nonconforming sign.
- b. A nonconforming sign shall be considered as complying with the sign regulations contingent upon compliance with the following requirements:
  - 1) No nonconforming sign shall be enlarged, altered or modified that would result in an increase in its nonconformity.
  - 2) If a nonconforming sign is to be replaced, the new sign shall conform to all requirements of this Chapter.

4. Sign Measurement:

a. Area of Sign:

- 1) The area of a sign shall include all lettering, wording, design and symbols, along with the background on which they are displayed. A sign's supporting structure shall not be included in the measuring the area of the sign unless such structure is made part of the sign face.
- 2) When a sign consisting of letters, words or symbols is attached to a building, fascia surface, canopy, marquee, wall or window, the sign area shall be the smallest rectangular area which completely encompasses all such letters, words or symbols and any accompanying background of a different color than the natural color of the building, fascia, surface, canopy, marquee or wall.

b. Height:

- 1) The height of a sign shall be measured between grade to the highest point of the sign.

5. Materials:

- a. Signs shall be made of durable materials.
- b. All signs shall be constructed in accordance with the New York State Uniform Fire Prevention and Building Code.

- c. Any wiring, fittings and materials used in the construction, connection or operation of electrically illuminated signs shall be in accordance with the NYS Uniform Fire Prevention and Building Code and National Electrical Code.

6. Maintenance:

- a. Signs shall be maintained in good condition and not allowed to fall into disrepair, become worn or dilapidated.
- b. Dilapidated signs shall be removed by the Owner or as ordered by the Code Enforcement Official.

7. Illumination:

- a. Permanent signs may be illuminated in certain Zoning Districts. Except in Zoning District C-2, the illumination shall be constant and shall not be flashing, twinkling, intermittent, animated, moving or changing degrees of illumination.
- b. A sign's illumination source shall not be visible beyond the boundaries on the lot on which it is located.
- c. No illuminated sign shall be placed or directed in such a way so as to illuminate a public street, sidewalk or adjacent property or to cause glare, reflection or a distraction that may cause a traffic hazard or nuisance.

8. Traffic Safety:

- a. No sign shall project into the line of vision of any official traffic signal or traffic control signs.

9. Public Right-of-Way:

- a. No sign, except publicly owned signs, shall be placed, located or extend onto or over a public right-of-way.
- b. No sign shall be placed on any tree or utility pole located in a public right-of-way.

10. Obstructions:

- a. No sign or sign structure shall obstruct or restrict ingress or egress to or from a fire exit, fire door, window or other required accessway.
- b. No sign shall project over, cover, occupy or obstruct any window surface required to provide light or ventilation by the NYS Uniform Fire Prevention and Building Code.

**C. Temporary Signs:**

1. All Temporary Signs not exempt shall require a Temporary Sign Permit issued by the Code Enforcement Official and shall comply with the following provisions:
  - (a) Temporary Sign Permits shall be for a maximum 30 calendar day period.
  - (b) Placement of temporary signs shall not hinder pedestrian traffic.

**D. Sign Regulations in Residential Districts:**

1. SF-1 and SF-2 Districts:

<b>Sign Type</b>	<b>Max. #/Parcel</b>	<b>Max. Sign Area (sq. ft.)</b>	<b>Max. Height</b>	<b>Permitted Location</b>
Address	1	1	N/A	--
Home Occupation	1	2	N/A	Attached to Building
Memorial	1	1	--	--
Warning	1	1	--	--

2. SF-3 and MF-1 Districts:

<b>Sign Type</b>	<b>Max. #/Parcel</b>	<b>Max. Sign Area (sq. ft.)</b>	<b>Max. Height</b>	<b>Permitted Location</b>
Address	1	1	N/A	--
Home Occupation	1	4	N/A	Attached to Building
Directory/Wall	1	4	6'	Attached to building or parallel with front of building.
Business	1	32'	6'	Attached to building or parallel with front of building.
Business	1	32'	8'	Free Standing
Memorial	1	1	--	--
Warning	1	1	--	--

3. MH Districts:

<b>Sign Type</b>	<b>Max. #/Parcel</b>	<b>Max. Sign Area (sq. ft.)</b>	<b>Max. Height</b>	<b>Permitted Location</b>
Address	1	1	N/A	--
Directory	1	4	6'	Attached to building or parallel to front of building.
Business	1	32	6'	Attached to building or parallel to front of building.
Business	1	32'	8'	Free Standing
Memorial	1	1	--	--
Warning	1	1	--	--
Window	1	2	--	Interior of window

4. R-P District:

<b>Sign Type</b>	<b>Max. #/Parcel</b>	<b>Max. Sign Area (sq. ft.)</b>	<b>Max. Height</b>	<b>Permitted Location</b>
Address	1	1	N/A	--
Business		24	6'	Attached to building or parallel to front of building.
Directory		4	6'	Attached to building or parallel to front of building.

E. Sign Regulations in Commercial Districts:

1. C-1 District:

<b>Sign Type</b>	<b>Max. #/Parcel</b>	<b>Max. Sign Area (sq. ft.)</b>	<b>Max. Height</b>	<b>Permitted Location</b>
Address	1	1	N/A	--
Advertising	1	4	6'	Attached to building.
Bulletin Board	1	6	6'	Attached to building.
Business	1	32	6' above grade	Parallel to front of building.
Directory	1	4	6'	Attached to building.
Free Standing	1	6	6'	No closer than 2' to road ROW.
Ground	1	4	4'	No closer than 2' to road ROW.
Illuminated	1	32	6'	Parallel to front of building.
Joint Identification	1	32	6'	Parallel to front of building.
Memorial	1	1	--	--
On-site Information	1	16	6'	Parallel to front of building.
Product	1	16	6'	Parallel to front of building.
Small Billboard	1	Less than 1,000		

2. C-2 District:

<b>Sign Type</b>	<b>Max. #/Parcel</b>	<b>Max. Sign Area (sq. ft.)</b>	<b>Max. Height</b>	<b>Permitted Location</b>
Address	1	1	N/A	--
Advertising	1	4	6'	Attached to building.
Bulletin Board	1	6	6'	Attached to building.
Business	1	64	8' above grade	No closer than 10' to road ROW.
Directory	1	4	6'	Attached to building.
Ground	1	4	4'	No closer than 2' to road ROW.

Illuminated	1	64	8'	Parallel to front of building.
Joint Identification	1	64	8'	Parallel to front of building.
Memorial	1	1	--	--
On-site Information	1	16	6'	Parallel to front of building.
Product	1	16	6'	Parallel to front of building.
Billboard	1	Less than 1,000	25'	No closer than 10' of road ROW.

3. C-3 District:

<b>Sign Type</b>	<b>Max. #/Parcel</b>	<b>Max. Sign Area (sq. ft.)</b>	<b>Max. Height</b>	<b>Permitted Location</b>
Address	1	1	N/A	Attached to building.
Advertising	1	4	6'	--
Business	1	8'	6'	Attached to building.
Bulletin Board	1	6	6'	Attached to building.
Directory	1	4	6'	Attached to building.
Memorial	1	1	--	--

F. Sign Regulations in Industrial Zone:

<b>Sign Type</b>	<b>Max. #/Parcel</b>	<b>Max. Sign Area (sq. ft.)</b>	<b>Max. Height</b>	<b>Permitted Location</b>
Address	1	1	N/A	--
Business	1	32	6'	Attached to building or parallel to front of building.

G. Sign Regulations in Public Use Zone:

<b>Sign Type</b>	<b>Max. #/Parcel</b>	<b>Max. Sign Area (sq. ft.)</b>	<b>Max. Height</b>	<b>Permitted Location</b>
Address	1	1	--	--
Bulletin Board	1	6	6'	Attached to building.
Free Standing	1	24'	6'	
Governmental	1	24'	6'	
Ground	1	24'	6'	

H. Sign Regulations in Planned Development District:

1. The location, quantity and design of all signage in a Planned Development District shall be approved by the Common Council as part of the approval of a Planned Development District.

### **Section 22-1107: Complaints**

- A. Any person, firm or corporation may file a written complaint with the Code Enforcement Official alleging a violation of this Article and request an enforcement action by the Code Enforcement Official.
- B. The Code Enforcement Official shall record the receipt of all complaints and conduct the necessary investigations regarding the complaint to verify whether a violation of this Article exists and should be processed in accordance with Section 22-1108 of this Article.

### **Section 22-1108: Violations**

- A. It shall be a violation of this Article if any sign is:
- B. Erected, placed, installed, attached, hung, altered, enlarged or relocated without a Sign Permit and the issuance of a Certificate of Occupancy Permit.
- C. Upon determining a Violation exists, the Code Enforcement Official shall:
  - (1) Issue a Notice of Violation to the property owner/applicant that a violation exists. The written notification shall identify the specific reason(s) for the violation.
  - (2) Afford the property owner/applicant up to thirty (30) calendar days to correct the violation.
  - (3) Advise the property owner/applicant that failure to correct the Violation shall result in the issuance of a fine in accordance with Section 22-1109 of this Article.
- D. At the end of the time period designated, the Code Enforcement Official shall inspect the Violation to verify if it has been corrected:
  - (1) If the Code Enforcement Official verifies the Violation has been satisfactorily corrected, the property owner/applicant shall be notified in writing.
  - (2) If the Code Enforcement Official verifies the Violation was not corrected, the Code Enforcement Officer:
    - i. May issue a Stop Work Order
    - ii. Order the Violation corrected.
    - iii. Issue a fine in accordance with Section 22-1109.

### **Section 22-1109: Fines**

- A. A Violation of this Article shall be a fine of \$100.00.

### **Section 22-1110: Expiration of Sign Permits**

- A. A Sign Permit shall be valid for one (1) year from the date the permit is signed by the Code Enforcement Official.
- B. The Code Enforcement Official may renew a Sign Permit for a period to not exceed one (1) additional year from the date said permit would have expired as long as said renewal includes all of the conditions and stipulations contained in the original Sign Permit.

### **Section 22-1111: Revocation of Sign Permit**

- A. If the Code Enforcement Official determines that an application for a Sign Permit contained false or misleading information, or that work being done on a building, development or land use differs materially from what is allowed by the approved Sign Permit, the Code Enforcement Official shall revoke the Sign Permit.
- B. The Code Enforcement Official shall, within three (3) calendar days, notify the property owner/applicant, in writing, that:
  - (1) The Sign Permit has been revoked and the reason(s) why.
  - (2) The sign shall be removed or taken down.

### **Section 22-1112: Fees**

- A. The Common Council, by resolution, shall establish and may, from time to time, amend a fee schedule for all applications, permits, inspections, consultants or other City actions stipulated in this chapter.
- B. All fees shall be paid with the filing of applications and prior to the issuance of permits.
- C. All fees shall be paid to the Code Enforcement Official, who shall transmit said fees to the City Treasurer.

## **ARTICLE XII: OFF-STREET PARKING AND LOADING**

### **Section 22-1201: Purpose**

- A. The purpose of this Article is to:
  - 1. Provide standards for providing adequate off-street parking and loading of motor vehicles in the City of Johnstown.
  - 2. Ensure that the road network in the City of Johnstown operates in a manner that protects the health, safety and general welfare of the public and motor vehicle operators.
  - 3. Properly regulate the number of required off-street parking spaces so as to provide for the needs of occupants, customers, visitors or others involved in use or occupancy of any building, structural improvement or place of assembly plus eliminating undue use of the surface street system for parking purposes.

### **Section 22-1202: Compliance with Other Laws and Regulations**

- A. All buildings, structures and uses, with the exception of private residential properties, shall conform to the parking requirements of the Americans with Disabilities Act (ADA) and the New York State Fire Prevention and Building Code.

### **Section 22-1203: Building and Zoning Permit**

- A. All building, structures or uses requiring the issuance of a Building and Zoning Permit under this Chapter shall comply with the applicable provisions of this Article.
- B. Site Plans submitted to the Planning Board in accordance with this Chapter shall be reviewed and approved by the Planning Board for compliance with this Article.
- C. Any building, structure or use requesting a Building and Zoning Permit which do not fall into any land use defined in this Chapter shall be reviewed by the Planning Board to determine what off-street parking and loading requirements shall apply.

### **Section 22-1204: Off-Street Parking Requirements**

- A. General Requirements:
  - 1. Off-street parking space shall be required for all buildings constructed or new uses established after the effective date of this Chapter. Each off-street parking space shall have dimensions of at least 9 feet wide by 18 feet long. In addition, spaces necessary for aisles and maneuvering areas shall be provided.
  - 2. Schedule C identifies the minimum number of off-street parking spaces to be provided for each land use/building. For uses allowed by Site Plan Review and Special Use Permits, the Planning Board may require additional off-street parking if the Planning Board determines a need for said additional parking.
  - 3. For mixed occupancy buildings, the minimum number of off-street parking spaces to be provided shall be calculated by taking the most restrictive standard of all the uses in the building and applying that standard to the square footage of the entire building.
  - 4. Parking spaces required in all districts shall be located in the side or rear yard on the same lot as the principal use.

5. When the intensity of use of any building, structure or premises shall be increased through the following:
  1. additional dwelling units,
  2. gross floor area,
  3. seating capacity or
  4. other units of measurements;
 Parking and loading facilities as required herein shall be provided for such increase in intensity of use.
  
- B. C-3: Central Business District Zone:
  1. No off-street parking shall be required for a building or use in a C-3: Central Business District zone, except for residential uses/buildings.
  2. Residential uses/buildings in a C-3 zone shall comply with the off-street parking standards for residential uses/buildings.
  
- C. Location of Off-Street Parking:
  1. All required off-street parking spaces shall be provided on the same lot with the building or structure except as follows:
    - a. Residential Districts:
      1. Off-street parking in residential districts shall be provided by either:
        - a) Providing the required number of spaces on the same lot with such structure.
        - b) Providing the required number of spaces on a different lot owned by the same owner if said lot is within 200’.
        - c) Obtaining a permit to utilize a City-owned parking lot.
    - b. C-1 and C-2 Districts:
      1. In any C-1 or C-2 District, required off-street parking may be provided in group or common parking facilities designed and sized to serve 2 or more buildings or uses on different lots, provided that:
        - a) The total number spaces in the group or common facility shall not be less than the sum of the requirements for the various buildings or uses computed separately.
        - b) All required parking spaces shall be within 500 feet of the boundary of the lot on which such buildings or uses are located.
      2. No vehicle shall be parked within a required front yard setback in any Residential District except on a driveway which is constructed of a stable, dustless surface to accommodate vehicles.
  
- D. Parking Lots:
  1. Parking lots for five (5) or more vehicles shall be designed, constructed and maintained in accordance with the following requirements:
    - a) Entrances/Exits:
      - 1) Entrance/exit shall be located at least 25 feet from an intersection.

- 2) Entrances/exits shall be nearly level at its intersection with the public street.
  - 3) Entrances/exits shall be at least 12' wide at the street line.
- b) Landscaping:
- 1) Decorative landscaping shall be provided to retain all vehicles within the property. Landscaping plants shall have a maximum height of 4'. Tree canopies shall have a minimum height of 8'.
- c) Parking Lot Surface:
- 1) Entrances, exits, driveways and parking lots shall be permanently paved with a hard surfaced, dustless material.
- d) Stormwater/Drainage:
- 1) Parking lots shall be designed and constructed to collect and channel stormwater in accordance with City requirements and applicable State Stormwater Regulations.
  - 2) Parking lots shall be drained to eliminate standing water and prevent any stormwater from running onto or damaging abutting property and/or public streets.
- e) Maintenance:
- 1) Parking lots shall be maintained in a clean, orderly, and dust-free condition at the expense of the owner or lessee and not used for the sale, repair, or dismantling or servicing of any vehicles, equipment materials or supplies.
- f) Lighting:
- 1) Adequate lighting shall be provided. Lighting shall be arranged and installed to minimize glare in or adjacent to a residential district.

## **Section 22-1205: Off-Street Loading**

### **A. General Requirements:**

1. It is the intent of this section to require all commercial, business, manufacturing, warehouse, distribution, industrial and certain other uses to provide off-street loading facilities to ensure full utilization of existing rights-of-way and to accommodate present and future traffic demands. Off-street loading facilities are intended to provide adequate space to accommodate outside deliveries from large vehicles which cannot be functionally served by normal parking stalls.
2. Uses located in the C-3: Commercial 3: Central Business Zone shall be exempt from the off-street loading requirements of this Article.
3. Every lot upon which one of the following uses is established, except in a C-3 Zone, shall provide and permanently maintain off-street loading, unloading and maneuvering of delivery vehicles off of public roads:

- Brewery
- Distribution Center
- Drug Store
- Dry Cleaner
- Grocery Store
- Home Improvement Center
- Industrial
- Junk Business
- Manufacturing
- Microbrewery
- Retail Sales
- Shopping Center
- Shopping Center: Mini Mall
- Supermarket
- Warehouse
- Similar or related uses

4. If the Code Enforcement Official determines, in a review of an application for a Building and Zoning Permit, that a similar or related use to the uses listed above should have off-street loading facilities, the Code Enforcement Official shall refer said application to the Planning Board for their review and determination if loading facilities shall be provided.

B. Location:

1. Off-street loading facilities shall be located on the same lot as the use, building or structure requiring the off-street loading.
2. Off-street loading facilities shall not encroach into a required front or side yard or off-street parking lot.
3. Off-street loading facilities shall be located so as to not block or obstruct the flow of traffic to and from parking spaces.

C. Design:

1. Off-street loading facilities shall be a minimum of:
  - 12' wide
  - 60' long
  - 14' high

**SCHEDULE C**

**CITY OF JOHNSTOWN ZONING ORDINANCE**  
**OFF-STREET PARKING AND LOADING STANDARDS**

<b>LAND USE</b>	<b>MINIMUM # OF OFF-STREET PARKING SPACES REQUIRED</b>	<b>OFF-STREET LOADING SPACES REQUIRED</b>
Accessory Dwelling Unit	1 per unit	
Accessory Structure	--	
Accessory Use		
Adult Use	--	
Animal Hospital	1/400 sf	
Antenna	--	
Antique Shop	1/500 sf	
Apartment	1.5/dwelling unit	
Apartment Building	1.5/dwelling unit	
Aquaculture		
Arcade	1/500 sf	
Art Gallery	1/800 sf	
Artist Studio	1/800 sf	
Automobile Dealership	1/300 sf	
Automobile Parts	1/400 sf	
Automobile, Rental	1/1,000 sf	
Automobile Service Station	1/400 sf	
Bakery	1/400 sf	
Bank or Financial Institution	1/400 sf	
Banquet Hall	1/50 sf	
Bar, Nightclub or Tavern	1/50 sf	
Barber Shop	1/100 sf	
Beauty Salon	1/100 sf	
Bed-and-Breakfast	1/guest room	
Boarding Home	1/2 occupants	

<b>LAND USE</b>	<b>MINIMUM # OF OFF-STREET PARKING SPACES REQUIRED</b>	<b>OFF-STREET LOADING SPACES REQUIRED</b>
Body Painting Studio	1/400 sf	
Bookstore	1/400 sf	
Bowling Alley	2 spaces/lane	
Business Services	1/400 sf	
Brewery	1/400 sf	Yes
Car Wash	1/employee	
Carport	--	
Cemetery	--	
Church or Place of Worship	1/5 seats	
Club Membership	1/300 sf	
Commercial Recreation	1/600 sf recreational area	
Community Residential Facility	1/staff and 1/5 residents	
Condominium	1.5/dwelling unit	
Convenience Store	1/300 sf	
Copy Store	1/400 sf	
Dancing Studio	1/50 sf	
Day Care Center	1/staff and 1/8 children	
Deck	--	
Destination Stops	--	
Distribution Center	1/10,000 sf and 1/employee/shift	Yes
Dormitory	1/dwelling unit	
Drugstore	1/200 sf	Yes
Dry Cleaner	1/300 sf	Yes
Dwelling, One-Family	2 spaces/unit	
Dwelling, Two-Family	2 spaces/unit	
Dwelling, Multi-Family	1.5 spaces/unit	
Educational, Private	1/2 staff and 1 per 10 classroom seats	
Educational, Public	See Footnote 1	
Fence	--	
Florist	1/300 sf	
Fraternal Organization	1/300 sf	
Funeral Home	1/5 seats	Yes
Garage, Residential	--	
Government Use	1/employee (max. shift)	

<b>LAND USE</b>	<b>MINIMUM # OF OFF-STREET PARKING SPACES REQUIRED</b>	<b>OFF-STREET LOADING SPACES REQUIRED</b>
Greenhouse, Commercial	1/400 sf	
Health Care Facility	1/400 sf of ambulatory space	
Health Club	1/400 sf	
Home Improvement Center	1/400 sf	Yes
Home Occupation	1/employee	
Hospital	1/2 beds	
Hotel	1/unit plus other use	
Industrial	1/1,000 sf	Yes
Jewelry Store	1/400 sf	
Junk Business	--	Yes
Kennel	1/400 sf	
Laboratory	1/400 sf	
Laundromat	1/4 machines	
Liquor Store	1/500 sf	
Manufacturing	1/1,000 sf	Yes
Manufactured Home	2/dwelling unit	
Manufactured Home Park	1/lot	
Massage Establishment	1/400 sf	
Microbrewery	1/50 sf	
Museum	1/500 sf	
Neighborhood Store	Determined by Site Plan Review/Special Permit	
Nursery	1/500 sf	
Nursery, School	1/staff and 1/8 children	
Nursing or Adult Homes	1/bed or 1/100 sf	
Office	1/400 sf	
Parking Structure	--	
Planned Unit Development	1.5/dwelling unit	
Print Shop	1/400 sf	
Professional Medical Building	1/200 sf: minimum 5	
Professional Offices	1/400 sf	
Public Buildings and Uses	1/400 sf	
Public Park	--	
Public Utility	--	
Rail Trail	--	
Recreation Facility	1/600 sf	
Restaurant	1/150 sf	
Restaurant, Fast Food	1/150 sf	
Retail Sales	1/300 sf	Yes

<b>LAND USE</b>	<b>MINIMUM # OF OFF-STREET PARKING SPACES REQUIRED</b>	<b>OFF-STREET LOADING SPACES REQUIRED</b>
Satellite Dish	--	
Shoe Repair	1/300 sf	
Shopping Center	1/300 sf	Yes
Storage Facility	1/50 storage units	
Supermarket	1/300 sf	Yes
Swimming Pools: Residential	--	
Tailor	1/400 sf	
Tanning Studio	1/400 sf	
Tattoo Parlor	1/400 sf	
Telecommunications Towers and Facilities	Determined in Special Use Permit	
Theater	1/4 seats	
Tourist Homes	1.0/dwelling units	
Townhouse	1.5/dwelling units	
Truck Stop	Determined by Site Plan Review	
Veterinary Hospital/Office	1/400 sf	
Warehouse	1/10,000 sf and 1/employee	Yes

Footnotes:

1. Senior high schools, trade schools, business and professional schools, colleges and universities: At least one (1) parking space shall be provided for each 10 classroom seats in addition to the provisions for one parking space for each two (2) staff members.

Elementary and junior high schools: At least one (1) parking space shall be provided for each two (2) staff members, and at least one (1) parking space shall be provided for each three (3) auditorium seats.

## ARTICLE XIII: SITE PLAN REVIEW

### **Section 22-1301: Purpose**

- A. The purpose of conducting a Site Plan Review shall be to review how certain uses and buildings shall be located, arranged, planned, developed, operated and maintained with respect to:
- The City's Comprehensive Plan.
  - Surrounding properties.
  - Surrounding neighborhood.
  - Protecting the public health, safety and general welfare of the City.
- B. This Article requires that, prior to obtaining a Building and Zoning Permit, certain buildings and uses identified in Schedule A shall have a Site Plan Review conducted by the Planning Board.

### **Section 22-1302: Application for Site Plan Review**

- A. Applications shall be on forms supplied by the Code Enforcement Official and Planning Board. All applications shall be signed and dated by the applicant.
- B. Applications shall be filed with the Code Enforcement Official. Upon receipt of an application, the Code Enforcement Official shall record on the application the date the application was received.
- C. Applications shall include one or more drawings containing, at a minimum, the following information:
1. Title of drawing, including name, address, phone, fax and e-mail of applicant and person responsible for preparation of such drawing.
  2. North arrow, scale and date.
  3. Perimeter boundary of the property plotted to scale.
  4. Location and names of existing water courses, on and adjacent to site.
  5. Grading plan showing existing and proposed contours. Contour intervals shall be 2'.
  6. Location, design, type of construction, proposed use and exterior dimensions of all buildings.
  7. Location, design and type of construction of all parking and truck loading areas, including ingress and egress.
  8. Provision for pedestrian access.
  9. Location of outdoor storage dumpsters and trash receptacles, if any.
  10. Location, design and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences.
  11. Location of existing and location and proposed design of all utilities including:
    - a. Public sewer or septic system.
    - b. Water supply.
    - c. Telephone.
    - d. Cable.
    - e. Electrical.
    - f. Natural Gas.

12. Location of existing and location of proposed design of stormwater drainage systems including:
    - a. Drain lines.
    - b. Culverts/swales.
    - c. Catchbasins.
    - d. Retention ponds.
    - e. Retention structures.
  13. Location of fire and other emergency zones, including the location of fire hydrants.
  14. Location, size and design and type of construction of all proposed signs.
  15. Location and proposed development of all buffer areas, including existing vegetative cover.
  16. Location and design of outdoor lighting facilities.
  17. Identification of the location and amount of building area proposed for retail sales or similar commercial activity.
  18. Landscaping plan and planting schedule.
  19. Land Use District boundaries within 500 feet of the site's perimeter shall be drawn and identified on the site plan.
  20. Traffic flow patterns within the site, entrances and exits, and loading and unloading areas, as well as curb cuts on the site and within 100 feet of the site. The Planning Board may, at its discretion, require a traffic study, which shall include:
    - a. The projected number of motor vehicle trips to enter or leave the site, estimated for weekly and annual peak hour traffic levels.
    - b. The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site.
    - c. The impact of this traffic on levels of service on abutting public streets and at affected intersections. Existing and proposed weekly and annual peak hour traffic levels and road capacity levels shall also be given.
    - d. Identify the existing level of service on existing roads and what the levels of service would be if the Site Plan was approved.
  21. For new construction or alterations to any structure, a table containing the following information shall be included:
    - a. Estimated area of structure to be used for particular uses such as retail operation, office, storage, etc.
    - b. Estimated maximum number of employees.
    - c. Maximum seating capacity, where applicable.
    - d. Number of parking spaces existing and required for the intended use.
  22. SEQR Environmental Assessment Form. The Code Enforcement Official shall determine, on behalf of the Planning Board, whether a short or long form Environmental Assessment Form shall be included in the application.
  23. Any additional information as may be required by the Planning Board.
- D. Applications shall have attached to them the following additional information.
- a. Stormwater Pollution Prevention Plan (SWPPP) for all land development on a site that will result in more than 1 acre of land being disturbed. SWPPP shall be

prepared in accordance with the New York State Department of Environmental Conservation's (NYSDEC) SPEDES MS-4 General Permit.

- b. A Full Environmental Assessment Form (EAF) as required by SEQRA completed by the applicant.
- E. If the Planning Board determines that any of the informational requirements identified in Paragraphs C and D are not necessary to review a particular Site Plan application, the Planning Board may waive the requirement for any information.
- F. The Planning Board, in conjunction with the Code Enforcement Official, shall review an application for Site Plan Review to determine if it is complete. If the application is determined to be incomplete, the Planning Board shall notify the applicant, in writing, of the reasons the applications was deemed incomplete. Once an application is determined by the Planning Board to be complete, the timeframes stipulated herein shall commence. Once the Planning Board determines an application to be complete, the Code Enforcement Official shall record said date onto the original application.
- G. The Planning Board may charge an applicant a fee for projects the Planning Board determines requires the retention of special engineering, legal or other technical reviews. All fees shall be reasonable and reflect the actual costs of retaining the necessary assistance.

### **Section 22-1303: Application Review Procedures**

- A. SEQR:
  1. The Planning Board shall initiate and conduct the State Environmental Quality Review (SEQR) process by:
    - a. Reviewing the EAF and classifying the proposed action as either a Type I, II or Unlisted Action.
    - b. Identify all involved and interested agencies with the proposed action.
    - c. Conduct a coordinated or uncoordinated review.
    - d. Issue a Determination of Significance.
    - e. Taking all such other required steps and actions as required by SEQR.
- B. Referral to County Planning Board:
  1. An Application for Special Use Permit shall be referred to the County Planning Board per Section 239-m of the General Municipal Law if the application applies to real property within 500' of the following:
    - The boundary of the City of Johnstown.
    - The boundary of an existing or proposed County or State park or other recreational area.
    - The right-of-way of any existing or proposed County or State parkway, thruway, expressway, road or highway.
    - The boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines.
    - The boundary of any existing or proposed County or State-owned land on which a public building or institution is situated.

- The boundary of a farm operation within an agricultural district as defined in Article 25AA of the Agriculture and Markets Law, pursuant to General Municipal Law, Article 12-B, Sections 239-1 and 239-m, as amended.
2. Applications shall be forwarded to the County Planning Board in accordance with Section 239-m of the General Municipal Law.
  3. The Planning Board shall not act on an Application for Special Use Permit referred to the County Planning Board until either:
    - a. A recommendation from the County Planning Board has been received.
    - b. 30 days have elapsed since the date the application was referred to the County Planning Board and no recommendation was received.
  4. The Planning Board and County Planning Board may agree to extend the 30-day requirement.
  5. If the County Planning Board recommends modification or disapproval of an application, the Planning Board shall not act contrary to such recommendation except by a vote of a majority plus one of all members of the Planning Board.
  6. Within thirty days after final action, the Planning Board shall file a report of the final action it has taken with the County Planning Board. When the Planning Board acts contrary to a recommendation of modification or disapproval of a proposed action, the Planning Board shall set forth the reasons for the contrary action in such report.
- C. Public Hearing:
1. The Planning Board shall conduct a public hearing on every application for a Site Plan Review.
  2. The Planning Board shall, within sixty-two (62) calendar days of the date an application is determined to be complete, conduct the public hearing.
  3. The Planning Board shall mail notice of said hearing to the applicant at least ten (10) days before said hearing and shall give public notice of said hearing in a newspaper of general circulation in the City at least five (5) days prior to the date thereof.
  4. The Planning Board shall mail notice of said hearing to all property owners adjoining the property(s) involved with the Site Plan Review Application. Said notice shall be mailed at least five (5) days prior to the date thereof.
  5. At least ten days before such hearing, the Planning Board shall mail notices to the County Planning Board as required by Section 239m of the General Municipal Law, which notice shall be accompanied by a full statement of such proposed action, as defined in subdivision one of Section 239m of the General Municipal Law.
  6. The Planning Board may mail a notice of said public hearing to additional property owners if the Planning Board determines the nature of the application warrants such.
- D. Timeframe to Render Decisions:
1. The Planning Board shall make its decision on a Site Plan Review application within sixty-two (62) days after the closing of a public hearing on said application.
  2. The time within which the Planning Board must render its decision may be extended by the mutual consent of the applicant and Planning Board.
- E. Filing of Decision:
1. The decision of the Planning Board shall be filed/mailed to the:
    - Applicant

- City Clerk
- Code Enforcement Official
- City Engineer

2. The Planning Board shall file its decision with these offices within five (5) business days after a decision is rendered.

**Section 22-1304: Site Plan Review Criteria**

- A. The Planning Board shall review a Site Plan Review Application with respect to the following general considerations:
  1. Compatibility to City’s Comprehensive Plan.
  2. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
  3. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
  4. Location, arrangement, appearance and sufficiency of off-street parking and loading.
  5. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
  6. Adequacy of stormwater and drainage facilities.
  7. Adequacy of water supply and sewage disposal facilities.
  8. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant’s and adjoining lands, including the maximum retention of existing vegetation.
  9. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
  10. Adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
  11. Overall impact on the neighborhood including compatibility of design consideration.
  12. Adequacy of open space, parkland and recreational facilities.

**Section 22-1305: Requirements for Site Plan Approval**

- A. The Planning Board shall not approve a Site Plan unless it determines that said Site Plan complies with all of the following standards:
  1. Site Layout:
    - a. All buildings on the site shall be properly integrated with each other, with other buildings on adjacent parcels as well as with other buildings in the neighborhood.
  2. Access:
    - a. All buildings on the site shall have appropriate and convenient vehicular and pedestrian access, shall encourage internal pedestrian activity and, where appropriate, encourage pedestrian access back and forth between adjacent sites.
    - b. Roads and driveways shall provide for the safe and orderly movement of people and vehicles.
    - c. The construction of new service roads and public roads shall be required when deemed appropriate.

3. Parking and Loading:
  - a. Off-street parking and loading facilities shall, to the greatest extent practical, be located behind buildings.
  - b. Off-street loading areas shall not encroach into or on any front or side yard setback, accessway or off-street parking area.
  - c. Off-street parking and loading spaces shall be located in a manner to promote the safe movement of people and vehicles.
  
4. Landscaping:
  - a. Landscaping, including trees, shrubs, groundcover, plants, flowers, stone, timbers and other similar materials, shall be provided to establish an appropriate buffer with adjacent properties and to integrate component areas on the site.
  - b. Existing trees, shrubs and native vegetation shall, to the extent appropriate, be retained and incorporated into the Site Plan.
  
5. Traffic:
  - a. The Site Plan shall, to the greatest extent practical:
    - 1) Minimize vehicle traffic entering existing roads.
    - 2) Maximize distance from existing intersections new traffic shall enter existing roads.
    - 3) Not allow an existing road to reach failing “level of service” due to additional traffic that will be entering existing roads.
  
6. Drainage:
  - a. A Stormwater Pollution Prevention Plan shall be prepared and implemented to ensure that post development runoff from the site does not exceed pre-development runoff.
  - b. Surface water leaving the site shall not negatively disturb adjacent parcels, structures, facilities or public roads.
  
7. Site Lighting:
  - a. Exterior site lighting shall not cause or create a glare or distraction on public roads and adjacent properties.
  
8. Fire Protection:
  - a. The Site Plan shall provide for adequate fire and emergency lanes and zones to allow access to emergency and fire vehicles and personnel.
  - b. Fire hydrants shall be provided on site in locations as deemed necessary and appropriate.
  
9. Compatibility with Adjoining Properties and Neighborhood:
  - a. All components of a Site Plan shall be compatible with the architecture, engineering, design, masonry, materials, landscaping, placement and setback with adjoining and neighborhood development.
  
10. Reservation of Parkland:
  - a. For site plans involving residential units, the Planning Board may require the reservation of parkland in accordance with Section 27-a(6) of General City Law.

## **Section 22-1306: Planning Board Decision:**

### **A. General:**

1. In accordance with Section 27-a(2) of General City Law, the Planning Board shall either approve, approve with modifications or disapprove all applications for Site Plan review.
2. No Building and Zoning Permit shall be issued by the Code Enforcement Official for a building or use requiring a Site Plan Review until the Planning Board has issued and filed its decision.
3. As authorized by Section 27-a(4) of General City Law, the Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to a proposed site plan. Upon its approval of said Site Plan, any such conditions must be met in connection with the issuance of a Building and Zoning Permit by the Code Enforcement Official.
4. The Planning Board may approve modifications to a Site Plan application to protect the health, safety and welfare of the City, achieve compliance with the City Comprehensive Plan or to protect and preserve adjoining properties in the surrounding neighborhood.
5. A vote of the majority of all members of the Planning Board shall be required to act on any Site Plan Review application.

## **Section 22-1307: Compliance with Approved Site Plans**

### **A. Certificate of Occupancy Permit:**

1. No Certificate of Occupancy Permit shall be issued by the Code Enforcement Official until all work identified on an approved Site Plan and all modifications approved by the Planning Board have been satisfactorily completed.

### **B. Performance Guarantee:**

1. If a Site Plan involves the completion of public infrastructure or improvements, the Planning Board may require an applicant to either:
  - a. Complete the installation of all public infrastructure or improvements (roads, water/sewer lines, stormwater drainage, sidewalks, etc.) to the satisfaction of the City prior to the issuance of a Certificate of Occupancy Permit.
  - b. Submit a Performance Bond in an amount determined by the Planning Board to cover the full cost of all required infrastructure improvements. Said bond shall be provided pursuant to the provisions of Section 33-8 of General City Law.

## **Section 22-1308: Inspections of Work**

- A. The Code Enforcement Official shall inspect all work performed on a site to ensure full and complete compliance with an approved Site Plan.
- B. If the Code Enforcement Official determines that work is or has not been performed or completed in accordance with an approved Site Plan, the Code Enforcement Official shall issue a Stop Work Order.
- C. The Stop Work Order shall identify what work is not in compliance with the approved Site Plan. Once all items identified in the Stop Work Order have been satisfactorily addressed, the Code Enforcement Official shall release the Stop Work Order.

**Section 22-1309: Applications Requiring Area Variance**

- A. When a Site Plan application contains one or more features that do not comply with the dimensional regulations of a Zoning District, application may be made to the Zoning Board of Appeals for an area variance without a decision or determination by the Code Enforcement Official.
- B. The Planning Board shall decide whether such area variance application and Zoning Board of Appeals decision on same must occur as a condition to the approval of the Site Plan, as a prerequisite for a complete Site Plan application, or in conjunction with the Site Plan process.

**Section 22-1310: Expiration of Planning Board Approval of Site Plan**

- A. A Planning Board's approval of a Site Plan shall expire one (1) year after the date the Planning Board's decision is filed with the City Clerk if an applicant fails to obtain a Building and Zoning Permit and commence work.
- B. Upon a written request from an applicant, the Planning Board may consider and grant an extension of up to one (1) additional year, on the time of its approval to a Site Plan.

**Section 22-1311: Amendment to an Approved Site Plan**

- A. The Planning Board shall have the authority to approve amendments to the terms and conditions of a previously approved Site Plan.
- B. Proposed amendments to a previously approved Site Plan shall be processed by the Planning Board in the same manner as an original application for Site Plan Review.

## **ARTICLE XIV: SPECIAL USE PERMITS**

### **Section 22-1401: Purpose**

- A. The City of Johnstown recognizes the importance of:
  1. Having the City develop in accordance with its Comprehensive Plan.
  2. Ensuring that certain allowable land uses do not unreasonably and adversely affect the quality and character of neighborhoods, the historic character of the City, the environment and the public, health and welfare of the residents of the City.
- B. As a result, certain uses identified in Schedule A Allowable Land Uses in Zoning Districts may be permitted only through the issuance of a Special Use Permit by the Planning Board.
- C. There may be instances when a use may require both a Site Plan Review approval and Special Use Permit issued by the Planning Board. In those instances, an applicant may request that the Planning Board concurrently conduct its reviews of both.

### **Section 22-1402: Application**

- A. Applications for a Special Use Permit shall be submitted to the Planning Board on a form approved by the Planning Board.
- B. Applications shall include the following:
  1. A written narrative describing the proposed use.
  2. A Site Plan prepared by a New York State licensed professional, land surveyor, professional engineer or registered architect that includes:
    - Location, height, widths and depth of all buildings.
    - Parking areas.
    - Traffic access and circulation.
    - Open spaces.
    - Landscaping.
    - Exterior Lighting.
    - Exterior Signage.
    - Location and size of existing municipal water and sewer lines to be connected into.
    - Such other information as may be requested or required by the Code Enforcement Official and Planning Board.
  3. The Planning Board may waive the requirement to have the Site Plan prepared by a New York State licensed professional land surveyor, professional engineer or registered architect for the following uses:
    - Artist Studios.
    - Home Occupations.

4. SEQR Environmental Assessment Form. The Code Enforcement Official shall determine, on behalf of the Planning Board, whether a short or long form Environmental Assessment Form shall be included in the application.
- C. Applications shall also include the application fee as may be established by the Common Council.

### **Section 22-1403: Application Review Procedures**

A. General:

1. Applications for a Special Use Permit shall be submitted to the Code Enforcement Official. If the application is determined to be incomplete, the Code Enforcement Official shall notify the applicant and advise what additional information must be submitted.
2. Once an Application for Special Use Permit is deemed complete by the Code Enforcement Official, the application shall be forwarded to the Planning Board and placed on the agenda for their next meeting.
3. The Planning Board shall then review the application. If the Planning Board determines the application is not complete, the Planning Board shall notify the applicant and advise what additional information must be submitted.
4. All timeframes for the Planning Board to review and decide on an application shall not commence until such time as the Planning Board determines an application to be complete.

B. Area Variance Application to the Zoning Board of Appeals:

1. If a Special Use Permit application contains aspects of a proposed use or building that do not comply with dimensional requirements of the Zoning Ordinance, a separate application may be made to the Zoning Board of Appeals for an area variance without a prior decision of the Code Enforcement Official.
2. The Planning Board shall determine if the Zoning Board of Appeals' decision on the area variance must occur as a condition to the issuance of a Special Use Permit or be issued prior to the Planning Board acting on the application for a Special Use Permit.

C. SEQR:

1. The Planning Board shall initiate and conduct the State Environmental Quality Review (SEQR) process by:
  - a. Reviewing the EAF and classifying the proposed action as either a Type I, II or Unlisted Action.
  - b. Identify all involved and interested agencies with the proposed action.
  - c. Conduct a coordinated or uncoordinated review.
  - d. Issue a Determination of Significance.
  - e. Taking all such other required steps and actions as required by SEQR.

D. County Planning Board Referral:

1. An Application for Special Use Permit shall be referred to the County Planning Board per Section 239-m of the General Municipal Law if the application applies to real property within 500' of the following:
  - The boundary of the City of Johnstown.

- The boundary of an existing or proposed County or State park or other recreational area.
  - The right-of-way of any existing or proposed County or State parkway, thruway, expressway, road or highway.
  - The boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines.
  - The boundary of any existing or proposed County or State-owned land on which a public building or institution is situated.
  - The boundary of a farm operation within an agricultural district as defined in Article 25AA of the Agriculture and Markets Law, pursuant to General Municipal Law, Article 12-B, Sections 239-l and 239-m, as amended.
2. Applications shall be forwarded to the County Planning Board in accordance with Section 239-m of the General Municipal Law.
  3. The Planning Board shall not act on an Application for Special Use Permit referred to the County Planning Board until either:
    - a. A recommendation from the County Planning Board has been received.
    - b. 30 days have elapsed since the date the application was referred to the County Planning Board and no recommendation was received.
  4. The Planning Board and County Planning Board may agree to extend the 30-day requirement.
  5. If the County Planning Board recommends modification or disapproval of an application, the Planning Board shall not act contrary to such recommendation except by a vote of a majority plus one of all members of the Planning Board.
  6. Within thirty days after final action, the Planning Board shall file a report of the final action it has taken with the County Planning Board. When the Planning Board acts contrary to a recommendation of modification or disapproval of a proposed action, the Planning Board shall set forth the reasons for the contrary action in such report.
- E. Public Hearing and Notice:
1. The Planning Board shall conduct a public hearing within sixty-two (62) days from the day an Application for Special Use Permit is received.
  2. Public notice of said hearing shall be printed in a newspaper of general circulation in the city at least five (5) days prior to the date thereof.
  3. In the case of a hearing held on an Application for Special Use Permit on a property that is located within 500 feet of an adjacent municipality, the Planning Board must send a notice of the hearing to the clerk of the adjacent municipality, by either mail or electronic transmission, at least 10 days prior to the hearing pursuant to General Municipal Law Section 239-nn.
- F. Criteria For Reviewing Special Use Permit Application:
1. A Special Use Permit shall comply with the applicable standards in the Zoning District it is located in.
  2. In order to approve an Application for Special Use Permit, the Planning Board shall find that:

- a. The proposed use, building or structure shall be in harmony with the general purpose and intent of the City's Comprehensive Plan.
- b. The proposed use, building or structure shall allow for the orderly and reasonable use of permitted or legally established uses in the same zone wherein the proposed use is to be located or of adjacent properties or of properties or permitted or legally established uses in adjacent use zones.
- c. The public's safety, health, welfare, comfort, convenience or order will not be adversely affected by the proposed use, building or structure and its location.
- d. The proposed use, building or structure will not pose an undue detriment to the conservation of property values and the encouragement of the most appropriate uses of land.
- e. The location of the proposed use, building or structure will not create an undue increase of vehicular traffic congestion on public streets and highways.
- f. Adequate public facilities such as water and sewer lines are available to service the proposed use, building or structure.
- g. The proposed use, building or structure will not result in the emission of undue levels or amounts of obnoxious gasses, odors, smoke, soot, dust, light, vibration or noise.
- h. The proposed use, building or structure does not present a danger to parks, playgrounds, a recreational facility or other public facility.
- i. The proposed use, building or structure will not cause an overcrowding of land or undue concentration of population.
- j. The plot area is sufficient, appropriate and adequate for the proposed use, building or structure and the reasonable anticipated operation and expansion thereof.
- k. The proposed use, building or structure is compatible with the physical characteristics and topography of the land.
- l. The proposed use, building or structure will be in harmony with and promote the general purposes and intent of this Chapter.

**Section 22-1404: Specific Criteria for Reviewing Certain Special Permit Applications.**

A. Certain uses may be permitted in a Zoning District only through the issuance of a Special Use Permit by the Planning Board. In addition to reviewing Special Use Permit Applications for compliance with the General Criteria identified in Section 22-1403, Paragraph F, the Planning Board shall also review the application for compliance with the following specific criteria:

B. Specific Criteria.

1. Animal Hospital:

Animal Hospitals shall:

- a. Not create excessive noise or odors for adjacent residential properties and neighborhoods.
- b. Not create visual impacts on residential properties and neighborhood.
- c. Provide adequate space for exercising of animals.
- d. Provide all State-required permits for an incinerator.

2. Artist Studio:

A Special Use Permit for an Artist Studio in an SF-1, SF-2, MF-1 and MF-2 shall be required if:

- a. The Artist Studio is not owned by the owner of the property the studio is located in or
- b. The Artist Studio is not located in the principal dwelling unit on the property.

Artist Studios shall:

- a. Not create traffic congestion in a residential neighborhood.
- b. Not create significant noise impacts for the neighborhood.
- c. Not include exterior storage of materials visible from a public street.
- d. Provide adequate provisions for parking.

3. Drugstore:

Drugstores shall:

- a. Not create negative aesthetic impacts on the neighborhood.
- b. Be consistent with historical character of neighborhood.
- c. Not create traffic or congestion issues.
- d. Provide adequate pedestrian access.
- e. Not create negative visual impacts.

4. Group Home:

- 1) A group home shall be designed, constructed, operated, maintained and managed in accordance with all federal and State law.
- 2) A group home shall be designed, constructed, operated, maintained and managed in accordance with all State agencies that regulate group homes.

5. Home Occupations:

- 1) Home Occupations shall:
  - a. Be conducted by a resident of the lot.
  - b. Be compatible with the other uses allowed in the district.
  - c. Maintain the character of the neighborhood.
  - d. Ensure the peace, privacy, quiet, and dignity of the area.
  - e. Avoid excessive noise, traffic, nuisance, fire hazard, and other adverse effects of business uses.
  - f. Be conducted in a manner which does not give the outward appearance of the business.
  - g. Be conducted within the home or accessory building. Such use shall not alter the external appearance from a residential character.
  - h. Not generate vehicular traffic that would exceed the volume of traffic that would otherwise be generated by typical residential use, create a nuisance or be detrimental to the character of the neighborhood.

- i. Have no external storage of materials, equipment, containers, finished products or associated vehicles outside the home, outbuilding or garage other than that which is normally associated with residential use.
- j. Be incidental and secondary to the use of a dwelling unit and shall occupy an area no greater than 25% of the total floor area of the dwelling unit or accessory building.
- k. Be limited to one per lot and shall not have any nonresident employees.
- l. Display no sign or other indicia of the home occupation.
- m. Not provide any additional off-street parking above and beyond the parking already required.

6. Junk Business:

1) Junk Businesses shall:

- a. Store materials and product so that they are not visible from public street or sidewalk.
- b. Not create excessive noise or odor impacts on surrounding properties and neighborhood.
- c. Not create negative visual impacts on neighborhood.
- d. Control stormwater runoff from property.
- e. Not create traffic circulation/congestion problems.

7. Kennel:

1) Kennels shall

- a. Be located, operated and maintained so that it does not create excessive noise or odors for adjacent residential properties and neighborhoods.
- b. Provide adequate space for exercising of animals.
- c. Provides all State-required permits for an incinerator.
- d. Does not create visual impacts on residential properties and neighborhood.

8. Neighborhood Store:

1) Neighborhood Stores shall:

- a. Not create negative aesthetic impacts on the neighborhood.
- b. Be consistent with historical character of neighborhood.
- c. Not create traffic or congestion issues.
- d. Provide adequate pedestrian access.
- e. Not create negative visual impacts.

9. Public Utility:

1) Public Utilities shall:

- a. Provide adequate security measures to prevent the public from entering public utility facilities.
- b. Provide adequate screening and/or vegetation or other measures to minimize visual impacts.

10. Restaurant:

1) Restaurants shall:

- a. Not create negative aesthetic impacts on the neighborhood.
- b. Be consistent with historical character of neighborhood.
- c. Not create traffic or congestion issues.
- d. Provide adequate pedestrian access.
- e. Not create negative visual impacts.

11. Restaurant, Fast Food:

1) Fast Food Restaurants shall:

- a. Not create negative aesthetic impacts on the neighborhood.
- b. Be consistent with historical character of neighborhood.
- c. Not create traffic or congestion issues.
- d. Provide adequate pedestrian access.
- e. Not create negative visual impacts.

12. Telecommunication Towers and Facilities:

1) Intent:

- a. The Common Council desires to:
  - a) Accommodate the need for telecommunications facilities while regulating their location and number, minimizing adverse visual impacts through proper design, siting and screening, avoiding potential physical damage to adjacent properties and encouraging joint use of tower structures.
  - b) To minimize the total number of telecommunications towers in the City by encouraging shared use of existing and future towers.

2) Special Permit:

- a. No telecommunication tower shall hereafter be erected, moved, reconstructed, changed or altered and no existing structure shall be modified to serve as a telecommunication facility, without first obtaining a Special Use Permit from the City Planning Board in accordance with this Section.
- b. Telecommunication antenna placed on an existing telecommunication tower shall not require a Special Use Permit, unless the existing tower or structure is located in a residential district, or unless it will be modified

in such a way as to increase its height, or a new accessory structure would be built.

- c. The Planning Board may waive any or all of the requirements for approval for applicants proposing minor changes to existing facilities and for applicants proposing the use of camouflage for a telecommunication tower if the Planning Board determines that such camouflage significantly reduces visual impact to the surrounding area. However, the Board may not waive the requirement that a public hearing be held on the application.
- d. No Building and Zoning Permit shall be issued until the applicant provides proof to the Code Enforcement Official that space on the facility has been leased or will be operated by a provider licensed by the FCC to provide service in the area.
- e. For applications where co-location is proposed, the Planning Board shall make its decision on an application for Special Permit within 90 calendar days of the receipt of the Application.

3) Application for Special Permit:

- a. In addition to the requirements of Section 22-1402, an application for a Special Permit to locate a Telecommunications Tower shall also include the following information:

1. Project Participants.

- a) Names, address, phone, fax numbers and e-mail address of the following involved parties, as appropriate:
  - The landowner of the project site to be purchased or leased.
  - The service provider and contact person.
  - Engineering consultant(s).
  - Legal representative(s).
  - Other authorized service providers proposing to co-locate on the tower now and in the near future.
- b) Where co-location is proposed, provide the names, addresses and phone number of the current owner(s) of the tower, building or structure upon which the co-location was considered or is proposed.

2. Site Description.

- a) Provide a narrative description of the proposed project site, including:
  - Existing site improvements, including access, utilities, and the presence of existing towers, buildings, or other structures.
  - Vegetative cover.

- Soils and the depth to bedrock.
  - Wetlands and surface water bodies.
  - Site drainage.
  - Any special plant and animal habitats contained on the NYSDEC Natural Heritage Program database.
  - Any historic or archeological resources on the site and any historic resources adjacent to the site.
- b) Where co-location is proposed, provide to-scale site plans and elevations of the existing tower, building or structure to be used for co-location.
- c) Provide plans, elevations and details showing the proposed electronic communication facilities and existing antennae located on the tower.

### 3. Site Plan.

- a) Provide a Site Plan prepared by a NYS licensed Land Surveyor, Professional Engineer or Registered Architect that includes the following information:
- Scale, north arrow, date, name of Surveyor, Architect or Engineer and their stamp.
  - Project site boundaries, including tax parcel numbers of all parcels in Project Site.
  - Abutting property owners, names, addresses and tax parcel numbers.
  - All bodies of water; wetlands; permanent or intermittent streams.
  - Existing and proposed topographic contours at two-foot intervals of entire Project Site as well as areas within 200 feet of all proposed areas to be disturbed.
  - All existing and proposed buildings, structures, roads, utilities, and driveways.
  - Existing vegetation cover types and tree lines.
  - The proposed limits of vegetation disturbance and/or clearing related to the proposed construction of the site access, tower, and accessory structures.
  - All trees 4 inches or greater in size (diameter at breast height, DBH) to be removed.
  - All proposed plantings.
  - All existing and proposed drainage and erosion control and stormwater management facilities.
- b) For any new or improved access roads or driveways, provide a grading plan, centerline profile, and cross sections (every 100 feet showing proposed and existing contours at two foot intervals) and identify the construction material(s) (e.g., gravel, asphalt).

- c) Provide detailed construction plans and elevation of the proposed tower, antennae, equipment shelters (enclosed building, structure, cabinet, shed or box to contain batteries and electrical equipment).
  - d) Show all foundations, piers, structural supports, cross-arms, guy wires and anchors, antennae mounting mechanisms and signage.
  - e) Label the size, material and provide color sample of all towers, antennae, and accessory structures (e.g., equipment shelters, security fencing, signage).
4. Existing Telecommunication Towers and Facilities.
- a) Provide map of Cities of Johnstown and Gloversville and Town of Johnstown showing all existing communication towers and facilities.
5. Site Access, Construction and Operation.
- a) Describe the type, location, and size of any road and/or driveway providing existing and proposed access to the proposed tower site.
  - b) Describe any proposed temporary or permanent improvements, including any proposed vegetation removal, site drainage, crossing of streams or wetlands and installation of impervious, paved surfaces and utilities.
6. Visual Impact Analysis.
- a) Provide detailed and comprehensive visual impact analysis for the proposed project.
7. SEQR.
- a) Provide Full Environmental Assessment Form.
  - b) The Planning Board shall conduct a Coordinated SEQR review of the application for a Special Permit.
  - c) No final action(s) regarding the Special Permit application shall be taken by the Planning Board until the Coordinated SEQR review has been completed and a Determination of Significance has been issued and filed.
8. Other.
- a) Provide any additional information as may be requested by the Planning Board.
  - b) Ten (10) complete copies of an application shall be submitted to the Code Enforcement Official.
  - c) Upon receipt of an application, the Code Enforcement Official shall determine if all required information has been submitted.

If not, the Code Enforcement Official shall notify the applicant of what information is missing.

- d) Once the Code Enforcement Official deems an application to be complete, the Code Enforcement Official shall forward the application to the Planning Board.

4) Special Permit Standards:

- a. The Planning Board shall review an application for Special Permit for a telecommunications tower for compliance with the standards listed below. All applications for a Special Permit for a telecommunication tower shall comply with the following standards:

1. General Criteria.

- a) Is necessary to provide adequate service to locations that the applicant is not able to serve with existing facilities.
- b) Conforms to all applicable regulations promulgated by the Federal Communications Commission, Federal Aviation Administration, and other federal agencies.
- c) Will be designed and constructed in a manner which minimizes visual impact to the extent practical.
- d) Is the most appropriate site among those available within the technically feasible area for the location of a telecommunications facility.

2. Co-Location.

- a) The shared use of existing telecommunications towers and facilities shall be preferred to the construction of new towers and facilities.
- b) All special use permit applications, renewal or modification thereof, shall include proof that reasonable efforts have been made to co-locate within an existing telecommunication tower or facility or upon an existing structure within a reasonable distance, regardless of municipal boundaries, of the site.
- c) The applicant shall demonstrate to the Board that the proposed new telecommunication tower and facility cannot be accommodated on existing telecommunication towers and facilities due to one or more of the following reasons:
  - The planned equipment would exceed the structural capacity of existing and approved telecommunication towers, facilities or other structures, considering existing and planned use for those facilities.
  - The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented.

- Existing or approved telecommunications towers, facilities or other structures do not have space on which proposed equipment can be placed so it can function effectively and reasonably.
- Other technical reasons make it impracticable to place the equipment proposed by the applicant on existing towers, facilities or structures.
- The property owner or owner of the existing telecommunication facility or other structure refuses to allow such co-location or requests an unreasonably high fee for such co-location compared to current industry rates.

### 3. Fall Zones.

- a) Telecommunication towers and facilities shall be constructed to minimize potential safety hazards and located in such a manner that if the facility should fall, it will remain within the property boundaries and avoid habitable structures, public streets, utility lines and other telecommunication facilities.

### 4. Setbacks.

- a) Telecommunication towers and facilities shall comply with all existing setbacks within the affected zone. Setbacks shall apply to all tower parts including guy wire anchors, and to any accessory facilities.
- b) Additional setbacks may be required by the Planning Board to contain onsite substantially all icefall or debris from tower failure and/or to preserve privacy of adjoining residential and public property.

### 5. Lighting.

- a) Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Notwithstanding, an applicant may be compelled to add FAA-style lighting and marking, if in the judgment of the Planning Board, such a requirement would be of direct benefit to public safety.
- b) The Planning Board may choose the most appropriate lighting and marking plan from the options acceptable by the FAA at that location.
- c) The applicant must provide both standard and alternative lighting and marking plans for the Planning Board's review.

### 6. Visibility and Aesthetics.

- a) The maximum height for telecommunication towers permitted under this article, including any antennas or other devices

extending above the tower, measured from the ground surface shall be 150 feet.

- b) Towers shall be a galvanized finish or painted gray above the surrounding treeline and painted gray, green, black or similar colors designed to blend into the natural surroundings below the surrounding treeline unless other standards are required by the FAA.
- c) Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements. Accessory uses shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.
- d) The project shall be designed to blend with the natural and/or manmade surroundings to the maximum extent practicable.
- e) Structures offering slender silhouettes (i.e., monopoles or guyed tower) may be preferable to freestanding lattice structures except where such freestanding structures offer capacity for future shared use. The zoning board may consider the type of structure being proposed and the surrounding area.
- f) The applicant must examine the feasibility of designing a proposed telecommunication tower to accommodate future demand for additional facilities.

#### 7. Vegetation and Screening.

- a) Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding four inches in diameter shall take place prior to approval of the special use permit.
- b) Clear-cutting of all trees in a single contiguous area shall be minimized to the extent possible.
- c) Appropriate vegetative buffering shall be provided around the fences of the tower base area, accessory structures and the anchor points of guyed towers to buffer their view from neighboring residences, recreation areas, waterways, historic or scenic areas, or public roads.

#### 8. Access and Parking.

- a) A road and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made.
- b) Road construction shall minimize ground disturbance and vegetation cutting.
- c) Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
- d) Equipment or vehicles shall not be stored on the facility site.

#### 9. Signage.

- a) The use of any portion of a telecommunication tower or facility for signs for promotional or advertising purposes, including but

not limited to company name, phone numbers, banners, streamers, and balloons shall be prohibited.

- b) The Planning Board may require the installation of signage with safety information.

10. Security.

- a) Towers, anchor points around guyed towers, and accessory structures shall each be surrounded by fencing not less than six feet in height.
- b) There shall be no permanent climbing pegs within fifteen feet of the ground.
- c) Motion-activated or staff-activated security lighting around the base of a tower or accessory structure entrance may be provided if such lighting does not project off the site.
- d) A locked gate at the junction of the access way and a public thoroughfare may be required to obstruct entry by unauthorized vehicles. Such gate must not protrude into the public thoroughfare.

11. Engineering Standards.

- a) All telecommunication towers and facilities shall be built, operated and maintained to acceptable industry standards.
- b) Every telecommunication tower and facility shall be inspected at least every second year for structural integrity by a New York State licensed engineer. A copy of the inspection report shall be submitted to the Code Enforcement Official.

12. Abandonment and Removal.

- a) At the time of submission of the application for a telecommunication tower or facility, the applicant shall submit an Agreement to remove all antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower used as a telecommunication facility if such facility becomes technologically obsolete or ceases to perform its originally intended function for more than twelve consecutive months.
- b) Upon removal, the land shall be restored to its previous condition, including but not limited to the seeding of exposed soils.

13. Adult Uses:

1) Declarations, Findings and Purpose:

- a. The City of Johnstown has reviewed and evaluated reports and studies that assessed the secondary effects adult uses can have on neighborhoods and a community and has determined that said reports and studies

provide sufficient evidence that adult uses can contribute to the degradation and blighting of a neighborhood and an entire community.

- b. The Common Council hereby determines that Adult Uses represent a threat to the safety, quality of life, community character and vitality of the City of Johnstown.
- c. The Common Council hereby finds that the preservation of the City's heritage, character, economy and vitality by regulating adult uses is a legitimate public concern and legislative objective.
- d. The Common Council hereby desires to:
  - a) Provide regulations to minimize the secondary impacts and effects of adult uses but not to inhibit free expression or freedom of speech.
  - b) Protect the public health, safety and welfare of the City of Johnstown and its residents.

2) Definitions of Adult Uses:

a) **Adult Store:**

- 1. An establishment having a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following:
  - a) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis upon depicting or relating to specific sexual activities or genital anatomical areas; or
  - b) instruments, devices, or paraphernalia that are designed for use in connection with sexual activities.
- 2. Adult Stores shall not have enclosed viewing booths.
- 3. For purposes of this paragraph, substantial shall mean more than 40 percent.

b) **Adult Cabaret:**

- 1. A nightclub, bar, restaurant, or similar establishment that regularly features live performances that are characterized by the exposure of anatomical genital areas or by specified sexual activities.
- 2. Adult cabarets shall not have enclosed viewing booths.

c) **Adult Motion Picture Theatre:**

- 1. An establishment where, for any form of consideration, films or motion pictures are shown, and in which a substantial

portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of sexual activities or anatomical genital areas.

2. Adult Motion Picture Theaters shall not have enclosed viewing booths.

d) **Adult Hotel or Motel:**

1. A hotel or motel or similar business establishment offering public accommodations for any form of consideration that:
  - a) provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions characterized by an emphasis upon the depiction or description of sexual activities or sexual activities or anatomical genital areas; and/or
  - b) rents, leases, or lets any room for less than a six-hour period, or rents, leases, or lets any single room more than twice in a 24-hour period.

e) **Adult Massage Parlor:**

1. An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the state.

f) **Adult Modeling Studio:**

1. An establishment whose primary business is the provision to customers of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in sexual activities or display specified anatomical genital areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

g) **Adult Sauna:**

1. A sauna, which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, using steam or

hot air as a cleaning, relaxing, or reducing agent, if the service provided is characterized by an emphasis on sexual activities or anatomical genital areas.

**h) Sexual Encounter Establishment:**

1. An establishment other than a hotel, motel, or similar establishment offering public accommodations, which, for any form of consideration, provides a place where two or more persons may congregate, associate, or consort in connection with sexual activities or the exposure of anatomical areas.

**4) Criteria for Reviewing Special Use Permit Application**

**a. Adult Uses shall not be located:**

- a) Within 500' of a property line of a residentially zoned parcel.
- b) Within 500' of a property line of a public or private school.
- c) Within 500' of a property line of a church or other place of worship.
- d) Within 500' of a property line of a library, museum, park or playground.
- e) Within 500' of a property line of another Adult Use.

**b. Adult Uses shall be permitted only in the C-1 Commercial Zoning District.**

**Section 22-1405: Planning Board Decision.**

- A. The Planning Board shall decide upon an Application for Special Use Permit within sixty-two (62) days after the public hearing. This timeframe may be extended by mutual consent of the applicant and the Board.
- B. The Planning Board shall incorporate its findings of each decision, in writing, into the minutes of its meetings.
- C. The decision of the Planning Board on the application after the holding of the public hearing shall be filed in the office of the City Clerk within five (5) business days after such decision is rendered and a copy thereof mailed to the applicant.
- D. A vote of the majority of all members of the Planning Board shall be required to act on any Special Use Permit application.

**Section 22-1406: Conditions.**

- A. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the Application for Special Use Permit.
- B. Upon determining that it would be proper and appropriate to issue a Special Use Permit, the Planning Board may impose any of the following conditions, if applicable on said Special Use Permit:

1. Person or persons who may exercise the rights granted or operate the use, building or structure permitted by issuance of the Special Use Permit.
2. Hours of operation.
3. Size, type, style, location and illumination of advertising or display signs and lighting.
4. Extent to which any existing buildings or structures may be enlarged, decreased, demolished or otherwise altered or utilized to accommodate the proposed use.
5. Responsibility of applicant to pay for improvements or modifications to: streets, highways, parking lots, water and sewer lines and other public utilities or facilities necessitated by the construction or development of the proposed use, building or structure.
6. Responsibility of applicant to dedicate to the City a portion of the property upon which the proposed use, building or structure will be located for use as streets, highways, parking lots, easements and rights-of-way for water and sewer lines and other public utilities or facilities, for development as parks, recreation areas or other "green space areas."
7. Limitations on the total number of living units and/or the number of bedrooms per unit to be constructed if the proposed use is a housing development.
8. Aesthetical considerations: The architectural style, design and frontal fenestration of any building or structure to be constructed, utilized, modified or altered in connection with the proposed use.
9. The retention of any trees, shrubs, bodies of water or other natural or existing formation on the site of the proposed use, building or structure, or the style or design of any landscaping to be done on said site.
10. The points of vehicular and pedestrian entry and exit to the site of the proposed use. Additionally, the Planning Board may make a recommendation to the Common Council regarding designation of one-way streets, location of traffic control devices and lights and the type and location of street parking adjacent to the site of the proposed use.

**Section 22-1407: Enforcement.**

- A. The Code Enforcement Official shall enforce all Special Use Permits approved by the Planning Board.
- B. A Special Use Permit shall be valid for one (1) year.
- C. A Special Use Permit shall expire if:
  1. The Code Enforcement Official determines that a condition of the Special Use Permit has not been complied with and the applicant was given reasonable time by the Code Enforcement Official to comply with the conditions in the Special Use Permit.
  2. The Code Enforcement Official determines that any use, construction or alternation occurred that was not included in or authorized by the Special Use Permit and the applicant was given reasonable time by the Code Enforcement Official to comply with the conditions in the Special Use Permit.

**Section 22-1408: Amendments.**

- A. The terms and conditions of any Special Use Permit may be amended in the same manner as required to grant a Special Use Permit, following the criteria and procedures in this Article.
- B. Any enlargement, alteration, or construction of accessory structures subject to a valid special use permit shall require a Special Use Permit amendment.

## **ARTICLE XV: NONCONFORMING LOTS, BUILDINGS AND USES**

### **Section 22-1501: Continuation**

- A. Any lawful lot, building/structure or use existing at the time this Chapter is adopted may be continued as stipulated in this Article even though said building, structure or use may not conform with the requirements of this Chapter.
- B. Such buildings, structures and uses shall be deemed nonconforming buildings, structures or uses and be subject to the requirements of this Article.

### **Section 22-1502: Nonconforming Lots**

- A. A lawful existing lot, in single and separate ownership, prior to the adoption of this Chapter, whose area, width and/or depth is less than the specified minimum lot requirements of this Chapter for the Zoning District the lot is located shall be considered a nonconforming lot.
- B. A nonconforming lot may be considered as complying with the specified minimum lot requirements and no area variance required, contingent upon compliance with the following requirements:
  - 1. The lot does not adjoin another lot or lots owned by the same property owner and the total area of the lots owned by the same owner exceed the required minimum lot area.
  - 2. The lot shall have an area of at least 5,000 sq. ft. and a minimum width of at least 50' at the required setback if the lot is in a residential district.
  - 3. The lot shall, if used for residential purposes, comply with the following minimum setback requirements:
    - a) Side Yard : (10')
    - b) Front Yard : (30')
    - c) Rear Yard : (20')
  - 4. The lot complies with all other bulk requirements for the district it is located in.
- C. A nonconforming lot, in a residential district, that complies with the requirements in Paragraph B may only be used for a single-family residence.
- D. No nonconforming lot shall be subdivided and further reduced in size unless the subdivision of said nonconforming lot is for the purpose of having the subdivided parcel purchased by the owner/owners of the adjoining parcels to increase the size of the adjoining lots.

### **Section 22-1503: Nonconforming Building**

- A. A lawful existing building for which a Building and Zoning Permit or Certificate of Occupancy Permit was issued prior to the adoption of this Chapter may be continued in accordance with this Article and as stipulated. Such building shall be considered a nonconforming building.

- B. A nonconforming building may be considered as complying with the height, bulk and area requirements of this Article and no area variance required contingent upon compliance with the following requirements:
  - 1. No nonconforming building shall be enlarged, altered or modified that would result in an increase in its nonconformity.
  - 2. If a nonconforming building is destroyed to the extent of losing in excess of 50% of its replacement cost, said building may be reconstructed on the existing foundation at the same height, width and depth of the destroyed structure.
  - 3. If a nonconforming building is destroyed to the extent of losing in excess of 50% of its replacement cost and the property desires to rebuild a larger building on the lot, said nonconforming building shall conform to all requirements of this Chapter.
  - 4. If a nonconforming building is moved, it shall conform to all requirements of this Chapter at the new location for said building.

#### **Section 22-1504: Nonconforming Use**

- A. A lawful land use, in existence prior to the adoption of this Chapter, may be continued in accordance with this Article. Said use shall be considered a nonconforming use.
- B. A nonconforming use may be considered as complying with the use regulations in this Chapter contingent upon compliance with the following requirements:
  - 1. No nonconforming use shall be expanded to occupy additional area of a lot than what existed at the time this Chapter was adopted.
  - 2. No nonconforming use shall be changed to a different nonconforming use.
  - 3. A nonconforming use may be changed to a conforming use.
  - 4. No nonconforming use shall be changed to a conforming use and then changed back to a nonconforming use.

#### **Section 22-1505: Discontinuance**

- A. If a nonconforming building/structure or use is discontinued for a period of twelve (12) months, said building/structure or use shall thereafter only be utilized by a building/structure or use that complies with all requirements of this Chapter.
- B. In a C-1 District, former industrial properties will be allowed a period of 24 months after building/structure or use is discontinued before said building/structure or use shall thereafter only be utilized by a building/structure or use that complies with all requirements of this chapter.

## ARTICLE XVI: ZONING BOARD OF APPEALS

### **Section 22-1601: Organization**

- A. The Zoning Board of Appeals shall consist of five (5) members.
- B. The Zoning Board of Appeals may adopt such rules and regulations as it may deem necessary to carry out its duties and responsibilities.
- C. The Zoning Board of Appeals shall be organized and operated and administered in accordance with Section 81 of General City Law, as amended.

### **Section 22-1602: Procedures**

- A. Meetings:
  - 1. All meetings shall be open to the public in accordance with Article 7 of NYS Public Officers Law.
  - 2. The presence of a majority of the entire Zoning Board of Appeals shall be required for a quorum.
  - 3. A vote of the majority of all members shall be required to decide any action before the Zoning Board of Appeals.
- B. Minutes:
  - 1. The Zoning Board of Appeals shall keep minutes of its proceedings, discussions, public hearings and decisions.
  - 2. The minutes shall record the vote of each member as well as the reasoning and rationale and basis for each official action taken. The minutes shall also record if a member fails to vote and an explanation of all such votes.
  - 3. The Zoning Board of Appeals shall file its minutes with the City Clerk.
- C. Filing of Decisions:
  - 1. All rules, regulations, amendments or repeal thereof and every order, requirement, decision or determination of the Zoning Board of Appeals shall be filed in the Office of the City Clerk within five (5) business days and shall constitute a public record.

### **Section 22-1603: General Authority and Rules**

- A. General Authority:
  - 1. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made by the Code Enforcement Official.
  - 2. The Zoning Board of Appeals shall have all the powers of the Code Enforcement Official from whose order, requirement, decision, interpretation or determination the appeal is taken.
- B. Use Variances:
  - 1. The Zoning Board of Appeals, upon appeal from a decision or interpretation of the Code Enforcement Official, shall have the power to grant use variances.

- C. Area Variances:
  - 1. The Zoning Board of Appeals, upon appeal from a decision or interpretation of the Code Enforcement Official, shall have the power to grant area variances.
  
- D. Interpretation:
  - 1. The Zoning Board of Appeals, upon an appeal from a decision or interpretation of the Code Enforcement Official, shall have the power to grant interpretations.
  
- E. Imposition of Conditions:
  - 1. The Zoning Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property.
  - 2. Such conditions shall be consistent with the spirit and intent of the Zoning Ordinance and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

**Section 22-1604: Appeal Application Procedures**

- A. Timeframe to Appeal:
  - 1. An application to appeal any order, requirement, decision, interpretation or determination of the Code Enforcement Official shall be filed with the Code Enforcement Official within sixty (60) days of the date said order, requirement, decision, interpretation or determination of the Code Enforcement Official is filed.
  - 2. In the case of an appeals application being for an area variance to a site plan or subdivision application being reviewed by the Planning Board, the application shall be filed with the Code Enforcement Official within sixty (60) calendar days of the date the Planning Board determined that an area variance is required.
  
- B. General Requirements:
  - 1. All appeals to the Zoning Board of Appeals shall be on application forms supplied by the Code Enforcement Official and Zoning Board of Appeals. All appeals applications shall be signed and dated by the applicant.
  - 2. All appeals applications submitted to the Zoning Board of Appeals shall include seven (7) copies of the following:
    - a. A Plot Plan drawn to scale identifying:
      - 1) Property boundaries.
      - 2) Location of all buildings on property including which side is considered the front of the building.
      - 3) The front, side and rear setbacks of all buildings.
      - 4) The height of all buildings.
      - 5) The total area of the lot.
      - 6) The total area of all building(s) on the lot and proposed to be constructed.
      - 7) Proposed use of building/land and current land use and zoning of all adjoining properties.
    - b. A narrative description of the existing/proposed use.
    - c. For appeal application requesting a variance, a detailed narrative addressing each of the criteria listed in Section 22-1605, Paragraph B(2) for a Use Variance and Paragraph C(3) for an Area Variance.
    - d. A narrative description of the interpretation requested.

- e. A narrative description of the reasons why the applicant believes the requested variance or interpretation should be approved.
  - f. Full Environmental Assessment Form.
  - g. Application fees as established by the Zoning Board of Appeals.
3. The Code Enforcement Official and Zoning Board of Appeals may require that the Plot Plat be prepared by a licensed land surveyor, professional engineer or registered architect.
  4. The Zoning Board of Appeals shall determine whether the application is complete for purposes of commencing the review process. If an application is determined by the Zoning Board of Appeals to be incomplete, the Zoning Board of Appeals shall notify the applicant in writing as to what aspects of the application are deficient. The timeframes for Zoning Board of Appeals action during the review process shall not commence until the submission of a completed application with supporting documents and materials and the determination by the Zoning Board of Appeals that the application is complete.
- C. SEQR:
1. The Zoning Board of Appeals shall initiate and conduct the State Environmental Quality Review (SEQR) process by:
    - a. Reviewing the EAF and classifying the proposed action as either a Type I, II or Unlisted Action.
    - b. Identify all involved and interested agencies with the proposed action.
    - c. Conduct a coordinated or uncoordinated review.
    - d. Issue a Determination of Significance.
    - e. Taking all such other required steps and actions as required by SEQR.
- D. Stay Upon Appeal:
1. The filing of an appeal application shall stay all proceedings in furtherance of the action appealed from.
  2. However, if the Code Enforcement Official certifies to the Board of Appeals, after an appeal application shall have been filed with the Code Enforcement Official, that by reason of facts stated in the certificate a stay would, in the Code Enforcement Official's opinion, cause imminent peril to life or property, then said proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application and notice to the Code Enforcement Official and on due cause shown.
- E. Public Hearing:
1. The Zoning Board of Appeals shall conduct a public hearing on every appeals application.
  2. The Zoning Board of Appeals shall, within sixty-two (62) calendar days of the date an appeals application is determined to be complete, conduct the public hearing.
  3. The Zoning Board of Appeals shall mail notice of said hearing to the applicant at least ten (10) days before said hearing and shall give public notice of said hearing in a newspaper of general circulation in the City at least five (5) days prior to the date thereof.
  4. The ZBA shall mail notice of said hearing to all property owners adjoining the property involved in the application. Said notice shall be mailed at least five (5) days prior to the date thereof.

5. The ZBA may mail a notice of said public hearing to any additional property owner if the ZBA determines the nature of the application warrants such.
6. If required by Section 239m of the General Municipal Law, at least five (5) days before such hearing, the Zoning Board of Appeals shall mail notices thereof to the County Planning Board, which notice shall be accompanied by a full statement of such proposed action, as defined in subdivision one of Section 239m of the general municipal law.
7. Pursuant to General Municipal Law, Section 239-nn, if a use variance application regards a property located within 500 feet of an adjoining municipality, the Zoning Board of Appeals shall give written notice of the public hearing to the Clerk of said adjoining municipality at least ten (10) days prior to the hearing.

F. Referral to County Planning Board:

1. An Application for Special Use Permit shall be referred to the County Planning Board per Section 239-m of the General Municipal Law if the application applies to real property within 500' of the following:
  - The boundary of the City of Johnstown.
  - The boundary of an existing or proposed County or State park or other recreational area.
  - The right-of-way of any existing or proposed County or State parkway, thruway, expressway, road or highway.
  - The boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines.
  - The boundary of any existing or proposed County or State-owned land on which a public building or institution is situated.
  - The boundary of a farm operation within an agricultural district as defined in Article 25AA of the Agriculture and Markets Law, pursuant to General Municipal Law, Article 12-B, Sections 239-l and 239-m, as amended.
2. Applications shall be forwarded to the County Planning Board in accordance with Section 239-m of the General Municipal Law.
3. The Planning Board shall not act on an Application for Special Use Permit referred to the County Planning Board until either:
  - a. A recommendation from the County Planning Board has been received.
  - b. 30 days have elapsed since the date the application was referred to the County Planning Board and no recommendation was received.
4. The Planning Board and County Planning Board may agree to extend the 30-day requirement.
5. If the County Planning Board recommends modification or disapproval of an application, the Planning Board shall not act contrary to such recommendation except by a vote of a majority plus one of all members of the Planning Board.
6. Within thirty days after final action, the Planning Board shall file a report of the final action it has taken with the County Planning Board. When the Planning Board acts contrary to a recommendation of modification or disapproval of a proposed action, the Planning Board shall set forth the reasons for the contrary action in such report.

7. Within thirty (30) days of referral, the County Planning Board shall report its recommendations to the Zoning Board of Appeals supporting its recommendations with a full statement of its reasons.
8. If the County Planning Board fails to report, the Zoning Board of Appeals may proceed to take action.
9. If the County Planning Board disapproves the proposed variance, or if the County Planning Board recommends modification, approval by the Zoning Board of Appeals of such appeals application for a variance shall not become effective except by an affirmative vote of the majority plus one of the zoning Board of Appeals and a resolution stating fully the reasons for its action.

G. Timeframe to Render Decisions:

1. The Zoning Board of Appeals shall make its decision on an appeals application within sixty-two (62) days after the closing of a public hearing on said application.
2. The time within which the Zoning Board of Appeals must render its decision may be extended by the mutual consent of the applicant and Zoning Board of Appeals.

H. Filing of Decision:

1. The decision of the Zoning Board of Appeals shall be filed/mailed to the:
  - Applicant
  - City Clerk
  - Code Enforcement Official
  - City Engineer
2. The Zoning Board of Appeals shall file its decision with these offices within five (5) business days after a decision is rendered.

I. Rehearing:

1. A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the Board not previously reheard may be made by any member of the board. A unanimous vote of all members of the Zoning Board of Appeals then present shall be required for such rehearing to occur.
2. Such rehearing shall be subject to the same notice provisions as an original hearing. Upon such rehearing, the Zoning Board of Appeals may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the Board finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

**Section 22-1605: Variances**

A. Definitions:

1. “Use Variance” shall mean the authorization by the Zoning Board of Appeals for the use of land for a purpose, which is otherwise not allowed or is prohibited by the applicable zoning regulations.
2. “Area Variance” shall mean the authorization by the Zoning Board of Appeals for the use of land in a manner, which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

B. Use Variance:

1. The Zoning Board of Appeals, on appeal from the decision or determination of the Code Enforcement Official, shall have the power to grant a use variance.
2. No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located all of the following criteria shall apply:
  - a. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.
  - b. The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood.
  - c. The requested use variance, if granted, will not alter the essential character of the neighborhood.
  - d. The alleged hardship has not been self-created.
3. The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
4. The Zoning Board of Appeals, in granting use variances, shall not destroy the general scheme of the Zoning Ordinance.

C. Area Variance:

1. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the Code Enforcement Official to grant an area variance.
2. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.
3. In making such determination, the Zoning Board of Appeals shall consider each of the following criteria and affirmatively determine that the application satisfies each criteria:
  - a. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
  - b. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance.
  - c. Whether the requested area variance is substantial.
  - d. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
  - e. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

4. The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

D. Conditions:

1. The Zoning Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the Zoning Ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

## ARTICLE XVII: AMENDMENTS

### **Section 22-1701: Authority**

- A. The Common Council may, from time to time, on its own motion, on petition or on recommendation of the Planning Board, amend, supplement or repeal any provision of this Chapter in the manner provided by the General City Law.

### **Section 22-1702: Petition**

- A. Wherever the owners of fifty per centum (50%) or more of the road frontage in any district or part thereof shall present a petition duly signed and acknowledged, to the Common Council, requesting an amendment, supplement, change or repeal any provision of this Chapter, the Common Council shall vote upon said petition within ninety (90) days after the filing of the same by the petitioners.

### **Section 22-1703: Referral to City Planning Board**

- A. All proposed amendments and changes to this Chapter, whether initiated by the Common Council or by petition, shall be referred by the Common Council to the City Planning Board for a written report and recommendation.
- B. The Planning Board shall include in its written report its reasons for supporting or opposing the proposed amendment or change.
- C. If the Planning Board opposes the proposed amendment or change, said amendment or change shall not become effective unless approved by a majority plus 1 vote of the entire Common Council.
- D. The Planning Board shall submit its written report and recommendation back to the Common Council within 60 days after receiving the referral from the Common Council.

### **Section 22-1704: Referral to County Planning Board**

- A. At least thirty (30) days prior to a public hearing on a proposed amendment or change to this Chapter, the Common Council shall comply with the provisions of Article 12-B, Section 239-m of the General Municipal Law as amended, and refer to the County Planning Board proposed amendments affecting property within a distance of five hundred feet (500') from the boundary of the city or from the boundary of any county or state park, or from the right-of-way of any county or state parkway, throughway, expressway or other controlled-access highway, or from the right-of-way of any stream or drainage channel owned by the county or state owned land on which a public building or institution is located.
- B. Within thirty (30) days of referral, the County Planning Board shall report its recommendations to the Council. If the County Planning Board fails to report within this period, or an agreed extension thereof, the Council may take final action without the report.
- C. If the County Planning Board recommends disapproval or recommends a modification to the proposed amendment, the City Council shall not act contrary to such a recommendation except by a vote of a majority plus 1 vote of the entire Common Council.

## **Section 22-1705: Public Hearing**

- A. Prior to taking any action on a proposed amendment or change to this chapter, the Common Council shall schedule and conduct a public hearing.
- B. The Common Council shall fix the date, time and place of said public hearing and shall:
  - 1. Publish a legal notice at least five (5) days prior to the date of the public hearing.
  - 2. Submit a written notice of any proposed amendment or change affecting property within five hundred feet (500') of the boundaries of any state park or parkway to the required State authorities having jurisdiction over such state park or parkway at least ten (10) days prior to the date of such public hearing.
  - 3. Submit a written notice of any proposed change or amendment affecting property within five hundred feet (500') of the boundary of the city to the clerk of such municipality and the clerk of the County Board of Supervisors at least ten (10) days prior to the date of such hearing.