

**Zoning Ordinance
Borough of Ohiopyle
Fayette County, Pennsylvania**

JUNE 16, 2011

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ARTICLE 1 GENERAL PROVISIONS

§101. Title.

This Ordinance shall be known as the “Ohiopyle Borough Zoning Ordinance” and shall apply within the geographic limits of Ohiopyle Borough, Fayette County, Pennsylvania.

§102. Enactment.

The Ohiopyle Borough Council hereby adopts and enacts the regulations, zoning districts and sub-districts, administrative structures, and administrative procedures that constitute this Zoning Ordinance by virtue of the authority granted to the Borough by the Commonwealth of Pennsylvania in the Pennsylvania Municipalities Planning Code of 1968, P.L. 805, No. 247 as reenacted and amended.

From and after the approval date of this Ordinance, the zoning districts and sub-districts specified herein shall be established and the following regulations contained in the entirety of this Ordinance shall be in full force and effect, unless subsequently amended by the Ohiopyle Borough Council. Refer to ARTICLE 15 of this Ordinance for amendment procedures.

§103. Compliance Required.

Every use, *lot*, *building*, and *sign* in Ohiopyle Borough must either conform to the provisions of this Ordinance or be nonconforming as specified in ARTICLE 6 of this Ordinance. No *building* shall be erected, enlarged, moved, physically altered, or used except as permitted by this Ordinance. *Building* demolitions that occur in accord with an approved demolition permit are exempt from this Ordinance.

§104. Applicability of This Ordinance to Private Agreements.

This Ordinance shall not annul any legal easements, covenants, or private agreements. However, the existence of any such easement, covenant, or private agreement shall not affect the enforceability of this Ordinance.

§105. Filing.

This Ordinance, together with the Zoning District Map that is herein made part of this Ordinance, shall be kept on file at the Ohiopyle Borough Municipal Office. A certified copy of the Ordinance shall also be placed on file in the Office of the Recorder of Deeds of Fayette County, Pennsylvania.

For informational purposes only, a copy of the Zoning District Map is attached to this Ordinance as Exhibit 1. The Official Zoning District Map filed at the Ohiopyle Borough Municipal Office shall be signed and attested to by the Ohiopyle Borough Council President

who was presiding at the time of the Official Map's adoption or amendment and shall prevail in any dispute between a copy or an alleged copy of the Official Map and the Official Map itself.

§106. General Purpose and Objectives.

This Ordinance is adopted as part of a continuing and comprehensive planning program. These planning efforts include, but are not limited to, the Fayette County Mountain Area Multi-Municipal Comprehensive Plan, the Ohiopyle Joint Master Plan and Implementation Strategy, and the Ohiopyle Design Guide: Sheltered by Nature.

The general purpose of this Ordinance is to protect and promote public health, safety, morals, and welfare. The additional purpose of this Ordinance is to meet the following list of objectives that were developed from the comprehensive planning program in addition to the Pennsylvania Constitution, which states that people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic, and aesthetic values of the environment.

Ohiopyle Design Guide

- a) Ensure that new development is compatible in scale and character with the existing community fabric of Ohiopyle Borough.
- b) Protect and enhance the Borough's authentic community character, which is small-scale, complementary of the surrounding natural environment, inviting to visitors, and promotes outdoor activity and an outdoor adventure lifestyle.
- c) Provide a community that is sensitive to the surrounding landscape and uses building materials that are environmentally-friendly and sustainable.
- d) Screen and buffer unsightly uses from public view to enhance the community aesthetic and improve the visitor experience.
- e) Promote a pedestrian-friendly community.

Fayette County Mountain Area Multi-Municipal Comprehensive Plan

- f) Prevent further loss of productive (developable) land areas to open space preservation activities.
- g) Improve the environmental integrity of the area.
- h) Preserve the unique heritage of the area through sustainable development.
- i) Provide a transportation system that facilitates safe traffic flow, including traffic associated with tourism.
- j) Attract new development and land uses that support tourist activities.

§107. Schedule of Fees and Expenses.

The Ohiopyle Borough Council shall by ordinance or resolution adopt a schedule of fees and expenses for zoning certificates, conditional use permits, variances, sign permits, zoning hearing board proceedings, zoning amendments, zoning appeals, and other matters pertaining to this Ordinance. The schedule of fees and expenses shall be duly recorded by

the Borough and posted in the Borough Office. No application or request for a zoning certificate, conditional use permit, variance, sign permit, zoning hearing board proceeding, zoning amendment, zoning appeal, or any other matter pertaining to this Ordinance shall be considered by the Borough's Zoning Officer, Zoning Hearing Board, or Borough Council until the applicable fees and expenses have been paid in full. The Ohiopyle Borough Council may waive or modify fees where unusual circumstances warrant such relief. The schedule of fees and expenses can be amended only by ordinance or resolution of the Ohiopyle Borough Council.

ARTICLE 2 ZONING DISTRICTS

§201. Zoning District Map.

The area of Ohiopyle Borough is hereby divided into Zoning Districts as shown on the Official Ohiopyle Borough Zoning District Map, which is hereby adopted by reference and declared to be a part of this Ordinance. Refer to §105 for information about where the Official Map is filed.

§202. Zoning District Map Amendments.

All amendments affecting Zoning District and Sub-District boundaries shall be approved by the Ohiopyle Borough Council and shall be shown on the Official Zoning District Map, including the date of adoption. The Zoning District Map on file in the Ohiopyle Borough Office shall be the final authority as to the current Zoning District boundaries of all land and water areas in the Borough of Ohiopyle. Refer to §105 for filing information.

§203. Zoning Districts and Purposes.

The following three (3) Zoning Districts are established by this Ordinance:

<u>District Name</u>	<u>District Abbreviation</u>
Conservation/Park District	CP
Residential District	R
Tourist Commercial District	TC

§203.1. Conservation/Park (CP) District.

The Conservation/Park (CP) Zoning District is intended to accommodate the conservation of Ohiopyle State Park and Stewart Place on the Green by limiting development to that which is consistent and compatible with natural lands conservation and management, outdoor recreation, and visitor-serving leisure use.

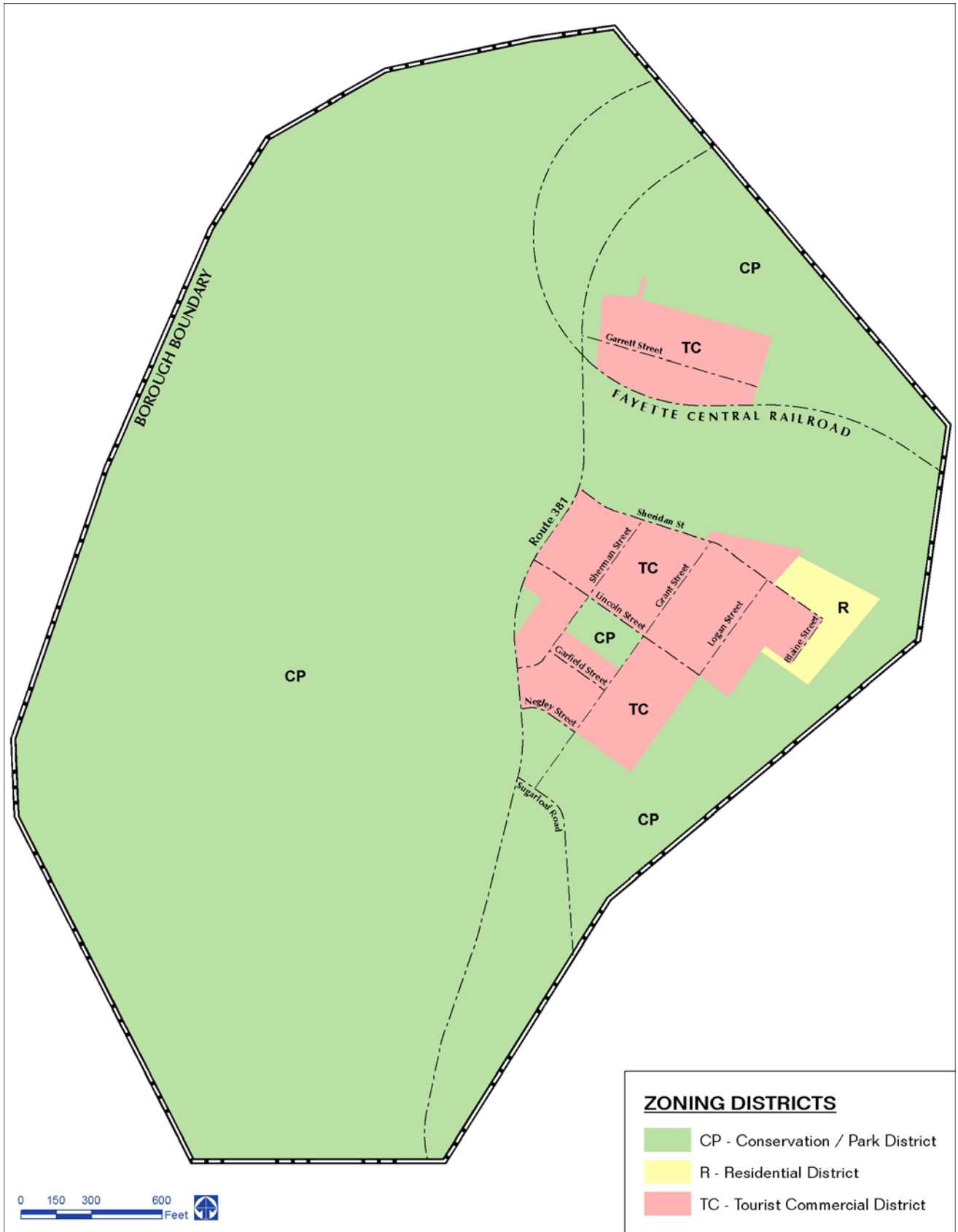
§203.2. Residential (R) District.

The Residential (R) Zoning District is intended to exclusively accommodate single family and/or multiple family residential development served by public sewerage.

§203.3. Tourist Commercial (TC) District.

The Tourist Commercial (TC) Zoning District is intended to provide for a complementary mix of uses served by public sewerage, which accommodates the daily needs of Ohiopyle Borough residents and visitors. The objective is to provide for service, retail, lodging, residential, civic, quasi-civic, and industry uses that maintain a small-scale and environmentally-sensitive community character, placed in ways that meet the objectives listed in §106.

EXHIBIT 1, ZONING DISTRICT MAP



This map is based on property lines compiled from Property Survey for Falls Visitor Center by Pederson & Pederson for DCNR, dated 09-25-2008, with no verification from the deeds. This map is not meant to be used as a legal definition of properties or for engineering purposes.

ARTICLE 3 ZONING REGULATIONS

§301. Purposes of Zoning District Regulations.

To fulfill the purposes of this Ordinance as identified in §106, the regulations set forth by this ARTICLE 3 shall be applied to specific geographic areas of the Borough. This ARTICLE 3 therefore sets forth regulations for the three (3) Zoning Districts identified in §203 and shown on the Official Zoning District Map.

§302. Tourist Commercial (TC) Sub-Districts.

To further achieve the purposes of this Ordinance, the Tourist Commercial (TC) Zoning District has been divided into four (4) Sub-Districts. Sub-District designations are applied based on the physical relationship that exists between the *lot* and the adjoining *public realm* at the *lot's* front or side lot line. The requirements stated in §304 through and including §310 vary among the TC Sub-Districts. Refer to Exhibit 2, Sub-District Zoning Map, which is hereby made part of the Official Zoning District Map.

<u>TC Sub-District Name</u>	<u>Abbreviation</u>
Buffer Interface	TC1
Roadway Interface	TC2
Bikeway Interface	TC3
Active Frontage Interface	TC4

§303. Use Regulations.

Table 303-CP, Table 303-R, and Table 303-TC indicate the land use types that are permitted or conditionally permitted with the approval of a Conditional Use Permit (CUP) in each Zoning District. Refer to §804, Zoning Certificates, regarding the procedure to obtain a Zoning Certificate for a *permitted use*. Refer to ARTICLE 7, Conditional Uses, regarding the procedure to obtain a CUP for a *conditionally permitted use*.

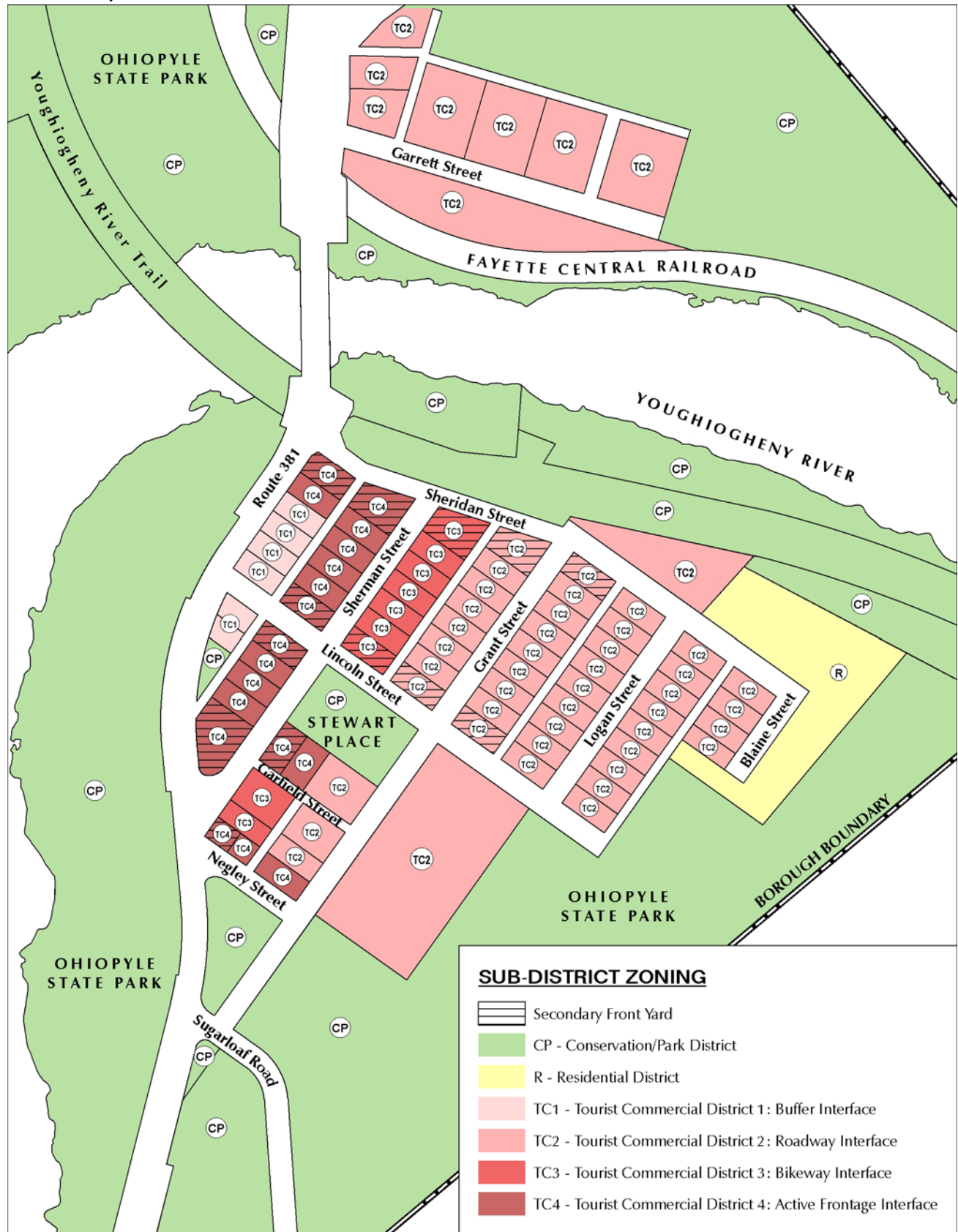
§304. Building Placement and Form Requirements.

Table 304-CP, Table 304-R, and Table 304-TC indicate the building placement and form standards that are required in each Zoning District and each TC Sub-District. These standards must be adhered to unless another provision of this Ordinance specifically states otherwise or a Variance or Special Exception is approved pursuant to ARTICLE 8, Variances and Special Exceptions.

§304.1. Special Exception to Building Placement and Form Requirements for Historic Buildings

Any individual *building* that is listed or documented to be eligible for listing on the National Register of Historic Places and/or the Pennsylvania Register of Historic

EXHIBIT 2, SUB-DISTRICT ZONING



This map is based on property lines compiled from Property Survey for Falls Visitor Center by Pederson & Pederson for DCNR, dated 09-25-2008, with no verification from the deeds. This map is not meant to be used as a legal definition of properties or for engineering purposes.

CONSERVATION/PARK (CP) ZONING DISTRICT

Table 303-CP: Use Regulations

CONSERVATION/PARK DISTRICT (CP)	
LAND USE TYPE	PERMIT*
Service and Retail	
Farmers' Market	P
Agriculture	P
Lodging	
Campground	P
Group Dwelling	P
Seasonal Dwelling Unit	P
Civic and Quasi-Civic	
Community Center/Place of Assembly	P
Education Center or School	P
Fire or Police Station	P
Government Office or Facility	P
Museum or Library	P
Public Recreation	P
Parking Lots and Garages	P
Public Utility	P
Industry	
Mineral Resource Extraction	CUP

Key:

P Permitted Use
(refer to §804 of this Ordinance)

CUP Conditional Use Permit required
(refer to ARTICLE 7 of this Ordinance)

* **Accessory uses** pertaining to and customarily associated with and subordinate to the uses in Table 303-CP are Permitted (P), provided that they are located on the same *lot* as the *primary use*.

* **Conditional Use Permit Required** for any use in the Conservation/Park (CP) Zoning District other than *Public Recreation* located within 600 feet of a Tourist Commercial (TC) or Residential (R) Zoning District.
(refer to ARTICLE 7 of this Ordinance).

Table 304-CP: Building Placement and Form Requirements

CONSERVATION/PARK DISTRICT (CP)	
Building Setbacks (refer to §303.1 and Exhibit 3)	
Front	20' min
Rear – Principal Building	10' min
Rear – Accessory Building	10' min
Side	10' min
Lot Size (refer to §303.2)	
Lot Width (at the primary street frontage)	100' min
Lot Depth	110' min
Building Height (refer to §303.3)	
Principal Building	40' max
Accessory Building	15' max

RESIDENTIAL (R) ZONING DISTRICT

Table 303-R: Use Regulations

RESIDENTIAL DISTRICT (R)	
LAND USE TYPE	PERMIT*
Service and Retail	
No-Impact Home-Based Business	P
Home-Based Business	CUP
Lodging	
Guest House	P
Residential	
Single Family Dwelling Unit	P
Multiple Family Dwelling Unit (5 attached units or less)	P
Multiple Family Dwelling Unit (6 attached units or more)	CUP

Key:

P Permitted Use
(refer to §804 of this Ordinance)

CUP Conditional Use Permit required
(refer to ARTICLE 7 of this Ordinance)

* **Accessory uses** pertaining to and customarily associated with and subordinate to the uses in Table 303R are Permitted (P), provided that they are located on the same parcel as the *primary use*.

Table 304-R: Building Placement and Form Requirements

RESIDENTIAL DISTRICT (R)	
Building Setbacks (refer to §303.1 and Exhibit 3)	
Front – Principal Building	8' min
Front – Garage (front-facing entry)	18' min
Rear – Principal Building	10' min
Rear – Accessory Building	3' min
Interior Side	5' min
Street Side	10' min
Lot Size and Coverage (refer to §303.2)	
Lot Width (at the primary street frontage)	50' min
Lot Depth	110' min
Maximum Impervious Surface Coverage	60%
Building Height (refer to §303.3)	
Primary Building	35' max
Accessory Building	12' max
Parking and Driveways	
Number of on-lot or dedicated off-lot parking spaces required per dwelling unit	2

TOURIST COMMERCIAL (TC) ZONING DISTRICT

Table 303-TC: Use Regulations

TOURIST COMMERCIAL DISTRICT (TC)	
LAND USE TYPE	PERMIT*
Service and Retail	
Artisan Shop/Gallery	P
Automotive (service/gas stations and motor vehicle sales/repair)	CUP
Bank or ATM	P
Business/Professional Office	P
Café/Restaurant/Tavern	P
Child Care Facility	CUP
Commercial Recreation	P
General Retail	P
Grocery or Farmers' Market	P
Outfitter (including recreation equipment rentals, sales, and guide services)	P
Places of Worship	P
Professional and Personal Services	P
Studios (art, fitness, entertainment)	P
Lodging	
Bed and Breakfast (5 rooms or less)	P
Bed and Breakfast (6 rooms or more)	CUP
Guest House	P
Hotel/Motel	CUP
Residential	
Single Family Dwelling Unit	P
Multiple Family Dwelling Unit (5 attached units or less)	P
Multiple Family Dwelling Unit (6 attached units or more)	CUP
Loft or Upper-Story Dwelling Unit	P
Group Dwelling	CUP
Civic and Quasi-Civic	
Community Center/Place of Assembly	P
Education Center or School	P
Government Office or Facility	P
Fire or Police Station	P
Museum or Library	P
Parking Lots and Garages (as the <i>primary use</i> on a lot)	CUP
Public Utility	P
Public Recreation	P

Key:

P Permitted Use
(refer to §804 of this Ordinance).

CUP Conditional Use Permit required
(refer to ARTICLE 7 of this Ordinance).

* **Conditional Use Permit Required**
(refer to ARTICLE 7 of this Ordinance).

- (1) For any service, retail, industry, manufacturing, or warehouse use operating between 10 pm and 7 am.
- (2) For any use offering alcoholic beverages or sexually explicit material or services for sale.

* **Accessory uses** pertaining to and customarily associated with and subordinate to the uses in Table 303-TC are Permitted (P), provided that they are located on the same lot as the *primary use*.

* **Drive-up windows** are not permitted for any land use type.

* **Pedestrian take-out windows** are permitted as ancillary to a café or restaurant.

Industry, Manufacturing, Warehousing	
Light Industrial	P
Heavy Industrial	CUP
Manufacturing	CUP
Warehousing/Storage	CUP

Table 304-TC: Building Placement and Form Requirements

(Refer to Exhibit 2)

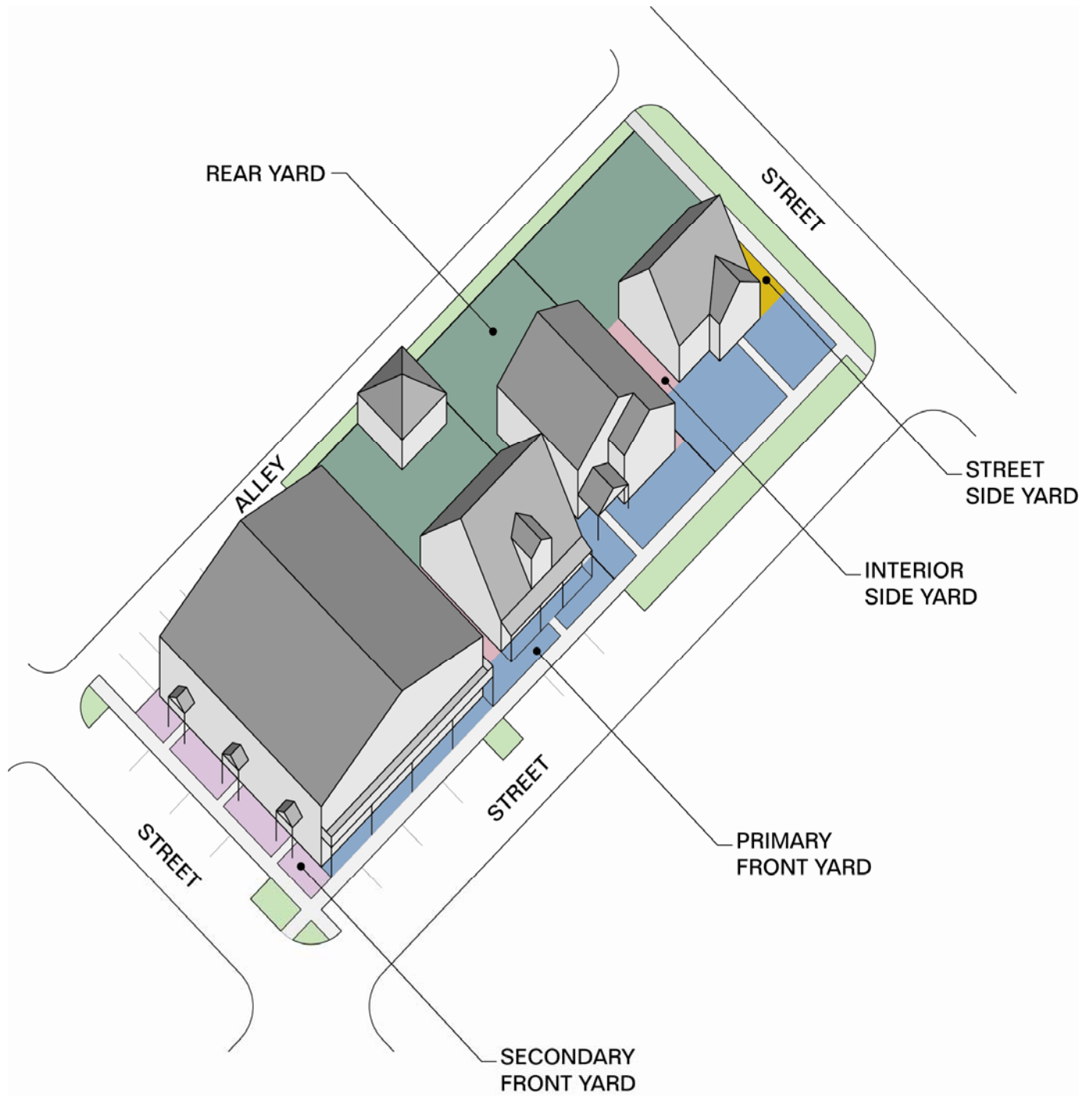
	TC1 BUFFER INTERFACE	TC2 ROADWAY INTERFACE	TC3 BIKEWAY INTERFACE	TC4 ACTIVE FRONTAGE INTERFACE
Building Setbacks (refer to Exhibit 3 and §303.1)				
Primary Front	20' min (facing Rt. 381)	0' min	5' min 30' max	0' min 25' max
Secondary Front	n/a	5' min 25' max	5' min 25' max	5' min 25' max
Rear – Principal Building	5' min	15' min	5' min	5' min
Rear – Accessory Building	0' min	0' min	0' min	0' min
Interior Side	3' min	3' min	0' min	0' min
Street Side	10 min	5' min	5' min	2' min
Building Separation	10' min	10' min	7' min	7' min
Lot Size (refer to §303.2)				
Width (at the primary street frontage)	50' min	50' min	50' min	50' min
Depth	110' min	110' min	110' min	110' min
Building Height (refer to §303.3)				
Principal Building	2 stories	2 stories	2 stories	2 stories
Accessory Building	12' max	12' max	12' max	12' max
Ground Floor Ceiling Height	8' min. clear	8' min. clear	10' min. clear	10' min. clear
Building Footprint (refer to §303.4)				
Building Width	40' max	40' max	65' max	65' max
Building Depth	60' max	60' max	65' max	65' max

Table 303-TC, Con't: Building Placement and Form Requirements

(Refer to Exhibit 2)

	TC1 BUFFER INTERFACE	TC2 ROADWAY INTERFACE	TC3 BIKEWAY INTERFACE	TC4 ACTIVE FRONTAGE INTERFACE
Permitted Frontage Types in the Primary Front Yard (refer to §303.5 and Exhibit 4)				
Grade Separation	X	X		
Common Yard	X	X		
Fence or Living Fence	X	X		X
Covered Porch	X	X	X	X
Stoop		X	X	X
Forecourt			X	X
Storefront		X	X	X
Gallery			X	X
Arcade			X	X
Allowed Frontage Types in the Secondary Front Yard (refer to §303.5 and Exhibit 4)				
Common Yard			X	X
Forecourt			X	X
Storefront		X	X	X
Number of On-Lot or Dedicated Off-Lot Parking Spaces Required				
Residential Dwelling Unit	1	1	1	0
Bed and Breakfast	1+ 0.5 per guestroom	1+ 0.5 per guestroom	1+ 0.5 per guestroom	1+ 0.5 per guestroom
Guest House	2	2	2	2
Hotel/Motel	0.5 per guestroom	1 per guestroom	0.25 per guestroom	0.25 per guestroom
Light Industrial, Heavy Industrial, Manufacturing	1 per 400 interior s.f.	1 per 400 interior s.f.	1 per 400 interior s.f.	1 per 400 interior s.f.
Warehousing	1 per 750 interior s.f.	1 per 750 interior s.f.	1 per 750 interior s.f.	1 per 750 interior s.f.
Driveways				
Driveway cuts permitted at primary front yard	No	Yes	No	No
Driveway cuts permitted at secondary front yard	No	No	No	No
Driveway cuts permitted at street side yard	Yes	Yes	Yes	No
Driveway cuts permitted at rear yard	Yes	Yes	Yes	Yes
Bicycle Parking				
Required for Visitor-Serving Uses	No	Yes	Yes	Yes

EXHIBIT 3, ILLUSTRATION - YARDS



Places shall be exempt from all requirements of §304 through and including §309 by Special Exception pursuant to ARTICLE 8, provided that the Zoning Hearing Board finds that the criteria listed in §807.1 shall be met.

§305. Building Setbacks.

All *buildings* shall be set back from lot lines as indicated on Table 304-CP, Table 304-R, and Table 304-TC.

§305.1. Special Exceptions to Maximum Setback Requirements in the Tourist Commercial (TC) Zoning District.

Maximum *setbacks* indicated in Table 304-TC are permitted to be exceeded by Special Exception pursuant to ARTICLE 8, provided that the Zoning Hearing Board finds that the criteria listed in §807.2 shall be met.

§305.2. Setback of Storage Tanks.

All commercial storage tanks that contain or carry more than 10 gallons of fuel, lubricants, or any other liquid or gas that is potentially hazardous to human health, safety, or welfare, shall be located at least fifteen (15) feet from all property lines and public right-of-ways in all zoning districts.

§306. Lot Size.

All *lots* shall have minimum width and depth requirements as indicated on Table 304-C, Table 304-R, and Table 304-TC. *Lot* width shall be measured at the front lot line. *Lot* depth shall be measured from the center of the front lot line and extend perpendicular from the front lot line to rear lot line.

§307. Building Height.

All *buildings* shall comply with the maximum height requirements as indicated on Table 304-CP, Table 304-R, and Table 304-TC. Height shall be measured as the vertical distance from the finished grade of the ground (where the ground meets the exterior wall of a *building*) to the highest point of the *building*. Chimneys on all *buildings*, as well as church steeples, cupolas, spires, turrets, and other similar architectural elements that are integral to a *building* and rise from the roof of a *non-residential building* are permitted to exceed the maximum *building height* limits by up to 10 additional feet.

§307.1. Special Exceptions for Exceeding Maximum Building Height

Buildings are permitted to exceed the maximum height requirements specified in Table 304-CP, Table 304-R, and Table 304-TC by Special Exception pursuant to ARTICLE 8, provided that the Zoning Hearing Board finds that the criteria listed in §807.4 shall be met.

§308. Building Footprint.

All *buildings* in the Tourist Commercial Zoning District shall not exceed the maximum width and depths indicated on Table 304-TC, as measured perpendicularly at the widest and deepest sections of the *building*.

§308.1. Special Exceptions for Exceeding Maximum Building Widths and Depths in the Tourist Commercial (TC) Zoning District.

Buildings are permitted to exceed the maximum width and depth requirements specified in Table 304-TC, by Special Exception pursuant to ARTICLE 8, provided that the Zoning Hearing Board finds that the criteria listed in §807.3 shall be met.

§309. Frontage Types in the Tourist Commercial (TC) Zoning District.

To achieve the purposes of this Ordinance given in §106, the *building façade* facing the primary front yard and the secondary front yard on parcels in the Tourist Commercial (TC) Zoning District shall address the public right-of-way in particular ways, as indicated by Table 304-TC. Refer to Exhibit 4 for an illustration of permitted Frontage Types in each TC Sub-District.

§310. Unscreened Outdoor Storage.

Unscreened outdoor storage is not permitted in any front yard or secondary front yard in the Tourist Commercial (TC) Zoning District.

§311. Maximum Height of Fences and Walls.

Unless necessary to protect public health and safety, freestanding *fences* and walls shall not exceed a height of four (4) feet in any front yard, six (6) feet in any secondary front yard, and eight (8) feet in any other yards. This height restriction does not apply to *living fences*. No *fences* or walls over three (3) feet in height, including *living fences*, are permitted within ten (10) feet of the point where the intersection of two public roads meet on the corner of a *lot*. This requirement applies to all zoning districts.

§312. Fences, Walls, and Screens with Harmful Components.

Unless necessary to protect public health and safety, *fences*, walls, and other screens that include barbs, thorns, electric wires designed to shock, or that have other harmful components are not permitted in any front yard or secondary front yard, with the exception of ornamental vegetation that has thorns (e.g., rose bushes, etc.). This requirement applies to all zoning districts.

EXHIBIT 4, ILLUSTRATION – FRONTATE TYPES

	SECTION		PLAN	
	PRIVATE LOT: FRONT OR SECONDARY FRONT YARD	PROPERTY LINE	PRIVATE LOT: FRONT OR SECONDARY FRONT YARD	PUBLIC STREET RIGHT-OF-WAY
<p>GRADE SEPARATION 3' Min. elevation change. Stairs or walkway to street. Deep front yard setback. TC1, TC2</p>				
<p>COMMON YARD No definition or physical barrier between the private lot and public street. Deep front yard setback. TC1, TC2</p>				
<p>FENCE OR LIVING FENCE Fence or living fence parallel to the lot line and serving as physical barrier between public and private space. TC1, TC2, TC4</p>				
<p>COVERED PORCH Shallow front yard setback. Covered porch parallel to the public street. TC1, TC2, TC3, TC4</p>				
<p>STOOP Shallow front yard setback. Defined stoop leading to a raised building entry. TC2, TC3, TC4</p>				

EXHIBIT 4 Con't: ILLUSTRATION – FRONTAGE TYPES

FORECOURT

Typical for L or U-shaped buildings. Common courtyard or public gathering area facing the front yard.

TC3, TC4

STOREFRONT

Shallow front yard setback. Awning or other element projecting from the building frontage.

TC2, TC3, TC4

GALLERY

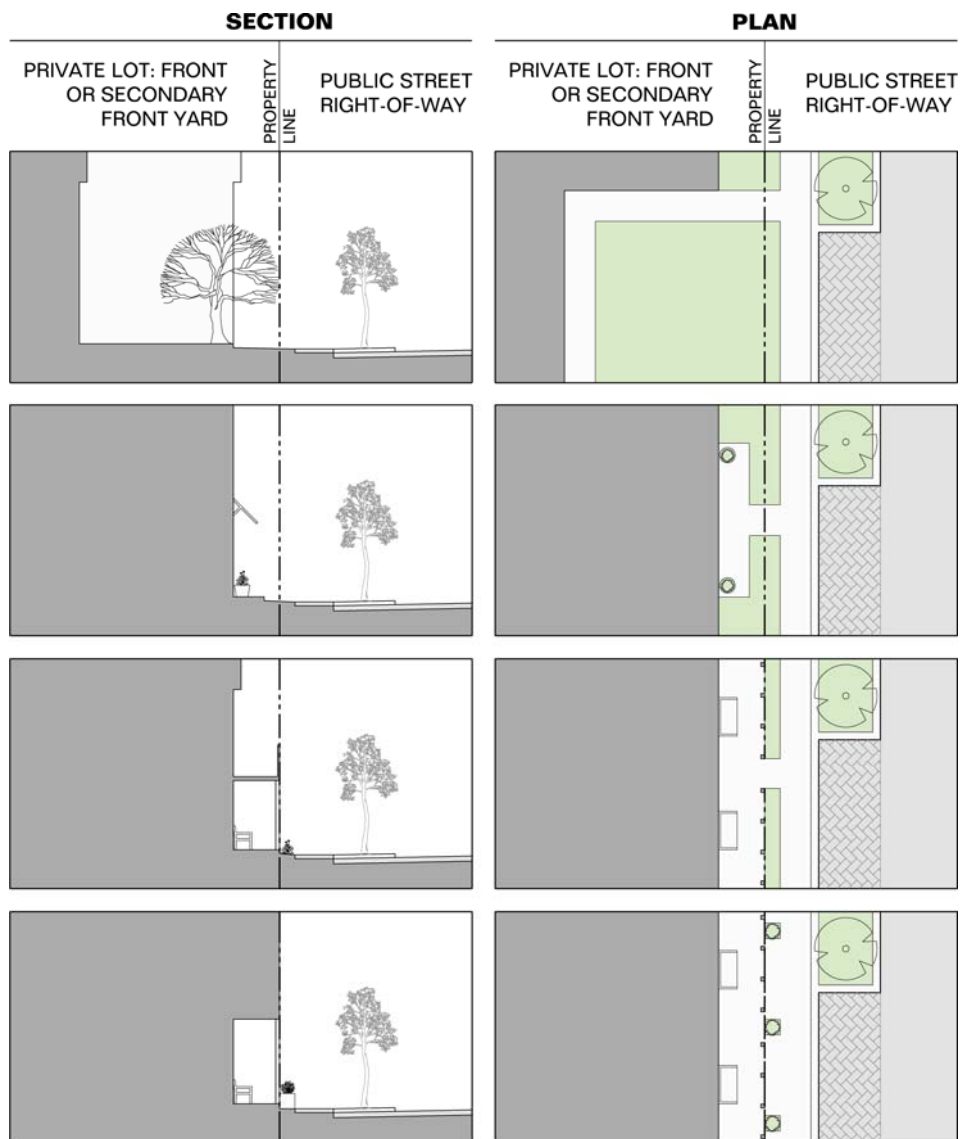
Shallow front yard setback. Covered walkway at building frontage.

TC3, TC4

ARCADE

Shallow front yard setback. Upper-story of the building serves as a covered porch or walkway.

TC3, TC4



ARTICLE 4 SIGNS

§401. Purpose of Sign Regulations.

The purposes of these sign regulations are to encourage the effective use of *signs* as a means of identification and communication, to maintain and enhance the aesthetic environment of Ohiopyle Borough, to enhance pedestrian and vehicular safety, and to promote and protect the public health, safety, morals, and general welfare of the Borough by avoiding the uncontrolled proliferation of *signs*.

§402. Permitted Sign Types.

Table 402 indicates the *sign* types that are permitted by right, are conditionally permitted with the approval of a Conditional Use Permit (CUP) (refer to ARTICLE 7, Conditional Uses), are not allowed, or are exempt from regulation under this Ordinance.

Table 402: Permitted Sign Types

SIGN TYPE	PERMIT*
Banners displayed for 21 days or longer	CUP
Billboard	CUP
Building/address numbering	E
Business name/identification sign	P
Business advertisement/goods and services	P
Directional sign	P
Flag	P
Garage sale, yard sale, and auction signs provided that they do not exceed 5 square feet	E
Incidental sign	E
Memorial sign	P
Obsolete sign which no longer identifies a bona fide business conducted or product sold	X
Political signs announcing candidates seeking public office, provided they are removed no more than 2 weeks after the election has occurred	E
Public notice or warning sign required by a valid and applicable federal, state, or local law, regulation, or ordinance	E
Realty signs advertising property for sale or rent provided they do not exceed 5 square feet	E
Temporary signs and banners (displayed for less than 21 consecutive days) (refer to §408)	E
Signs that flash, are animated, or give the illusion of movement	CUP
Welcome/information sign	P
Works of art with no commercial message	E

Key:

P *Permitted Sign: sign is allowed and issuance of a Sign Permit is required (refer to ARTICLE 10 of this Ordinance)*

CUP *Conditional Use Permit required (refer to ARTICLE 7 of this Ordinance)*

E *Exempt Sign: sign is allowed and a Sign Permit is not required provided that the sign complies with the regulations of this Ordinance.*

X *Prohibited Sign: sign is not allowed.*

*** Conditional Use Permit Required**

(refer to ARTICLE 7 of this Ordinance).

- (1) Any *freestanding sign* with a sign face greater than 24 square feet.
- (2) Any *sign* attached to a *building* that rises above the highest elevation of the *building's* roof.
- (3) *Signs* that encroach into or over public streets, sidewalks, or bike lanes.

*** Signs erected or owned by a federal, state, or Borough government body** are exempt from the regulations of ARTICLE 4 and ARTICLE 10 of this Ordinance.

§403. Illumination of Signs.

The following provisions shall apply regarding the illumination of *signs*:

- (A) The use of reflective signage materials that creates nuisance *glare* or a safety hazard related to *glare* shall not be permitted.
- (B) *Internally illuminated signs* are prohibited in the Conservation/Park (CP) and Residential (R) Zoning Districts.
- (C) No *sign* within 300 feet of the Residential (R) Zoning District may be illuminated between the hours of 10 p.m. and dawn.

§404. Freestanding Signs.

The following provisions shall apply to all *signs* that are not attached to *buildings*:

- (A) No *permanent freestanding sign* shall be located in any public right-of-way.
- (B) No *permanent freestanding sign* shall be allowed in the Residential (R) Zoning District.
- (C) In the Tourist Commercial (TC) Zoning District, there shall be no more than one (1) *permanent freestanding sign* per *lot* visible from a public right-of-way, trail, or park. A second *permanent freestanding sign* is allowed on parcels in the Tourist Commercial (TC) Zoning District that have a secondary front yard, provided the two *signs* face different *public realms*.
- (D) *Freestanding signs* shall not exceed eight (8) feet in height, measured from the elevation of the ground where the sign post or sign base meets the finished grade of the ground to the top of the highest attached component of the *sign*. If the *sign* meets the ground on a slope of varying elevation, the *sign* height shall be measured from the average elevation of the finished grade of the ground beneath the *sign*.
- (E) No *freestanding signs* over three (3) feet in height (measured as stated above) are permitted within ten (10) feet of point where the intersection of two public roads meet on the corner of a parcel.
- (F) The placement of *freestanding signs* shall not interfere with safe pedestrian and bicycle movement on public sidewalks, bike lanes, and trails.

§405. Signs Attached to Buildings and Structures.

The following provisions shall apply to all signs that are attached to *buildings*. These include flat wall signs, projecting signs, canopy signs, and roof signs.

- (A) Signs in the Residential (R) Zoning District that are visible from a public right-of-way, trail, or park are limited to one (1) *sign* per *building*, exceeding no more than five (5) square feet. No commercial messaging is permitted on the *sign*, unless approved as part of a Conditional Use Permit for a *home-based business* pursuant to ARTICLE 7, Conditional Uses.
- (B) No more than fifteen percent (15%) of any *building façade* visible from a public right-of-way, trail, or park shall be covered by permanent signage. Signs that project from the *building façade* (*projecting sign*), *signs* mounted on the roof of a *building* (*roof sign*), and *signs* mounted on *fences*, walls, porches, utility boxes, and other structural extensions of the *building*, and facing the same direction as the *façade*, count toward the percentage.
- (C) Architectural elements of *buildings* shall not be designed to be interpreted as signage (for example, a *building* shape designed to look like a commercial product or to convey a commercial message).
- (D) Except for *temporary signs* and *banners* displayed for less than 21 consecutive days and *banners* displayed for 21 days or longer permitted by a Conditional Use Permit, all signs attached to *buildings* shall be constructed of durable materials and shall be permanently attached to the *building* by direct attachment to a wall, frame, or structure.
- (E) No permanent signs shall be attached to trees, shrubbery, utility poles, or traffic signs.

§406. Signs that Require a Conditional Use Permit.

The following types of signs require the approval of a Conditional Use Permit pursuant to ARTICLE 7, Conditional Uses.

- (A) All *billboards*.
- (B) Any *freestanding sign* visible from a public right-of-way, trail, or park with a *sign* face larger than 24 square feet in size. If a *sign* has more than one face, the *sign* face area shall be computed by adding together the area of all *sign* faces visible from any one point. When two *sign* faces are placed back to back, so that both faces cannot be viewed from any one point at the same time, and when such *sign* faces are part of the same *sign* structure and are not more than 36 inches apart, the *sign* shall be computed by the measurement of one of the faces.
- (C) Any *sign* attached to a *building* that rises above the highest elevation of the *building's* roof.
- (D) Any *sign* that encroaches into or over a public right-of-way.

- (E) *Banners* with commercial or event messaging displayed for more than 21 consecutive days.

§407. Sign Messaging.

The following provisions shall apply to all messaging placed on *signs*, including words, letters, numbers, logos, symbols, and images.

- (A) Obscene *signs* are prohibited. No *sign* shall use sexually explicit or suggestive messaging or other messaging that is deemed obscene by Chapter 15 of the Pennsylvania Crimes Code, "Public Indecency."
- (B) Changeable copy signs shall only bear advertising of an establishment, activity, product, service, or entertainment that is furnished on the same parcel where the *sign* is located (i.e., *off-premises changeable copy signs* are not permitted), with the exception of *signs* announcing a special civic or cultural event, such as a fair, festival, play, concert, or event sponsored by a governmental, charitable, or nonprofit organization.
- (C) *Signs* shall not emit audible noise.

§408. Temporary and Portable Signs.

- (A) *Temporary signs* and *portable signs* shall not be placed in any position that will obstruct the vision of vehicular or bicycle traffic, block sidewalks or ADA ramps, or create a hazard or disturbance to the safety, health, and welfare of the public in any manner.
- (B) A *temporary sign* shall not be displayed more than three (3) times on the same *lot* per calendar year.
- (C) *Temporary signs* shall be no larger than 24 square feet in size and there shall be no more than two (2) temporary signs displayed simultaneously on the same *lot*.
- (D) *Portable signs* shall be placed at least 300 feet from any other *portable sign*.

§409. Condition and Maintenance.

All *signs* shall be maintained in good physical condition with no substantial chipped, peeling, or fading faces or structures, and no loose material or lettering. Metal surfaces shall be maintained free of rust. *Signs* not maintained in good condition are subject to ARTICLE 14, Enforcement.

§410. Abandoned Signs.

If a business or service has been permanently discontinued, all *signs* that are related to that use, as well as any structures that support these *signs* shall be known as "abandoned signs." All abandoned signs shall be removed at the expense of their owners within ninety (90)

days. If an abandoned sign is not removed, the Zoning Officer shall enforce the requirements of this section pursuant to ARTICLE 14, Enforcement.

ARTICLE 5 LIGHTING

§501. Purpose of Lighting Regulations.

The purposes of these regulations are to require and set minimum standards for outdoor lighting to provide for and control lighting in outdoor public places where public health, safety, and welfare are potential concerns; to protect drivers, pedestrians, and bicyclists from the *glare* of non-vehicular light sources; to protect the environment and the night sky from nuisance *glare* and light trespass; and to protect and retain the community character of Ohio Pyle Borough.

§502. Applicability.

These lighting requirements apply to all areas of the Borough where there is exterior artificial lighting or interior lighting that creates a nuisance or hazard as viewed from the outside.

Emergency lighting, as may be required by any public agency while engaged in the performance of their duties, or for illumination of the path of egress during an emergency are exempt from the requirements of this Ordinance. Also exempt is temporary seasonal (holiday) lighting.

§503. Lighting of Horizontal Surfaces.

For the lighting of predominantly horizontal surfaces such as, but not limited to, parking areas; roadways; storage and service areas; recreational areas/parks; *building* entrances; and sidewalks and bicycle paths, luminaires shall be aimed straight down and shall either be *fully shielded* or meet Illuminating Engineering Society (IES) cutoff criteria.

§504. Lighting of Vertical Surfaces.

For the lighting of predominantly non-horizontal surfaces such as, but not limited to, *building façade*, landscaping, and *signs*, luminaires shall be *shielded* and shall be installed and aimed so as to not project their light output past the object being illuminated, skyward, or onto a public roadway, park, or trail. Luminaires shall not be mounted more than twenty (20) feet above finished grade of the surface being illuminated. Illumination of the United States and Commonwealth flags are exempt from this requirement.

§505. Control of Glare.

The following provisions shall apply to the control of *glare*.

(A) Rotating, traveling, pulsing, flashing or oscillating light sources, lasers, beacons, search lights, strobes, and LED lighting shall not be permitted.

- (B) All lighting shall be aimed, located, designed, fitted, and maintained so as not to present a *glare* or illumination hazard to drivers, pedestrians, or bicyclists by impairing their ability to safely traverse public roadways, trails, and parks.
- (C) Spotlights and floodlights, including those installed on private properties, shall be aimed at no more than 45-degrees (45°) from straight down.
- (D) Any spotlight or floodlight used in the Tourist Commercial (TC) Zoning District is prohibited from being directed toward the Residential (R) and Conservation/Park (CP) Zoning Districts, or shall be fitted with a shielding device to prohibit light from shining onto properties in the R and CP Zoning Districts.
- (E) Lighting on private properties between the hours of 11:00 p.m. and dawn shall be dimmed to the lowest levels necessary for safety and security. Illumination for purely decorative, advertising, or aesthetic purposes is prohibited between 11:00 p.m. and dawn, except that such lighting situated on the premises for a commercial establishment may remain illuminated during hours when the establishment is open for business, and until no more than one (1) hour after closing.
- (F) The illumination projected from any light onto any parcel in the Residential (R) Zoning District shall at no time exceed 0.1 *footcandle*, measured at the line-of-sight at any time and from any point on the receiving residential property.
- (G) The illumination projected from any light onto any property legally occupied by a residential use in any Zoning District shall at no time exceed 0.5 *footcandle*, measured at the line-of-sight at any time and from any point on the receiving residential property.
- (H) The illumination projected from any property onto any non-residential use shall at no time exceed 1.0 initial *footcandle*, measured at the line-of-sight from any point on the receiving property.

ARTICLE 6 NONCONFORMITIES

§601. Nonconforming Uses.

Any use of land that lawfully existed at the time this Ordinance was enacted may be continued, even though such use does not conform to the provisions of this Ordinance, including but not limited to §303 and Table 303-CP, Table 303-R, and Table 303-TC.

§601.1. Change of a Nonconforming Use.

A nonconforming use shall not be changed to any use other than a conforming use as specified in §303 and Table 303-CP, Table 303-R, and Table 303-TC.

§601.2. Abandonment of a Nonconforming Use.

If a nonconforming use ceases to exist or operate on a premises for more than 270 consecutive days, the nonconforming use shall be considered abandoned and the nonconforming use shall not be permitted to reestablish on the same premises. Any use that that reoccupies the premises shall be a conforming use as specified in §303 and Table 303-CP, Table 303-R, and Table 303-TC.

§602. Nonconforming Buildings.

Any *building* that lawfully existed at the time this Ordinance was enacted but does not conform to the provisions of this Ordinance, including but not limited to §304 and Table 304-CP, Table 304-R, and Table 304-TC is permitted to remain.

A *nonconforming building* may undergo maintenance and modification, provided that there shall be no additional structural ground coverage in the *lot's* primary front or secondary front yard and no new nonconformities are created.

§603. Replacement of Nonconforming Uses and Buildings.

Any nonconforming use or *building* that is damaged or destroyed by fire, flood, or other natural disaster may be replaced in-kind and considered to be a lawful nonconformity. If in-kind replacement is not completed within twenty-four (24) months from the time the use or structure is damaged or destroyed, the future use, placement, and form of the use and structure shall be in conformity with the provisions of this Ordinance, including but not limited to §303 and §304.

§604. Registration of a Nonconforming Use or Building.

The owner of a nonconforming use, *building*, or *sign* has the right to make a request for the Borough to register the nonconformity as a legal nonconformity and register the

nonconformity by its Fayette County Tax Assessor's identification number as a legal conformity.

§605. Nonconforming Signs.

Any *sign* existing on the effective date of this Ordinance that does not conform with the requirements of ARTICLE 4, Signs, shall be considered as a lawful nonconformance.

A *nonconforming sign* may be repaired or reconstructed provided that no alterations are made that increase the gross surface area of the *sign*.

§606. Nonconforming Lighting.

Any light source or fixture that existed on the effective date of this Ordinance that does not conform with the requirements of ARTICLE 5, Lighting, shall be considered as a lawful nonconformance.

ARTICLE 7 ADMINISTRATION: CONDITIONAL USES

§701. Conditionally Permitted Uses.

A *Conditional Use* is an allowable use of the land or a *building* in a Zoning District for a purpose that is not permitted by right by this Ordinance and that is only permitted with the approval of a Conditional Use Permit, indicated as “CUP” in Table 303-CP, Table 303-R, or Table 303-TC. *Signs* that are permitted only with approval of a Conditional Use Permit are indicated as “CUP” in Table 402. Conditional Use Permits are required for those uses and *signs* that need to be carefully sited or controlled in order to meet the objectives listed in §106. *Conditional uses* are not deviations from this Ordinance. Uses of the land or a *building* that require a Conditional Use Permit are permitted if the location and operation standards prescribed by this ARTICLE 7 are followed.

§702. Procedure for Obtaining a Conditional Use Permit.

§702.1. Who May Apply.

Any landowner or a tenant with the written permission of the landowner may apply for a Conditional Use Permit.

§702.2. Conditionally Permitted Uses and Signs.

The land uses and *sign* types that may be permitted through a Conditional Use Permit are those that are expressly listed as “CUP” on Table 203-CP, Table 203-R, Table 203-TC, and Table 402. The Ohiopyle Borough Council may also consider CUPs for uses and *sign* types that are not specifically identified in Table 303-CP, Table 303-R, Table 303-TC and Table 402, but are similar to the uses and *sign* types listed in the Tables and are in keeping with the character of Ohiopyle Borough.

§702.3. Application to the Zoning Officer.

An application for a Conditional Use Permit shall be filed with the Ohiopyle Borough Zoning Officer on a form supplied by the Borough. This application shall not be considered complete unless enough information is included on the form to enable the Borough Council to determine if the proposed land use or *sign* meets the standards given for that use or *sign* under §703. All applications for a Conditional Use Permit shall be accompanied by a fee, to be based upon the fee schedule of Ohiopyle Borough, as provided for by §107 of this Ordinance. Upon receiving a complete application, the Zoning Officer shall forward it to Borough Council for review and consideration.

§702.4. Procedure of the Borough Council.

The procedure that the Ohiopyle Borough Council is to use in deciding whether or not to grant a Conditional Use Permit is given in ARTICLE 13.

§702.5. Burdens of Proof.

In conditional use hearings before the Borough Council, the burden of proof shall be on the applicant to prove that the proposed use or *sign* meets the standards prescribed for it by §703.

§702.6. Conditions.

In granting a Conditional Use Permit, the Borough Council may attach reasonable conditions and safeguards (in addition to those prescribed by §703.1) to the permit as it may deem necessary to achieve the objectives of this Ordinance given in §106. A permit expiration date may also be attached as a condition of approval. Such conditions shall "run with the land" and shall not be tied solely to a particular property owner.

§702.7. Zoning, Building, and Occupancy Permits Required.

The granting of a Conditional Use Permit does not relieve the landowner and/or tenant from obtaining all other required and applicable zoning certificates, sign permits, building permits, and occupancy permits.

§702.8. Enforcement.

If a condition is violated subsequent to the grant of a Conditional Use Permit, the condition shall be enforced according to the provisions of ARTICLE 14, Enforcement.

§702.9. Appealing the Decision of Borough Council.

The decision of the Borough Council regarding a conditional use application may be appealed to the Fayette County Court of Common Pleas.

§703. Standards for Conditional Uses.

This section contains the standards that the Ohiopyle Borough Council shall use in deciding whether or not to grant a Conditional Use Permit. Each application made under §702 must meet the General Standards given below in §703.1 as well as the additional standards for the particular uses and *signs* given in §703.2 - §703.19.

§703.1. General Standards.

In order to grant a Conditional Use Permit, the Ohiopyle Borough Council must find that all of the following General Conditions are met.

- (A) The proposed use shall not threaten or impair the safety, health, morals, or general welfare of the Borough's citizen and visitors.
- (B) The proposed use shall follow all applicable provisions of this Ordinance.
- (C) The proposed use is an appropriate use that is consistent with the character and type of development located within 300 feet of the involved parcel, measured from the parcel's property lines.
- (D) The proposed use shall not substantially threaten or impair the value, use, or enjoyment of surrounding properties via fumes, odors, vibrations, light and *glare*, electrical interference, radio or television signal interference, voltage fluctuations, smoke, noise or other noxious, offensive or hazardous elements.
- (E) The proposed use shall not cause unsafe congestion on public streets, sidewalks, trails, parks, and parking areas.
- (F) The proposed use shall not impair the access, sight lines, or safety of any public or private roadway, alley, driveway, pedestrian walkway, bicycle lane, trail, or parking area.
- (G) The proposed use shall not require an uneconomical, inefficient, or illogical extension of *public utilities* and services or unduly overburden existing systems.
- (H) Adequate *sewerage* collection and treatment capacity is available to service the proposed use.
- (I) The operational characteristics, hours of operation, and delivery times of the proposed use shall not disturb occupants of adjacent residential dwellings or reduce the privacy of residential yards and *buildings*.
- (J) The exterior areas of the proposed use shall comply with the Ohiopyle Design Guide to the greatest extent feasible if the proposed use involves new construction, a building addition, or an exterior building renovation.

§703.2. All Uses (except Public Recreation) in the CP Zoning District within 600 feet of an R or TC Zoning District.

- (A) The proposed use shall limit the addition of new impervious surfaces to the greatest extent feasible.
- (B) The proposed use shall direct water runoff from impervious surfaces away from TC and R Zoning Districts or demonstrate that water runoff shall be effectively managed such that there will not be a substantial increase in water discharge volumes or velocities to TC and R Zoning Districts.
- (C) The proposed use shall not introduce new source of artificial light or *glare* that would adversely affect adjacent uses in the TC or R Zoning Districts and all lighting associated with the proposed use shall comply with ARTICLE 5, Lighting.
- (D) Native plants shall be used if the proposed use will involve landscaping. (A list of native plants is available from the Pennsylvania Department of Conservation and Natural Resources (DCNR), iConservePA program.)

§703.3. Home-Based Business in the R Zoning District.

- (A) There shall be no evidence of the home occupation's existence on the exterior of its *building* other than a *sign* that may be permitted in accordance with requirements of ARTICLE 4, "Signs."
- (B) There shall be no retail sales directly to customers on the premises, except by way of the mail, telephone or Internet.
- (C) There shall be no exterior displays of goods or interior displays of goods that are visible from a public street, sidewalk, bike lane, trail, or park.
- (D) There shall be no *unscreened outdoor storage*.
- (E) Business operations shall not create noise, vibration, *glare*, fumes, odors, or electrical interference atypical of a residential use and that is detectable to normal senses in other *dwelling units* in Ohioptyle Borough.
- (F) There shall be no more than four (4) employees working on the premises at any one time.
- (G) The proposed use shall provide for an adequate number of *on-lot* or *dedicated off-lot parking spaces* to accommodate the needs of the home occupation.

- (H) The proposed home occupation is not an automotive business, *bed and breakfast*, eating or drinking establishment, veterinary or other animal service, or *commercial recreation* facility.
- (I) The proposed home occupation shall not attract customers or deliveries between the hours of 8 p.m. and 7 a.m.

§703.4. Automotive in the TC Zoning District.

- (A) Driveways or entranceways on the proposed use's lot shall be located at least 30 feet from the intersection of any public streets.
- (B) Fuel pumps, air towers, and water outlets, and stored vehicles shall be set back at least 10 feet from all property lines.
- (C) Unlicensed vehicles shall not be stored/parked outside of an enclosed *building* anywhere on the premises for more than 21 consecutive days.
- (D) Licensed vehicles shall not be stored/parked outside of an enclosed *building* in the same spot for more than 45 consecutive days.
- (E) All automobile parts and supplies shall be stored within an enclosed *building*.
- (F) Refuse from the proposed use shall be stored in a location that is as undetectable as possible from neighboring parcels and shall be removed for disposal at least once per week.
- (G) All hazardous materials shall be properly secured and contained.

§703.5. Child Care Facility in the TC Zoning District.

There are no standards in addition to the General Standards listed in §703.1.

§703.6. Bed and Breakfast (6 rooms or more) in the TC Zoning District.

- (A) There shall be bicycle racks provided on the *lot* that accommodate at least 1.5 bicycles for every one (1) *guest room*.

§703.7. Hotel/Motel in the TC Zoning District.

- (A) There shall be bicycle racks provided on the *lot* that accommodate at least 1.5 bicycles for every one (1) *guest room*.

§703.8. Multiple Family Dwelling Unit (6 attached units or more) in the TC Zoning District.

- (A) Each *dwelling unit* within the proposed *building* shall have a gross floor area of no less than 650 square feet.
- (B) There shall be no variance granted for the number of required parking spaces per unit (2 spaces per unit) as specified in Table 304-R.

§703.9. Group Dwelling in the TC Zoning District.

- (A) The dwelling shall undergo a building inspection at the cost of the applicant and documentation shall be supplied by a licensed building inspector indicating that the *building* is safe for the proposed number of occupants and meets all applicable fire and building codes.
- (B) The proposed use shall provide for a minimum of 0.5 *on-lot* or *dedicated off-lot parking spaces* per building occupant.
- (C) Refuse from the proposed use shall be stored in a location that is as undetectable as possible from neighboring *lots* and shall be removed for disposal at least once per week.

§703.10. Parking Lots and Garages (as the *primary use on a lot*) in the TC Zoning District.

- (A) Driveways or entranceways on the proposed use's *lot* shall be located at least 30 feet from the intersection of any public streets.
- (B) There shall be a landscaped area having a minimum width of four (4) feet between the parking surface and all lot lines with the exception of lot lines adjoining public streets, alleys, and parks.
- (C) Parking lots for 25 vehicles or more shall include landscaped planting areas or other features that provide visual relief from the parking surface.
- (D) Water runoff from impervious surfaces shall be effectively managed such that there shall be no substantial increase in water discharge volumes and velocities to adjacent *lots*.
- (E) If artificial lighting will be installed, it shall comply with ARTICLE 5, Lighting.
- (F) If the proposed use is a parking lot, the parking surface shall be composed of pervious materials, if feasible.
- (G) If the proposed use is a parking lot, there shall be no retaining walls on the *lot* over four (4) feet in height.

- (H) If the proposed use is a parking *garage*, sides of the structure that are more than 50% visible from a public street, sidewalk, or trail shall be screened with landscaping.

§703.11. Industrial, Manufacturing, or Warehousing in the TC Zoning District.

- (A) The proposed *building* shall not cover more than 5,000 square feet of ground surface.
- (B) All artificial lighting shall comply with ARTICLE 5, Lighting.
- (C) Safe vehicle access shall be provided to any vehicle loading bays or docks. Vehicles shall be able to park at the bay or dock completely inside the *lot* without extending beyond the property line or obstructing a public street, sidewalk, bikeway, or trail.
- (D) All hazardous materials shall be properly secured and contained.
- (E) Refuse from the proposed use shall be stored in a location that is as undetectable as possible from neighboring *lots* and shall be removed for disposal at least once per week.

§703.12. Businesses with Alcohol Sales in the TC Zoning District.

There are no standards in addition to the General Standards listed in §703.1.

§703.13. Businesses with Sexually Oriented Materials Sales or Service in the TC Zoning District.

- (A) The proposed use shall not be located within 500 feet of a church, school, library, child care facility, public park, Residential (R) Zoning District, or any child-oriented business.
- (B) The proposed business shall not be located within 500 feet of another legally permitted *sexually oriented business*.
- (C) There shall be no evidence of the sexually oriented nature of the business on the exterior of its *building* except for a *sign* that meets the requirements of ARTICLE 4, Signs, including §407, Sign Messaging.
- (D) There shall be no exterior displays of sexually oriented goods or interior displays of goods that are visible from the exterior of the *building*.
- (E) Refuse from the proposed use shall be stored in a location that is not visible from a *public realm* and shall be removed for disposal at least once per week.

§703.14. All Service, Retail, Industry, Manufacturing, and Warehouse Uses that Operate Between the Hours of 10 p.m. and 6 a.m. in the TC Zoning District.

- (A) If artificial lighting shall be installed, it shall comply with ARTICLE 5, Lighting.

§703.15. Mineral Resource Extraction in the CP Zoning District

- (A) Vehicular access to the mineral resource activity site shall minimize danger to vehicular and bicycle traffic and nuisance to surrounding properties.
- (B) In establishing *mineral resource extraction* sites, the natural surroundings shall be considered and all reasonable attempts shall be made by the applicant to preserve existing trees and native vegetation. Existing trees and respective root systems shall not be disturbed whenever possible.
- (C) Lighting, either temporary or permanent, shall be directed downward and inward toward the activity, to the extent practicable, so as to minimize the light and *glare* being directed onto public roads and adjacent properties.
- (D) The applicant shall enter into a roadway maintenance and repair agreement with the Borough regarding the maintenance and repair of any Borough roads that are used by vehicles and equipment associated with the mineral resource activity.
- (E) The applicant shall provide a copy of its Preparedness, Prevention, and Contingency Plan to the Borough and all emergency responders and shall provide updates to the Plan at least annually during the time mineral resource activity is occurring. The applicant shall provide an orientation tour of the mineral resource site and emergency response training, at the sole cost of the applicant, to the emergency response agencies that would reasonably be expected to respond to an emergency at the mineral resource site.

§703.16. Signs that Extend Above the Highest Elevation of a Building's Roof.

- (F) The *sign* shall be strong enough to withstand 90 mile per hour wind pressure and to avoid threatening the health, lives or property around it in the event of collapse.
- (G) The *sign* shall not be artificially illuminated, either with an internal or external source of lighting.
- (H) The *sign* shall not support any antennas, satellite dishes, radio towers, transmission lines, or other similar apparatus.

- (I) The *sign* shall not result in visual blight resulting from excessive and redundant *signs*.
- (J) The location of the *sign* is necessary to adequately and effectively communicate its intended message.
- (K) The *sign* shall be compatible with the style, composition, materials, colors, and details of the *building* and its vicinity and contribute positively to the character of Ohiopyle Borough.

§703.17. Billboards and Freestanding Signs with a Sign Face Greater than Twenty-Four (24) Square Feet.

- (A) The *sign* shall meet the requirements for a *freestanding sign* given in §404.
- (B) The *sign* shall be permanently affixed to the ground.
- (C) The size of the *sign* is no larger than necessary to adequately and effectively communicate its intended message.
- (D) The *sign* shall be strong enough to withstand 90 mile per hour wind pressure and to avoid threatening the health, lives or property around it in the event of collapse.
- (E) The *sign* shall not be *internally illuminated*, nor shall it flash, be animated, or give the illusion of movement.
- (F) The *sign* shall not support any antennas, satellite dishes, radio towers, transmission lines, or other similar apparatus.
- (G) The *sign* shall be compatible with the style, composition, materials, and colors of any *buildings* on the same *lot* and contribute positively to the character of Ohiopyle Borough.

§703.18. Banners Displayed for 21 Consecutive Days or More.

- (A) The *banner* shall not be artificially illuminated.
- (B) The *banner* shall not be placed near overhead power lines.
- (C) The length of time the *banner* shall be displayed is necessary to adequately and effectively communicate its intended message.
- (D) The *banner* shall be compatible with the style, composition, materials, colors, and details of the *building* and its vicinity and contribute positively to the character of Ohiopyle Borough.

§703.19. Signs that Flash, are Animated, or Give the Illusion of Movement.

- (A) The *sign* face shall be less than 24 square feet.
- (B) The sign shall not be located in the Conservation/Park (CP) or Residential Zoning Districts.
- (C) The *signs* shall not be mounted on the roof of the *building*, nor shall the *sign* project above the highest point of a *building's* roof.
- (D) The *sign* shall not interfere with or be distracting from safe vehicle, pedestrian, and bicycle movement.
- (E) The sign's flashing, animation and movement shall be on a timer or be programmed to shut off between the hours of 10 p.m and dawn.

§703.20. Signs that Encroach Into or Over Public Streets, Sidewalks, or Bike Lanes.

- (F) The *sign* shall be strong enough to withstand 90 mile per hour wind pressure and to avoid threatening the health, lives or property around it in the event of collapse.
- (G) The *sign* shall be compatible with the style, composition, materials, colors, and details of the *building* and its vicinity and contribute positively to the character of Ohiopyle Borough.
- (H) The owner of the *sign* shall carry, for the protection of the Borough, a general public liability insurance policy with a company of recognized financial standing to protect the Borough from any and all liability associated with the *sign* or damages that may be caused by the *sign*.
- (I) The owner of the *sign* shall agree to remove or remedy the *sign* if the Borough's Zoning Officer or Borough Council determines that the *sign* is not being maintained in a safe and durable condition and is a threat to public health, safety, or welfare.

ARTICLE 8 ADMINISTRATION: VARIANCES AND SPECIAL EXCEPTIONS

§801. Purpose of Variances.

The regulations of this Zoning Ordinance apply uniformly across Zoning Districts and Sub-Districts in order to provide equal treatment to all properties in the same Zoning District and Sub-District. In some cases, strict compliance to this Ordinance may create an unnecessary hardship to a particular property. The function of a variance is to provide the minimum relief necessary from the requirements of this Zoning Ordinance to relive the unnecessary hardship.

§802. Procedure for Obtaining a Variance.

§802.1. Who May Apply.

Any landowner or a tenant with the written permission of the landowner may apply for a variance.

§802.2. Application to the Zoning Officer.

A variance application shall be filed with the Ohiopyle Borough Zoning Officer on a form supplied by the Borough. This application shall specifically cite the provisions of this Ordinance from which the applicant is seeking relief. All applications for a variance shall be accompanied by a fee, to be based upon the fee schedule of Ohiopyle Borough, as provided for by §107 of this Ordinance. Upon receiving a complete application, the Zoning Officer shall forward it to the Zoning Hearing Board for review and consideration.

§802.3. Procedure of the Zoning Hearing Board.

The procedure that Zoning Hearing Board shall use in deciding whether or not to grant a variance is given in ARTICLE 12, Zoning Hearing Board.

§802.4. Burdens of Proof.

In variance hearings, the burden of proof shall be on the applicant to prove that his or her proposed application meets the findings prescribed by §803. The Zoning Hearing Board shall distinguish genuine unnecessary hardships from common inconveniences. The variance shall only be granted if there is a genuine unnecessary hardship caused by strict compliance with this Ordinance.

§802.5. Conditions.

In granting a variance, the Zoning Hearing Board may attach reasonable conditions and safeguards as it may deem necessary to achieve the objectives of this

Ordinance given in §106. Such conditions shall "run with the land" and shall not be tied solely to a particular property owner.

§802.6. Zoning, Building, and Occupancy Permits Required.

The granting of a variance does not relieve the landowner and tenant from obtaining all required and applicable zoning certificates, sign permits, building permits, and occupancy permits.

§802.7. Enforcement.

If a condition is violated subsequent to the grant of a variance, the condition shall be enforced according to the provisions of ARTICLE 14, Enforcement.

§802.8. Appealing the Decision of the Zoning Hearing Board.

The decision of the Zoning Hearing Board regarding a variance application may be appealed to the Ohiopyle Borough Council.

§803. Findings for Granting a Variance.

This section contains the standards that the Borough's Zoning Hearing Board shall use in deciding whether or not to grant a variance. No variance shall be granted until the applicant has established and the Board has made all of the following findings where relevant in a given case:

- (A) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of *lot* size or shape, or exceptional topographical or other physical conditions peculiar to the particular property at the time of the application and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Ordinance in the Zoning District or Sub-District in which the property is located.
- (B) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
- (C) That such unnecessary hardship has not been created by the applicant.
- (D) That the variance, if authorized, will not alter the essential character of the Borough or the Zoning District in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

- (E) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

§804. Purpose of Special Exceptions.

The function of a Special Exception is to allow the positioning of a *building* on a *lot* in a way that differs from the standards established by ARTICLE 3, pursuant to the express standards and criteria listed in §807. A Special Exception is not an exception to the Zoning Ordinance. Rather, a Special Exception is an absolute right if the Zoning Hearing Board finds that the criteria listed in §807 have been met.

§805. Special Exception Applicability.

Special exceptions shall only be considered for the following circumstances:

- (A) Special exception to Building Placement and Form Requirements identified in §304 through and including §309 for historic *buildings* in all zoning districts.
- (B) Special exception to Maximum Setback Requirements in the Tourist Commercial (TC) Zoning District identified in Table 304-C.
- (C) Special exception to Maximum Building Widths and Depths in the Tourist Commercial (TC) Zoning District identified in Table 304-C.
- (D) Special exception to the Maximum Building Heights specified in Table 304-CP, Table 304-R, and Table 304-TC.

§806. Procedure for Obtaining a Special Exception.

§806.1. Who May Apply.

Any landowner or a tenant with the written permission of the landowner may apply for a special exception.

§806.2. Application and Procedure of the Zoning Officer.

A special exception application shall be filed with the Ohioypyle Borough Zoning Officer on a form supplied by the Borough. All applications for a special exception shall be accompanied by a fee, to be based upon the fee schedule of Ohioypyle Borough, as provided for by §107 of this Ordinance. Upon receiving a complete application, the Zoning Officer shall forward it to the Zoning Hearing Board for review and consideration.

§806.3. Procedure of the Zoning Hearing Board.

The procedure that Zoning Hearing Board shall use in deciding whether or not to grant a special exception is given in ARTICLE 12, Zoning Hearing Board.

§806.4. Burdens of Proof.

In special exception hearings, the burden of proof shall be on the applicant to prove that his or her proposed application meets the findings prescribed by §807.

§806.5. Conditions.

In granting a special exception, the Zoning Hearing Board may attach reasonable conditions and safeguards as it may deem necessary to achieve the objectives of this Ordinance given in §106. Such conditions shall "run with the land" and shall not be tied solely to a particular property owner.

§806.6. Zoning, Building, and Occupancy Permits Required.

The granting of a variance does not relieve the landowner and tenant from obtaining all required and applicable zoning certificates, sign permits, building permits, and occupancy permits.

§806.7. Enforcement.

If a condition is violated subsequent to the grant of a special exception, the condition shall be enforced according to the provisions of ARTICLE 14, Enforcement.

§806.8. Appealing the Decision of the Zoning Hearing Board.

The decision of the Zoning Hearing Board regarding a special exception application may be appealed to the Ohiopyle Borough Council.

§807. Findings for Granting a Special Exception.

This section contains the standards that the Borough's Zoning Hearing Board shall use in deciding whether or not to grant a special exception. No special exception shall be granted until the applicant has established and the Board has made one of the following findings:

§807.1. Special Exception to Building Placement and Form Requirements for Historic Buildings in All Zoning Districts

Any individual *building* that is listed or documented to be eligible for listing on the National Register of Historic Places and/or the Pennsylvania Register of Historic

Places shall be exempt from all requirements of §304 through and including §309 by Special Exception if the Zoning Hearing Board finds that:

- (A) The objectives listed in §106 shall be met.
- (B) The modifications proposed to the historic *building* shall meet the U.S. Secretary of the Interior's Standards for Rehabilitation, as evidenced in written documentation provided by the Pennsylvania Historical and Museum Commission or other state or federal agency qualified to verify that the proposed work meets the U.S. Secretary of the Interior's Standards.

§807.2. Exceptions to Maximum Setback Requirements in the Tourist Commercial (TC) Zoning District.

Any individual *building* in the Tourist Commercial (TC) Zoning District is permitted to exceed the maximum building *setback* requirements identified in Table 304-TC by Special Exception if the Zoning Hearing Board finds that:

- (A) The objectives listed in §106 shall be met.
- (B) The yard made deeper by exceeding the maximum *setback* requirement shall be designed and maintained as an Active Yard as defined in ARTICLE 16 of this Ordinance. Refer to the definition of "Yard, Active."

§807.3. Special Exceptions for Exceeding Maximum Building Widths and Depths in the Tourist Commercial (TC) Zoning District.

Any individual *building* in the Tourist Commercial (TC) Zoning District is permitted to exceed the maximum building width and depth requirements identified in Table 304-TC by Special Exception if the Zoning Hearing Board finds that:

- (A) The objectives listed in §106 shall be met.
- (A) The size of the *building* shall not adversely affect neighboring land uses in any way and the *building* shall not impose upon its neighbors in any way but rather shall blend with them in a harmonious manner.
- (B) The primary *building façade* and all *secondary façades* that exceed the maximum width and depth requirements shall meet the definition of an *Articulated Façade* as defined in ARTICLE 16 of this Ordinance. Refer to the definitions of "*Façade, Articulated*;" "*Façade, Primary*;" and "*Façade, Secondary*."

§807.4. Special Exceptions for Exceeding Maximum Building Heights in All Zoning Districts

Any *building* shall be permitted to exceed the maximum *building height* requirements specified in Table 304-CP, Table 304-R, and Table 304-TC by Special Exception if the Zoning Hearing Board finds that:

- (B) The objectives listed in §106 shall be met.
- (C) The height of the *building* shall not adversely affect neighboring land uses in any way and the *building* shall not impose upon its neighbors in any way but rather shall blend with them in a harmonious manner.
- (D) *Signs* shall not be permitted to be mounted on the roof of the *building*, nor shall any *sign* project above the highest point of the *building's* roof.
- (E) The *primary building façade* and all *secondary façades* that exceed the maximum *building height* requirements shall meet the definition of an *Articulated Façade* as defined in ARTICLE 16 of this Ordinance. Refer to the definitions of "*Façade, Articulated;*" "*Façade, Primary;*" and "*Façade, Secondary.*"

ARTICLE 9 ADMINISTRATION: ZONING CERTIFICATES

§901. Zoning Certificate Required.

The following activities require the issuance of a Zoning Certificate by the Ohiopyle Borough Zoning Officer.

- (A) Construction activities that require a building permit. (Building permits are issued by the County of Fayette, Uniform Construction Code Office and are required for new *building* construction, structural alterations to existing *buildings*, to place or move a mobile/manufactured/modular home or structure, and for swimming pools, porches, decks, and *accessory buildings*.) A Zoning Certificate shall be prerequisite to the building permit.
- (B) A new or changed use of the land or a structure that requires the issuance of a Certificate of Occupancy. (Certificates of Occupancy are issued by the County of Fayette, Uniform Construction Code Office and are required). A Zoning Certificate shall be prerequisite to the occupancy permit.
- (C) Any *Change of Use*, as defined in ARTICLE 16.

§902. Associated Approvals.

In cases where a Special Exception is being sought pursuant to ARTICLE 3, the Zoning Officer shall refer the application to the Zoning Hearing Board prior to issuing a Zoning Certificate. If the Zoning Hearing Board imposes conditions attached to the approval, said conditions shall be incorporated into the Zoning Certificate.

In cases where a Conditional Use Permit is being sought pursuant to ARTICLE 7, the Zoning Officer shall refer the application to the Borough Council prior to issuing a Zoning Certificate. If the Borough Council imposes conditions attached to the approval, said conditions shall be incorporated into the Zoning Certificate.

In cases where a Variance is being sought pursuant to ARTICLE 8, the Zoning Officer shall refer to the application to the Zoning Hearing Board prior to issuing a Zoning Certificate. If the Zoning Hearing Board imposes conditions attached to the approval, said conditions shall be incorporated into the Zoning Certificate.

§903. Procedure for Obtaining a Zoning Certificate.

- (A) All applications for Zoning Certificates shall be made in writing by the parcel owner or his/her authorized agent on a form furnished by the Borough. The Zoning Officer may require an applicant to furnish a survey of the property by a Pennsylvania-registered land surveyor when complete and accurate parcel information is not readily available

from existing records. The Zoning Officer also may require additional information from the applicant to determine compliance with this Ordinance.

- (B) It shall be the duty of the Zoning Officer to review the application to determine if all necessary information has been submitted and to request more information of the applicant if needed. All applications for a Zoning Certificate shall be accompanied by a fee, to be based upon the fee schedule of Ohio Pyle Borough, as provided for by §107 of this Ordinance.
- (C) The Zoning Officer shall review the application and determine if the application complies with the provisions of this Ordinance.
- (D) Upon a determination of compliance, the Zoning Officer shall issue a Zoning Certificate. One copy of the approved certificate shall be returned to the applicant. One copy of such certificate shall be kept on file in permanent records of the Ohio Pyle Borough Office.
- (E) If the Zoning Officer cannot make a determination of compliance, the Zoning Officer shall deny issuance of the Zoning Certificate pursuant to §904.

§904. Denial of Zoning Certificate.

In the event of a denial, the Zoning Officer shall state in writing the reason(s) for such denial, including the citation of the specific section(s) of this Ordinance or other pertinent ordinances that have not been met. The decision of denial shall be dated and delivered to the applicant by first class mail.

The applicant shall either accept the decision of denial, revise the application to demonstrate compliance with this Ordinance, or file an appeal of the Zoning Officer's decision of denial to the Zoning Hearing Board, pursuant to the procedures given in ARTICLE 12, Zoning Hearing Board. If an appeal is not made or the application is not revised within 120 days of the decision of denial, the application shall be considered terminated and any refiling shall be treated as a new application pursuant to §903.

§905. Failure to Obtain Zoning Certificate.

Failure to obtain a required Zoning Certificate shall be a violation of this Ordinance and shall be subject to the enforcement remedies cited in ARTICLE 14, Enforcement.

ARTICLE 10 ADMINISTRATION: SIGN PERMIT

A Sign Permit shall be required prior to the erection or structural alteration of any *sign* that is not Exempt from the provisions of this Ordinance as indicated in Table 402. It shall be unlawful for any person to commence work for the erection or alteration of any non-exempt *sign* until a permit has been issued.

§1001. Procedure for Obtaining a Sign Permit.

- (A) All requests for Sign Permits shall be made in writing on a form furnished by the Borough and shall include a full description of the proposed *sign*, a description of the parcel upon which such proposed *sign* is to be located, and a description of any other existing *signs* on the same parcel and *building*.
- (B) It shall be the duty of the Zoning Officer to review the application for completeness and compliance with ARTICLE 4, request more information of the applicant if required, and officially receive the application for the *sign*. All applications for a Sign Permit shall be accompanied by a fee, to be based upon the fee schedule of Ohiopyle Borough, as provided for by §107 of this Ordinance.
- (C) Upon a determination of compliance, the Zoning Officer shall issue a Sign Permit. One copy of the approved permit shall be returned to the applicant. One copy of the permit shall be kept on file in permanent records of the Ohiopyle Borough Office.
- (D) If the Zoning Officer cannot make a determination of compliance, the Zoning Officer shall deny issuance of the Sign Permit pursuant to §1002.

§1002. Denial of Permit.

In the event of denial, the Zoning Officer shall forward to the applicant a written statement containing the reason(s) for such denial and shall cite the specific requirements of this Ordinance that have not been met. Appeal of the Zoning Officer's decision of denial can be made to the Ohiopyle Borough Council, pursuant to the procedures given in ARTICLE 13.

§1003. Failure to Obtain a Sign Permit.

Failure to obtain a required Sign Permit shall be a violation of this Ordinance shall be subject to the enforcement remedies cited in ARTICLE 14, Enforcement.

ARTICLE 11 ADMINISTRATION: ZONING OFFICER

§1101. Zoning Officer.

The Zoning Officer shall be appointed by the Ohiopyle Borough Council and shall hold no elective office in the Borough. The Zoning Officer is the chief administrative official for this Ordinance and as such, shall be able to demonstrate, to the satisfaction of the Borough, a working knowledge of municipal zoning.

§1102. Duties and Authorities of the Zoning Officer.

The Zoning Officer shall have all of the powers and duties conferred upon him/her by this Ordinance and the Pennsylvania Municipalities Planning Code, including the following:

- (A) The Zoning Officer shall enforce this Ordinance by receiving, processing, filing copies of, and making decisions on applications for Zoning Certificates pursuant to ARTICLE 9 and Sign Permits pursuant to ARTICLE 10.
- (B) The Zoning Officer shall have the authority to register a nonconformities pursuant to ARTICLE 6.
- (C) The Zoning Officer shall have the authority to coordinate with the Ohiopyle Borough Council and issue an enforcement notice upon determination that a zoning violation has occurred, pursuant to ARTICLE 14, Enforcement.
- (D) The Zoning Officer shall coordinate with the Ohiopyle Borough Secretary to schedule all hearings before the Zoning Hearing Board and all proceedings before the Borough Council in regard to matters related to this Ordinance.

ARTICLE 12 ADMINISTRATION: ZONING HEARING BOARD

§1201. Appointment of the Zoning Hearing Board.

The membership of the Zoning Hearing Board shall consist of three (3) residents of Ohiopyle Borough appointed by the Ohiopyle Borough Council. Members of the Board shall hold no other elected or appointed office in the Borough nor shall any member be an employee of the Borough. Their terms of office shall be three (3) years and shall be so fixed that the term of office of at least one member shall expire each year. Members may be reappointed to consecutive terms. The Board shall promptly notify the Borough Council of any vacancies that occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Any Zoning Hearing Board member may be removed for malfeasance (an act that is legally unjustified, harmful, or violates the public trust), misfeasance (wrongful exercise of lawful authority), or nonfeasance (not enforcing a law that should have been enforced) in the office or for other just cause by a majority vote of the Borough Council taken after the member has received 15 days' advance notice of the intent to take such vote.

§1202. Organization of the Zoning Hearing Board.

The Zoning Hearing Board shall be organized in the following manner.

§1202.1. Officers.

The Zoning Hearing Board shall elect from its own membership a Chairman, Vice-Chairman, and Secretary, who shall serve annual terms and may succeed themselves.

§1202.2. Quorum.

For the conduct of any hearing and the taking of any action, a quorum shall be not less than two (2) members of the Zoning Hearing Board. If a quorum is not present, a Hearing Officer may preside over the hearing pursuant to §1202.3.

§1202.3. Hearing Officer.

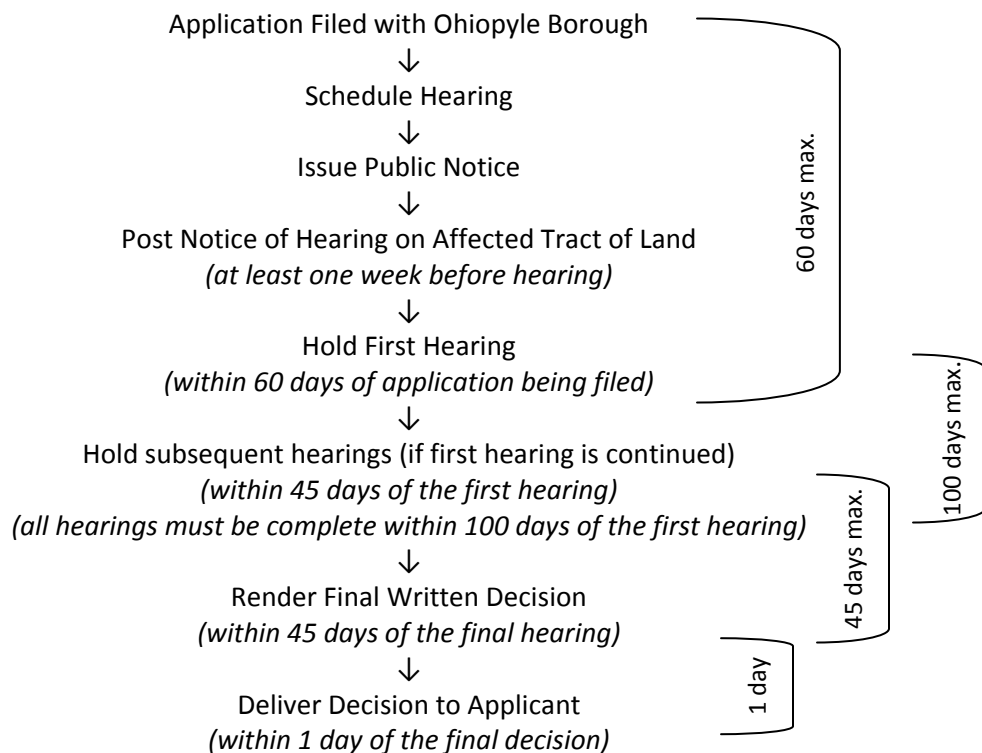
The Zoning Hearing Board may appoint a Hearing Officer from its own membership to conduct any hearing on its behalf. An independent attorney also may serve as a Hearing Officer. The parties to any Zoning Hearing Board meeting have the right to waive further action by the Zoning Hearing Board and accept the findings or decision of the Hearing Officer as final.

§1203. Duties and Authorities of the Zoning Hearing Board.

The Zoning Hearing Board shall have all the powers and duties conferred upon it by this Ordinance and the Pennsylvania Municipalities Planning Code, including the exclusive jurisdiction to hear and render final decisions on the following:

- (A) Appointment of a Hearing Officer, who shall have authority to act on the Board’s behalf.
- (B) Applications for Variances from and Special Exceptions to the terms of this Zoning Ordinance pursuant to ARTICLE 8.
- (C) Appeals on Zoning Certificates and Sign Permits from a determination of denial made by the Zoning Officer. (The Zoning Hearing Board has no discretionary authority and is limited to determining whether or not the Zoning Officer erred in the determination of a denial based on the literal interpretation of this Ordinance.)
- (D) Appeals of enforcement notices pursuant to the Zoning Ordinance issued pursuant to ARTICLE 14.
- (E) Appeals from a determination by the Borough Engineer or the Zoning Officer with reference to the administration Ohiopyle Borough Ordinance No. 103, adopted July 20, 1984, regarding *flood-prone areas*. (The Zoning Hearing Board has no discretionary authority and is limited to determining whether or not the Zoning Officer erred in the determination of a denial based on the literal interpretation of this Ordinance No. 103.)
- (F) Substantive challenges to the validity of this Ordinance, except curative amendments brought before the Ohiopyle Borough Council pursuant to ARTICLE 15.

§1204. Overview of the Zoning Hearing Board Process



§1205. Fees.

The Ohiopyle Borough Council may prescribe reasonable fees with respect to hearings before the Zoning Hearing Board, pursuant to §107. Fees for said hearings may include compensation for the Borough Secretary and members of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other technical consultants or expert witness costs. Any fees paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to the appealing party by Ohiopyle Borough if the Zoning Hearing Board, or any court in a subsequent appeal, rules in the appealing party's favor.

§1206. Public Notice.

Public notice of a Zoning Hearing Board hearing shall be given once in a newspaper of general circulation in the Borough no more than 21 days and no less than eight (8) days prior to the date of the hearing. Written notice also shall be given to the applicant, the Zoning Officer, and to any person who has made timely request for notice. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected parcel of land at least seven (7) days prior to the hearing.

§1207. Parties.

The parties to a Zoning Hearing Board hearing shall be Ohiopyle Borough, any person affected by the application who has made timely appearance of record before the Zoning Hearing Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.

§1208. Conduct of the Board Members and Hearing Officer.

The Board or the Hearing Officer shall not communicate, directly or indirectly with any party to the hearing or his/her representatives in connection with any issue involved except upon notice and opportunity for all parties to participate. The Board or the Hearing Officer also shall not take notice of any communication, reports, letters, or other materials, except advice from the Borough solicitor, unless all parties to the hearing are afforded an opportunity to contest the material so noticed. The Board or the Hearing Officer also shall not inspect the subject parcel or its surroundings after the commencement of hearings with any party to the hearing or party representative unless all parties are given an opportunity to be present.

§1209. Hearing Process.

The Zoning Hearing Board hearing process shall occur as follows.

§1209.1. First Hearing.

The first hearing before the Zoning Hearing Board or Hearing Officer shall be commenced within 60 days from the date of receipt of the applicant's complete application, unless the applicant has agreed in writing to an extension of time. The hearing shall be conducted by the Zoning Hearing Board or the Board may appoint any member of the Board or an independent attorney as a Hearing Officer.

§1209.2. Stenographic Record Required.

There shall be a stenographic record of all Zoning Hearing Board and Hearing Officer proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and Ohiopyle Borough. If an original transcript is needed, the cost of the transcript shall be paid by the Borough if the transcript is ordered by the Zoning Hearing Board, Hearing Officer, or the Borough. In all other cases the party requesting the original transcript shall bear the cost thereof. Costs of additional copies shall be paid by the person requesting the copy.

§1209.3. Authorities.

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

§1209.4. Counsel Representation.

The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

§1209.5. Subsequent Hearings.

If the hearing is continued, each subsequent hearing before the Zoning Hearing Board or Hearing Officer shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record.

§1209.6. Total Timeframe.

The applicant shall complete the presentation of his/her case within no more than 100 days of the first hearing. Upon the request of the applicant, the Zoning Hearing Board or Zoning Officer shall allow for at least seven (7) hours of hearings within those 100 days. Timeframes for presenting opposition and rebuttal shall be as prescribed by Section 908(1.2) of the Pennsylvania Municipalities Planning Code.

§1209.7. Final Decision.

The Zoning Hearing Board or the Hearing Officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the Board or Hearing Officer. The findings shall be based on evidence in the record of proceedings. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based on those facts contained in the record and stating the reasons for the denial. Conclusions based on any provision of the Pennsylvania Municipalities Planning Code or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in light of the facts found.

§1209.8. Failure to Render Decision.

Except for challenges filed under Section 916.1 of the Pennsylvania Municipalities Planning Code where the Board fails to render the decision within the time period required by this Ordinance, or fails to commence, conduct or complete the required hearing as provided in this Ordinance, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time.

When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision, the Board shall give public notice of said decision within ten days from the last day it could have met to render a decision in the same manner as provided in §1206. If the Board fails to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

§1209.9. Final Applicant Notification.

A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him/her not later than the day following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide

by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

§1210. Mediation Option.

Parties to proceedings authorized in this ARTICLE 12 may utilize mediation as an aid in completing such proceedings. Mediation shall occur pursuant to Section 9081 of the Pennsylvania Municipalities Planning Code and participation in mediation shall be wholly voluntary.

ARTICLE 13 ADMINISTRATION: BOROUGH COUNCIL

§1301. Duties and Authorities of the Borough Council

The Ohiopyle Borough Council has many duties. The purpose of this Article is to address the duties and authorities of the Borough Council only as they relate to the administration of this Zoning Ordinance and to prescribe the procedures that Council shall use in fulfilling those duties. The Ohiopyle Borough Council shall have the following duties and authorities related to the administration of this Zoning Ordinance.

- (A) Appointment of the Borough's Zoning Officer, pursuant to ARTICLE 11.
- (B) Appointment of the Borough's Zoning Hearing Board Members, pursuant to ARTICLE 12.
- (C) Render decisions on Conditional Use Permit applications pursuant to ARTICLE 7.
- (D) Consider appeals from a determination of the Zoning Hearing Board regarding the approval and denial of Zoning Certificates pursuant to ARTICLE 9 and Sign Permits pursuant to ARTICLE 10.
- (E) Consider appeals from a determination of the Zoning Hearing Board with reference to the administration Ohiopyle Borough Ordinance No. 103, adopted July 20, 1984, regarding *flood-prone areas*.
- (F) Consider appeals from a determination of the Zoning Hearing Board regarding Variances and Special Exceptions pursuant to ARTICLE 8 and Enforcement Notices pursuant to ARTICLE 14.
- (G) Introduce and/or consider amendments to this Ordinance and to the Zoning District Map, pursuant to ARTICLE 15.

§1302. Fees.

The Ohiopyle Borough Council may prescribe reasonable fees with respect to hearings before the Board related to the administration of this Zoning Ordinance, pursuant to §107. Any fees paid by a party to appeal an Enforcement Notice shall be returned to the appealing party by Ohiopyle Borough if the Borough Council, or any court in a subsequent appeal, rules in the appealing party's favor.

§1303. Public Notice.

Public notice of a Borough Council hearing on matters related to this Ordinance shall be given once in a newspaper of general circulation in the Borough no more than 21 days and no less than eight (8) days prior to the date of the hearing. Written notice also shall be given to the applicant, the Zoning Officer, and to any person who has made timely request for notice. In addition to the written notice provided herein, written notice of said hearing

shall be conspicuously posted on the affected parcel of land at least seven (7) days prior to the hearing.

§1304. Hearing Process.

The Borough Council hearing process shall occur as follows related to Conditional Use Permits, and appeals to decisions of the Zoning Hearing Board. The hearing process related to amendments to this Ordinance shall occur as described in ARTICLE 15.

§1304.1. First Hearing.

The first hearing before the Borough Council on Conditional Use Permits shall be commenced within 60 days from the date of receipt of the applicant's complete application, unless the applicant has agreed in writing to an extension of time.

The first hearing before the Borough Council on appeals to a Zoning Hearing Board decision shall be commenced within 60 days from the date the appeal is filed with the Zoning Officer, unless the applicant has agreed in writing to an extension of time.

§1304.2. Counsel Representation.

The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

§1304.3. Subsequent Hearings.

If a hearing is continued, each subsequent hearing before the Borough Council shall be held within 60 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record.

§1304.4. Final Decision.

In voting on a final decision, the vote cast by each Council member shall be made publicly. Within 45 days of the vote, the Borough Council shall render a written decision, which shall be based on evidence in the record of proceedings. Where the application is contested or denied, the decision shall be accompanied by findings of fact and conclusions based on those facts contained in the record and stating the reasons for the denial. This will show that the decision was reasoned and not arbitrary. Conclusions based on any provision of the Pennsylvania Municipalities Planning Code or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in light of the facts found.

§1304.5. Failure to Render Decision.

Except for challenges filed under Section 916.1 of the Pennsylvania Municipalities Planning Code where the Board fails to render the decision within the time period required by this Ordinance, or fails to commence, conduct or complete the required hearing as provided in this Ordinance, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time.

When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision, the Board shall give public notice of said decision within ten days from the last day it could have met to render a decision in the same manner as provided in §1303. If the Board fails to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

§1304.6. Final Applicant Notification.

A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him/her not later than the day following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

§1305. Mediation Option.

Parties to proceedings authorized in this ARTICLE 13 may utilize mediation as an aid in completing such proceedings. Mediation shall occur pursuant to Section 9081 of the Pennsylvania Municipalities Planning Code and participation in mediation shall be wholly voluntary.

§1306. Appeals of Borough Council Decisions.

Appeals to decisions of the Borough Council related to this Zoning Ordinance may be made to the Fayette County Court of Common Pleas.

ARTICLE 14 ENFORCEMENT

If the Ohiopyle Borough Zoning Officer determines that a violation of this Ordinance has occurred, the Borough shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.

§1401. Causes of Action.

If any *building*, structure, land, or *sign* is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained, or used in violation of this Ordinance, appropriate actions may be taken to remedy the violation. The Ohiopyle Borough Zoning Officer, any member of the Ohiopyle Borough Council, or any aggrieved owner or tenant of real property who shows that his/her property or person is or could be substantially affected by the alleged violation, may register an alleged zoning violation at the Ohiopyle Borough Office on a form provided by the Borough.

§1402. Enforcement Notice.

The Zoning Officer shall send an enforcement notice to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record. An enforcement notice shall state at least the following:

- (A) The name of the owner of record and any other person against whom Ohiopyle Borough intends to take action.
- (B) The location of the property in violation.
- (C) The specific violation with a description of the Ordinance requirements which have not been met, citing in each instance the applicable provisions of the Ordinance.
- (D) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
- (E) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in ARTICLE 12.
- (F) That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

§1403. Enforcement Remedies.

If the violation is not satisfactorily remedied as determined by the Zoning Officer, the party who has violated or permitted the violation of the provisions of this Ordinance shall be subject to a civil enforcement proceeding commenced by the Borough. If found liable for the violation, the offending party shall pay a judgment of not more than \$500.00 plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice.

If the defendant neither pays nor timely appeals the judgment, Ohiopyle Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth (5th) day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this Zoning Ordinance shall be paid directly to Ohiopyle Borough.

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

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

ARTICLE 15 AMENDMENT PROCEDURES

The Ohiopyle Borough Council may introduce and/or consider amendments to this Ordinance and to the Zoning District Map, as proposed by the Council or by a petition of landowners of property within the Borough. The procedure for conducting amendments this Ordinance shall be as specified in the Pennsylvania Municipalities Planning Code of 1968, P.L. 805, No. 247 as reenacted and amended.

ARTICLE 16 DEFINITION OF TERMS

The terms that are used in this Ordinance shall be interpreted as they are defined herein. Terms that are not defined herein shall be given their usual and ordinary meaning as commonly used in the County of Fayette, Pennsylvania.

ACCESSORY USE — a land use type that is customarily incidental and subordinate to the *primary use* of the *lot* or the *lot's principal building* (e.g., parking, storage, swimming pools, public art, etc.)

BANNER — a *sign* exceeding 12 square feet, consisting of a piece of fabric or other flexible material, suspended from a fixed structure, rope, wire, string or cable. (Banners may not be displayed for more than 21 consecutive days unless a Conditional Use Permit is issued pursuant to ARTICLE 7.)

BED AND BREAKFAST — a *single family dwelling unit* or *multiple family dwelling unit* offering transient lodging accommodations in which individual rooms can be rented to guests for less than twenty (20) consecutive days and the entire daily service of a meal and lodging is included in one (1) stated price. The owner or manager of the dwelling must reside on the premises or within the Borough of Ohiopyle at all times that rooms are being rented.

BILLBOARD — a *free-standing sign* larger than 99 square feet in size that is typically made available for a rental price or fee to display advertising messaging and that directs attention to an object, product, place, activity, business, person or persons, service, or interest not situated on the same premises as such billboard.

BUILDING — any combination of materials forming a structure having a roof supported by columns or walls that is affixed to the ground and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, business, or materials of any kind. Porches, patios, decks, stairs, and other structures attached to a building are considered to be part of the building.

BUILDING, ACCESSORY — a *building* that is detached and subordinate to the *principal building* on the *lot* and is used for purposes customarily incidental to the use of the *principal building* or *lot*. Examples include, but are not limited to, detached *garages*, storage sheds, and gazebos.

BUILDING FRONTAGE — a side of a *building* that faces a street to which the *building's lot* is adjacent.

BUILDING HEIGHT — the vertical distance measured from the finished grade of the ground (where the ground meets the exterior wall of a *building*) to the highest point of the *building*, including its roof.

BUILDING, NONCONFORMING — a *building* or portion of a *building* that does not comply with the provisions in this Ordinance and that lawfully existed prior to the enactment of this Ordinance (see ARTICLE 6, Nonconformities).

BUILDING, NON-RESIDENTIAL — a *building* whose *principal use(s)* on the ground floor is (are) not residential.

BUILDING, PRINCIPAL — the *building* on a *lot* within which the *principal use* is conducted. Storage *buildings*, *garages*, and other clearly *accessory uses* shall not be considered principal buildings.

BUILDING, RESIDENTIAL — a *building* whose *principal use(s)* on the ground floor is (are) residential.

BUILDING SEPARATION — the distance between two *buildings* on adjacent lots or two *primary buildings* on the same *lot*, measured at the shortest distance between their exterior walls. Building separation requirements do not apply to primary and *accessory buildings* located on the same *lot*.

CHANGE OF USE — any change to the tenant or occupant of a *building* that results in changing the classification of a land use type under the Use Regulations Tables (Table 303-CP, Table 303-R, and Table 303-TC) of this Ordinance in any of the following ways: (a) from a *Permitted Use (P)* to a Conditionally Permitted Use (CUP); (b) from any non-lodging use to a lodging use; (c) from any civic or quasi-civic use to a non-civic or quasi-civic use; or (d) from a residential use to any other land use type on the ground floor of a *principal building*.

CONDITIONAL USE — a use authorized by this Ordinance which may be granted only by the Borough Council and subject to the standards specified in ARTICLE 7, Conditional Uses.

DRIVE-UP WINDOW — a window or other portion of a *building* designed for customers to receive goods or services while remaining in a motor vehicle.

DWELLING UNIT — any *building* or portion of a *building* that contains living facilities, including provisions for sleeping, eating, cooking and sanitation, for not more than one *family*.

DWELLING UNIT, SINGLE FAMILY — a *building* containing one dwelling unit as the *principal use*.

DWELLING UNIT, MULTIPLE FAMILY — a *building* containing two or more dwelling units as the *principal use*.

DWELLING UNIT, LOFT OR UPPER-STORY — a *dwelling unit* that is wholly contained in a *building* above the ground floor and no portion of the dwelling with the exception of a stairway and landing is located on the ground floor.

DWELLING UNIT, SEASONAL — a *dwelling unit* that lacks one or more of the basic amenities or utilities required for all-year or all-weather occupancy (e.g., sanitation, heat source, electricity, etc.)

FAÇADE — the exterior wall or plane of a *building* including all of its architectural elements (e.g., building materials, colors, windows, doors, trims, projections, porches, etc.).

FAÇADE, ARTICULATED — the exterior wall or plane of a *building* that: (1) is not part of a prefabricated (factory-made) structure; (2) uses exterior building materials of wood, brick, stone,

and/or a composite material that looks like a natural material; (3) uses a natural color hue palette or white (i.e., avoids bright colors except on trims and accents); (4) is not a continuous flat wall and provides horizontal relief over at least 20% of the wall plane (e.g., porches, architectural pop-outs or recesses, windows, doors, etc.); and (5) provides a porch, stoop, patio, or covered entry at all pedestrian entrances.

FAÇADE, PRIMARY — the exterior wall or plane of a *building* that contains the principal building entrance.

FAÇADE, SECONDARY — the exterior wall or plane of a *building* that does not contain the principal building entrance.

FAMILY — any individual or two or more persons related by blood, marriage, legal adoption, foster placement, guardianship, or other domestic bond or a group of not more than six (6) persons unrelated by those means who live together in a single household, sharing common cooking facilities and bathrooms. A family of more than six (6) unrelated persons shall not be deemed to include occupants of a boardinghouse, rooming or lodging house, or group housing for employees, students, and clubs.

FENCE — an artificially constructed barrier of any material or combination of materials erected to enclose, screen or separate areas.

FENCE, LIVING — a planted row of vegetation that acts as a visual barrier. It can contain shrubs, hedges or similar landscape screening materials and provides a year-round screen by being comprised of plants that are at least 75% evergreen.

FLOOD-PRONE AREA — a relatively flat or low land area that is subject to partial or complete inundation from any adjoining or nearby stream, river, or watercourse, and/or any area subject to the unusual and rapid accumulation of surface waters from any source. (Refer to Ohio pyle Borough Ordinance No. 103).

FOOTCANDLE — unit of light density incident on a plane (assumed to be horizontal unless otherwise specified), and measurable with a luminance meter (a light meter).

FRONTAGE, PRIMARY — the side of a *lot* or *building* that abuts or faces a public street and that is considered to be the front yard of the *lot*. The Primary Frontage shall never be considered to face an alley unless the alley is the *lot's* only frontage on a public street.

FRONTAGE, SECONDARY — the side of a *lot* or *building* that abuts or faces a public street and that is considered to be the side yard of the *lot*.

FRONTAGE, STREET — that side of a *lot* or *building* that abuts or faces a public street.

GARAGE — a *building*, parking structure, or part thereof used or designed to be used for the parking and storage of motor vehicles.

GLARE — excessive brightness in the field of view that is sufficiently greater than that to which human eyes are adapted, to cause annoyance or loss in visual performance and visibility, so as to jeopardize health, safety, or welfare.

GROUP DWELLING — a *building* occupied by seven (7) or more persons who are unrelated by blood, marriage, legal adoption, foster placement, guardianship, or other domestic bond in which there are shared common cooking facilities and bathrooms. Group dwellings include boardinghouses, rooming or lodging houses, and group housing for employees, students, and clubs that do not meet the definition of a *Guest House*.

GUEST HOUSE — a *single family dwelling unit* or *multiple family dwelling unit* offering transient lodging accommodations in which the *dwelling unit* is rented in its entirety under a single rental contract to guests for less than thirty (30) consecutive days.

GUEST ROOM — a single room or suite that is rented to overnight guests.

HOME-BASED BUSINESS — a business that is conducted entirely within a *dwelling unit* and in a manner that is clearly incidental, accessory and subordinate to the unit's primary residential use.

HOME-BASED BUSINESS, NO-IMPACT — a business that is conducted entirely within a *dwelling unit*, entirely by the members of the household residing in that unit, and in a manner that is clearly incidental, accessory and subordinate to the unit's primary residential use occupying no more than 25% of the interior floor space of the *building*. These businesses draw no extra parking or traffic activity, generate no noise or other interference, generate no *sewerage* or waste beyond that typically associated with a residential use, and have no *signs*, storage, or other evidence related to the business on the exterior of the *building*.

HOTEL/MOTEL — a *building* offering transient lodging accommodations to the general public where rooms have direct access from the building exterior or an internal lobby or hallway. Hotels/motels may provide additional services such as restaurants, meeting rooms, entertainment, and recreational facilities as a secondary use to lodging.

INDUSTRIAL, HEAVY — a facility where specialized industrial processes take place and that may use or store heavy machinery, welding equipment, cranes, or hazardous materials.

INDUSTRIAL, LIGHT — a facility where no heavy manufacturing or specialized industrial process takes place, where there is no emission of industrial process exhaust, and where no heavy machinery, welding, cranes, forklifts, or hazardous materials are used or stored. *Buildings* include sufficient plumbing and lighting to accommodate personnel.

LIGHT, FULLY SHIELDED — a light source that is shielded on all sides such that no light is emitted at or above a horizontal plane drawn through the lowest light-emitting portion of the luminaire (light bulb or other source of light).

LIGHT, SHIELDED — a light source from which no direct glare is visible at normal viewing angles by virtue of its being properly shielded, aimed, oriented, and/or located.

LOT — a parcel, tract, or area of land established by a plat or otherwise as permitted by law and to be used, developed, or built upon as a unit.

LOT, CONFORMING — an occupied or unoccupied *lot* whose use, *buildings*, and layout meet the requirements of this Ordinance.

LOT, CORNER — a *lot* or parcel of land abutting two or more streets at their intersection.

MINERAL RESOURCE EXTRACTION — the commercial exploration and testing for, storage or processing of, or the removal of mineral resources (oil, gas, coal, aggregate, etc.) from the ground's surface or subsurface.

OUTDOOR STORAGE, UNSCREENED — the storage of any goods, equipment, material, merchandise, or inoperable vehicles in an area that is not enclosed by a structure and that is visible from a public road, sidewalk, trail, or park for more than thirty (30) consecutive days.

PARCEL — refer to the definition of "*Lot*."

PARKING AREA, PUBLIC — a parking area open to the public, with or without payment of a fee.

PARKING SPACE, ON-LOT — a parking space for the exclusive use of the owners, tenants, lessees, customers, employees, or occupants of the principal structure or use situated on that same *lot*.

PARKING SPACE, DEDICATED OFF-LOT — a parking space specifically designated for the exclusive use by the owners, tenants, lessees, customers, employees, or occupants of a *building* or use located on a different *lot*. Dedicated off-lot parking spaces may not be located in a *public parking area* or on a public street unless such spaces are specifically designated for a certain exclusive use in a written agreement between the *public parking area* owner and the intended exclusive user of those parking spaces, and those spaces are physically marked as reserved spaces.

PARKING SPACE, ON-STREET — a temporary storage area for a motor vehicle that is located in a public street right-of-way.

PREMESIS — refer to the definition of "*Lot*."

PUBLIC AREA — this designation includes all outdoor spaces where the general public is directly or indirectly invited to visit or permitted to congregate, whether on public property or a private *lot*.

PUBLIC REALM — any land areas owned by a public agency for the use or intended use of a road, alley, sidewalk, park, bikeway, or trail.

PUBLIC BUILDING or PUBLIC LOT — any *building* or *lot* owned by or principally occupied by a government entity, including but not limited to the Commonwealth of Pennsylvania, Fayette County, the Borough of Ohiopyle, or other governmental instrumentality. Examples include public parks, assembly buildings, visitor’s centers, libraries, post offices, schools, and government office buildings.

PUBLIC UTILITY — a closely regulated enterprise with a franchise for providing to the public a utility service deemed necessary for the public health, safety and welfare. Telephone, electric, natural gas, water, and sewer companies are public utilities; however, commercial wireless communications companies are not public utilities.

RECREATION, COMMERCIAL — a recreation facility that is privately owned and operated for profit.

RECREATION, PUBLIC — a recreation facility that is open to the general public and is owned and/or operated by a government entity, including but not limited the Commonwealth of Pennsylvania, Fayette County, the Borough of Ohiopyle, or other governmental instrumentality. Lodging/housing for employees of a public park and their families is considered part of the public recreation use.

RENT — a periodic payment, made by a tenant, to a landlord for the use of land, *buildings*, structures, *signs*, or other property.

SEWERAGE — any liquid waste containing animal or vegetable matter in suspension or solution. This includes water-carried waste resulting from the discharge of water closets, bathrooms, laundry tubs, washing machines, sinks, dishwashers, or any other human activity that produces putrescible material.

SETBACK — the distance that must be maintained between all parts (except for walks and steps) of a *building* and a specified lot line or publicly held right-of-way. In this Ordinance, this distance is expressed as a range between a minimum setback (i.e., the smallest required distance) and a maximum setback (i.e., the largest required distance).

SEXUALLY ORIENTED BUSINESS — any business that sells or offers sexually oriented goods or services. Includes but is not limited to adult arcades, adult bookstores, adult video stores, adult cabarets, adult motels, adult motion picture theaters, adult theaters, escort agencies, nude model studios, sexual encounter centers, and other sexually oriented businesses.

SIGN — any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise or announce a message.

SIGN, ANIMATED — any *sign* that uses movement or change of lighting to depict action or create a special effect or scene.

SIGN, BUILDING — any *sign* attached to any part of a *building*, as contrasted to a *freestanding sign*.

SIGN, CANOPY — any *sign* that is a part of or attached to an awning, canopy or other fabric, plastic or structural protective cover over a door, entrance, window or outdoor service area.

SIGN, CHANGEABLE COPY— a *sign* or portion thereof intended to display characters, letters or illustrations that can be individually changed or rearranged without altering the face or surface of the *sign*. The *sign* is considered a changeable copy sign if its design is intended as such, regardless of whether the *sign* contains letters or a message or if the letters or message is not frequently changed. A *sign* on which the message changes more than once per day shall be considered an animated sign and not a changeable copy sign for the purposes of this Ordinance.

SIGN, FREESTANDING — any *sign* supported by structures or supports that are placed on the ground or anchored in the ground and that are independent from any *building* or other structure.

SIGN, INCIDENTAL — a *sign*, generally informational, that has a purpose secondary to the use of the lot or building on which it is located, such as "no parking," "entrance," "loading only," and other similar directives.

SIGN, INTERNALLY ILLUMINATED — a *sign* that is illuminated by a light source that is internal to the sign's construction and shines outward, through the sign (as opposed to external illumination, in which a light source shines onto the sign and is not part of the sign itself.)

SIGN, NONCONFORMING — a *sign* that was legally established before the effective date of this Ordinance's enactment and does not conform the requirements of ARTICLE 4, Signs.

SIGN, OFF-PREMESIS — a *sign* advertising a use, establishment, service, product, or entertainment that is not furnished on the same *lot* as where the *sign* is placed.

SIGN, PERMANENT — any *sign* displayed for 21 consecutive days or longer.

SIGN, PORTABLE — a *sign* that is not permanently affixed to the ground, a *building*, or other structure and is designed to be moved easily from one location to another. The term "portable sign" includes, but is not limited to, *signs* mounted on wheels or trailers and *signs* mounted on frames placed on the surface of any *lot*.

SIGN, PROJECTING — any *sign* affixed to a *building* or wall in such a manner that its leading edge extends more than 6 inches beyond the surface of such *building* or wall. *Signs* that suspend from the underside of a horizontal plane surface and are supported by such surface are not considered projecting signs.

SIGN, PROJECTING ROOF — any *sign* erected and constructed wholly or partially on and over the roof of a *building*, supported by the roof structure and extending more than 6 inches vertically above the highest portion of the roof.

SIGN, ROOF — any *sign* erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the *sign* extends vertically above the highest

portion of the roof and such that no part of the *sign* is separated from the rest of the roof by a space of more than 6 inches.

SIGN, TEMPORARY — any *sign* that is displayed for less than 21 consecutive days. (Typically, temporary signs are constructed of cloth, canvas, light fabric, cardboard, wallboard, or other light material with or without frames intended to be displayed for a short period of time.) *Signs* not meeting the definition of a temporary sign shall be considered a *permanent sign*.

SIGN, WALL — any *sign* attached parallel to, but within six inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any *building* or structure, which is supported by such wall or *building* and which displays only one sign surface.

USE, CONDITIONALLY PERMITTED — a land use that is allowed only upon the issuance of a Conditional Use Permit by the Borough of Ohioypyle.

USE, NONCONFORMING — the use of a *building* or land that does not comply with the provisions in this Ordinance and that lawfully existed prior to the enactment of this Ordinance (see ARTICLE 6, Nonconformities).

USE, PERMITTED — a land use that is allowed by right in a zoning district and is subject to the restrictions applicable to the zoning district in which it is located.

USE, PRINCIPAL — the use that occupies the most square footage of a *building* or *lot* and/or the use that is recognized as the primary purpose of a *building* or *lot*.

YARD — an outdoor open space that lies on a *lot* between a *building* and the nearest lot line.

YARD, ACTIVE— an outdoor open space that lies on a *lot* between a *building* and the nearest lot line and that is designed to encourage the outdoor congregation of people. Examples of design elements included in an active yard include patios, porches, outdoor seating, gazebos, bicycle racks, and fountains.

YARD, (PRIMARY) FRONT — the area of a *lot* that exists between a line drawn parallel to a principal structure's front *building façade* and the adjacent *public realm*.

YARD, REAR — the area of a *lot* that exists between a line drawn parallel to a principal structure's rear *building façade* and the *lot's* rear lot line.

YARD, SECONDARY FRONT — the area on a *lot* that exists between a line drawn parallel to a principal structure's side *building façade* and the adjacent *public realm*. Secondary front yards only apply on *lots* designated as having secondary fronts on the Ohioypyle Borough Zoning District Map.

YARD, SIDE — the area on a *lot* that exists between a line drawn parallel to a principal structure's side *building façade* and the closest side lot line. Side yards are not adjacent to public streets. Side yards that are adjacent to public streets are called "Street Side Yards."

YARD, STREET SIDE — the area on a *lot* that exists between a line drawn parallel to a principal structure's side *building façade* and the closest side lot line. Street side yards are adjacent to public streets. Side yards that are not adjacent to public streets are called "Side Yards."