

**BILL NO.: 1 of 2021**

**INTRODUCED: MAY 18, 2021**

**BY: COUNCILMAN ROBERT TOPPER, JR.**

**ENACTED: JUNE 15, 2021**

**Ordinance No.: 1553**

**SIGN ORDINANCE  
CITY OF CONNELLSVILLE  
FAYETTE COUNTY, PENNSYLVANIA**

**ARTICLE I – PRELIMINARY PROVISIONS**

**Section 101 Title.** This Ordinance shall be known as the Sign Ordinance of the City of Connellsville, Fayette County, Pennsylvania.

**Section 102 Purpose.** 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 the City of Connellsville, to enhance pedestrian and vehicular safety, and to promote and protect the public health, safety, morals, and the general welfare of the City by avoiding the uncontrolled proliferation of signs.

**ARTICLE II – DEFENITIONS**

**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 Use by Special Exemption is issued).

**BILLBOARD** - a free-standing sign 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 structure used or intended for supporting or sheltering any use or occupancy.

**FLAG** - A sign made of fabric or other flexible material and displayed as a flag on a flag pole having a commercial message. A triangular or irregular piece of fabric or other material, commonly attached in strings or strands, or supported on small poles intended to flap in the wind. Temporary advertising signs made of lightweight cloth that are supported by a lightweight freestanding pole or frame. Including but not limited to: Feather Flags, Pennant Flags, Tear Drop Flags, etc.

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.

HOME-BASED BUSINESS, NO-IMPACT -- A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use of a residential dwelling, which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with residential use, and which meets all of the requirements set forth in Section 3-100 of this Ordinance.

HOME-BASED BUSINESS, OTHER -- A business or commercial activity administered or conducted as an accessory use that is secondary to the principal use of a dwelling contributing either entirely or partly to the livelihood of a person living in the dwelling and which does not comply with the requirements of a No-Impact Home-Based Business.

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 edges 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 by Special Exemption – An authorized use of a lot, building, or structure that may be granted only by the Zoning Hearing Board after a public hearing and in accordance with express standards and criteria specified in the City of Connellsville Zoning Ordinance.

USE, NONCONFORMING — the use of a building or land that does not comply with the provisions within the City's Zoning Ordinance.

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 squarest 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. This activity must conform to the Connellsville Zoning Ordinance.

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 that are located at the corner of two major roadways and designated as having secondary fronts in the City of Connellsville.

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."

### ARTICLE III – PERMITTED SIGN TYPES

**Section 301 Permitted Sign Types.** The Table below indicates the sign types that are permitted by right, are conditionally permitted with the approval of a Use by Special Exception, are not allowed, or are exempt from regulation under this Ordinance.

SIGN TYPE	ZONING					
	R	M	I	C2	C1/C2	
Banners Displayed for 21 days or longer	S	S	S	S	S	<b>KEY:</b> P= Permitted Sign: sign is allowed and issuance of a Sign Permit is required  <b>S=</b> Use by Special Exception  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: Is not allowed
Billboard			S	S		
Building/Address Numbering	E	E	E	E	E	
Business name/Identification Sign		P	P	P	P	
Business Advertisement/Goods Services		P	P	P	P	
Directional Sign	P	P	P	P	P	
Flag		P	P	P	P	
Garage Sale, Yard Sale, and auction signs provided that do not exceed 5 square feet	E	E	E	E	E	
Incidental Sign	E	E	E	E	E	
Memorial Sign	P	P	P	P	P	
Obsolete Sign which no longer identifies a bona fide business or product sold	X	X	X	X	X	
Political Signs announcing candidates seeking public office, provided they are removed no later than 2 weeks after the election is over	E	E	E	E	E	
Public notice or warning sign required by a valid and applicable federal, state, or local law, regulation, or ordinance	E	E	E	E	E	
Realty signs advertising property for sale or rent provided they do not exceed 20 square feet	E	E	E	E	E	
Temporary signs and banners (displayed for less than 21 consecutive days)	E	E	E	E	E	
Signs that flash, are animated, or give the illusion of movement		S	S	S	S	
Welcome/Information Sign	P	P	P	P	P	
Works of Art with no commercial message	E	E	E	E	E	

- **Use by Special Exception Required**
  - (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 City government are exempt from the regulations of this Ordinance.**

#### **ARTICLE IV – ILLUMINATION OF SIGNS**

**Section 401 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 R Zoning Districts.

#### **Section 402 Signs That Flash, Are Animated, or Give The Illusion of Movement**

- (A) The sign face should be less than 24 square feet.
- (B) The sign shall not be located in any of the Residential Zoning Districts.
- (C) The signs shall not be mounted on the roof of the building, nor should 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.

#### **ARTICLE V – FREESTANDING SIGNS**

**Section 501 Freestanding Signs.** The 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 any Residential (R) Zoning District
- (C) In the Commercial Zoning Districts, 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 Commercial Zoning Districts that have a secondary front yard, provided the two signs face different public realms.

- (D) Permanent freestanding signs in the C-1 and C-3 shall not exceed eight (8) feet in height, measured from the elevation of the ground where the sign post or the 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. Signs in the C-2 Zoning District shall not exceed twenty (20) feet in height and no sign shall be allowed in or overhanging the public right of way.
- (E) No freestanding signs over three (3) feet in (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 a freestanding sign shall not interfere with safe pedestrian and bicycle movement on public sidewalks, bike lanes, and trails.

## **ARTICLE VI – SIGNS ATTACHED TO BUILDINGS AND STRUCTURES**

**Section 601 Signs attached to Buildings and Structures.** The following provisions shall apply to all signs that are attached to building. These include flat wall signs, projecting signs, canopy signs, and roof signs.

- (A) Signs in any Residential (R) Zoning Districts 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 Use by Special Exception for a home-based business.
- (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 Use by Special Exemption, all signs attached to buildings shall be constructed of durable materials and shall be permanently attached to the building by direct attachment to the wall, frame, or structure. No sign may project over any sidewalk without an Eight (8) foot clearance.
- (E) No permanent signs shall be attached to trees, shrubbery, utility poles, or traffic signs.

## **ARTICLE VII – SIGNS THAT REQUIRE USE BY SPECIAL EXEPTION**

**Section 701 Signs that require a Use by Special Exception.** The following types of signs require the approval of a Use by Special Exception.

- (A) All billboards. No more than ten (10) billboards shall be permitted along the 119 corridor and prohibited along Pittsburgh St and Crawford Ave.
- (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 and commercial or event messaging displayed for more than 21 consecutive days.

### **Section 702 Signs That Extend Above the Highest Elevation of a Building's Roof.**

- (A) 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.
- (B) The sign shall not be artificially illuminated, either with an internal or external source of light.
- (C) The sign shall not support any antennas, satellite dishes, radio towers, transmission lines, or other similar apparatus.
- (D) The sign shall not result in visual blight resulting from excessive and redundant signs.
- (E) The location of the sign is necessary to adequately and effectively communicate its intended message.
- (F) 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 the City of Connellsville.

**Section 703 Billboards and Freestanding Signs With sign Face Greater Than Twenty-Four (24) Square Feet**

- (A) The sign shall meet the requirements for freestanding signs given in Section V.
- (B) The sign shall be permanently fixed 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 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 building on the same lot and contribute positively to the character of the City of Connellsville.
- (H) Subject to an annual registration on City approved form by October 31 of each calendar year along with a check in the amount of One Hundred Dollars (\$100) per structure.

**Section 704 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 the City of Connellsville.

**ARTICLE VIII – SIGN MESSAGING**

**Section 801 Sign Messaging.** The following provisions shall apply to all messaging placed on signs, including words, letters, 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 the 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 concert sponsored by a governmental, charitable, or nonprofit organization.
- (C) Signs shall not emit audible noise.

## **IX – TEMPORARY AND PORTABLE EVENT SIGNS**

### **Section 901 Temporary and Portable Events Signs.**

- (A) Temporary and portable event 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 event sign shall not be placed more than Twenty-One (21) consecutive days on the same lot per calendar year and must be removed no later than Two (2) weeks after the event.
- (C) Temporary event 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.

## **X – TEMPORARY AND PORTABLE SANDWICH BOARD TYPE SIGNS**

### **Section 1001 Temporary and Portable Sandwich Board Signs.**

- (A) Temporary and portable sandwich 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 sandwich board sign shall NOT display any service or product that is not available at the location where the sign is placed.
- (C) Temporary sandwich board signs shall be no larger than 24 square feet in size and there shall be no more than two (2) temporary sandwich board signs displayed simultaneously on the same lot.

## **XI – CONDITION AND MAINTENANCE**

### **Section 1101 Condition and Maintenance**

- (A) 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 rust.
- (B) The owner of the Freestanding Sign or the owner of the property on which the sign is located shall be responsible for the maintenance and upkeep.

## **XII – ABANDON SIGNS**

### **Section 1201 Abandon Signs**

- (A) 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 “abandon signs.” All abandon signs shall be removed at the expense of their owners within ninety (90) days. If an abandon sign is not removed, the Zoning Officer shall enforce.

## **XIII – SIGNS THAT ENCROACH INTO OR OVER PUBLIC STREETS, SIDEWALKS, OR BIKE LANES**

### **Section 1301 Signs that encroach over public streets, sidewalks, or bike lanes.**

- (A) 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.
- (B) 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 the City of Connellsville.
- (C) The owner of the sign shall carry, for the protection of the City, a general public liability insurance policy with a company of recognized financial standing to protect the City from any or all liability associated with the sign or damages that may be caused by the sign.
- (D) The owner of the sign shall agree to remove or remedy the sign if the City’s Zoning Officer or City Council determines that the sign is not being maintained in a safe and durable condition and is a threat to the public health, safety, or welfare.

## **XIV Administration and Enforcement**

### **Section 1401 Administration**

- (A) Conflict. Whenever the regulations of this Chapter are in conflict with the requirements of any other lawfully adopted rules, regulations, deed restrictions, covenants or ordinances, the most restrictive, or that imposing the higher standards, shall govern and be enforced by the respective agency; provided, however, that where this Chapter is preempted by State laws as provided in section 603(b) of the Pennsylvania Municipalities Planning Code (MPC), the provisions of such State law shall govern.
- (B) Repealed. The City of Connellsville Zoning Ordinance of 1954, Ordinance No. 736, as amended, is hereby repealed.
- (C) Severability. Should any section or provision of this Chapter be declared by the courts to be unconstitutional or invalid, such a decision shall not affect the validity of this Chapter as a whole, or any part thereof other than the part declared to be unconstitutional or invalid.

### **Section 1402 Permit Application.**

- (A) A sign permit shall be issued by the Zoning Officer attesting that the use and structure is in compliance with this Chapter and all other ordinances of the City now or hereafter in effect. The sign permit shall not be issued until the standards of the Pennsylvania Uniform Construction Code have been met and approved.
- (B) A sign permit shall be required for any and all signs subject to this ordinance and must be applied for on the city approved permit application and accompanied by a sight plan and construction detail.

### **Section 1403 Enforcement notice.**

If it appears to the City that a violation of any requirement under this Chapter has occurred, the City shall initiate enforcement proceedings by sending an enforcement notice. The enforcement notice shall contain the following information:

- (A) The name of the owner of record and any other person against whom the City intends to take action.
- (B) The location of the property in violation.
- (C) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Chapter.

- (D) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
- (E) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within thirty (30) days of receipt of the violation notice.
- (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.

**Section 1404 Enforcement remedies.**

- (A) Except where a different penalty is provided, any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Chapter shall, upon being found liable therefore in a civil enforcement proceeding commenced by the City, pay a judgment of not less than fifty dollars (\$50) and no more than one thousand dollars (\$1000), plus all court costs, including reasonable attorney fees incurred by the City as a result thereof. No judgment shall commence or be imposed, levied or be payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor appeals the judgment in a timely manner, the City 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 this Chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one (1) such violation until the fifth 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 Chapter shall be paid over to the City.
- (B) The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
- (C) Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the City the right to commence any action for enforcement pursuant to this section.

## XV Appeals

### Section 1501 Procedure.

- (A) Any person or City official aggrieved or affected by any provision of this Chapter or by any decision of the Zoning Officer or other City official may file an appeal in a timely fashion as provided for by the rules of the Zoning Hearing Board.
- (B) Challenges to the validity of this Chapter or the Official Zoning Map.
1. Any person aggrieved by a use or land development of another person which is authorized by this Chapter or the Official Zoning Map or any amendment thereto shall submit his/her challenge, in writing, to the Zoning Hearing Board under Section 909.1 of the Pennsylvania Municipalities Planning Code, stating the substantive grounds for the challenge.
  2. Any landowner and/or developer who, on substantive grounds, desires to challenge the validity of this Chapter or the Official Zoning Map or any amendment thereto under § 916.1 of the Pennsylvania Municipalities Planning Code shall submit a written request to the Zoning Hearing Board containing all of the information required by §916.1(c) of the Pennsylvania Municipalities Planning Code.

### Section 1502 Variances.

- (A) The Zoning Hearing Board shall hear requests for variances where it is alleged that the provisions of this Chapter inflict unnecessary hardship upon the applicant. The Board may grant a variance provided that all of the following findings are made where relevant in a given case:
1. That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular lot and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Chapter in the zoning district in which the lot is located.
  2. That because of such physical circumstances or conditions, there is no possibility that the lot can be developed in strict conformity with the provisions of this Chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the lot.
  3. That such unnecessary hardship relating to unique physical circumstances of the property has not been created by the applicant.
  4. That the variance, if authorized, will not alter the essential character of the neighborhood or zoning district in which the lot is located, nor substantially or permanently impair the appropriate use or development of adjacent lot(s), nor be detrimental to the public welfare.

5. 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.
- (B) The grant of a variance will expire six (6) months after the date of the Board's written decision unless:
1. The applicant has applied for and obtained a building permit and commenced construction, or
  2. In a case where the variance does not require the issuance of a building permit, the applicant has applied for and obtained an occupancy permit and has commenced the use which is the subject of the variance.
- (C) In granting a variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Chapter and the Pennsylvania Municipalities Planning Code.

#### **Section 1503 Special exceptions.**

- (A) The Zoning Hearing Board shall have the power to decide applications for use by special exception as specified in this Chapter in harmony with its general purpose and intent and in accordance with the standards set forth. The Zoning Hearing Board shall approve a use by special exception only if it meets all applicable requirements of this Chapter and the express standards and criteria set forth in Article VI of this Chapter. In granting a use by special exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards in addition to those expressed in this Chapter as it may deem necessary to properly implement this Chapter and the Pennsylvania Municipalities Planning Code.
- (B) Applicants for a use by special exception shall submit an application, land development plan and fee as required by section 6-100 of this Chapter.

#### **Section 1504 Hearings.**

Public hearings before the Zoning Hearing Board shall be conducted in accordance with the requirements of Section 908 of the Pennsylvania Municipalities Planning Code. The public hearing shall be held within sixty (60) days of filing of a complete application pursuant to public notice, as defined by this Chapter. In addition to public notice, as defined herein, the Zoning Hearing Board shall post at least one (1) copy of the notice on the affected property and shall mail a copy of the notice by regular US Mail.

## **Section 1505 Decisions.**

(A) 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 forty-five (45) days after the last hearing before the Zoning Hearing Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefore. Conclusions based on any provisions of this Chapter or any other land use ordinance, rule or regulation or any provision of the Pennsylvania Municipalities Planning Code shall contain a reference to the provisions relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer and there has been no stipulation that his/her decision or findings are final, the Zoning Hearing Board shall make his report and recommendations available to the parties within forty five (45) days, and the parties shall be entitled to make written representations thereon to the Zoning Hearing Board prior to final decision or entry of findings, and the Zoning Hearing Board's decision shall be entered no later than thirty (30) days after the report of the hearing officer.

(B) Deemed decisions.

1. Where the Zoning Hearing Board fails to render the decision within the required forty-five (45) day period or fails to hold the required hearing within sixty (60) days of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time.
2. When a decision has been rendered in favor of the applicant because of failure of the Zoning Hearing Board to meet or render a decision, the Zoning Hearing Board shall give public notice of the decision within ten (10) days from the last day it could have met to render a decision. If the Zoning Hearing Board shall fail 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 the Fayette County Court of Common Pleas.

(C) Eligibility of Applications, Petitions and Appeals.

Applications, petitions and appeals shall not be accepted on any matter for which an application, petition or appeal has been heard and decided by the Board within the preceding twelve (12) months.

## **Section 1506 Fees and expenditures.**

(A) Within the limits of funds appropriated by the City Council, the Zoning Hearing Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services.

(B) The City Council may, from time to time, establish reasonable fees by resolution for hearings before the Zoning Hearing Board. Fees for said hearings may include compensation for the 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.

(C) Stenographer's appearance fee and transcripts.

The appearance fee for a stenographer shall be shared equally by the applicant and the Zoning Hearing Board. The cost of the original transcript shall be paid by the Zoning Hearing Board if the transcript is ordered by the Zoning Hearing Board or hearing officer or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event, the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof.

#### **Section 1507 Time limitations.**

(A) No person shall file any proceeding before the Zoning Hearing Board later than thirty (30) days after a preliminary or final application for development has been approved by an appropriate City officer, agency or body, if such proceeding is designed to secure reversal or to limit the approval in any manner, unless such person alleges and proves that he/she had no notice, knowledge or reason to believe that such approval had been given. If such person has succeeded to his/her interest after such approval, he/she shall be bound by the knowledge of his/her predecessor in interest.

(B) The failure of anyone, other than the landowner, to appeal from an adverse decision on an application for tentative approval of a planned residential development or planned nonresidential development or from an adverse decision by a Zoning Officer on a challenge to the validity of a Chapter or map filed pursuant to § 916.2 of the Pennsylvania Municipalities Planning Code shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

(C) All appeals from determinations adverse to the landowner shall be filed by the landowner within thirty (30) days from the date of the official written findings (entry of decision) of the Zoning Hearing Boarding.

**Section 1508 Stay of proceedings.**

- (A) Upon the filing and pending of any proceeding before the Zoning Hearing Board, all land development pursuant to any challenged ordinance, order of approval of the Zoning Officer or of any agency or body and all official action there under shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Zoning Hearing Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Hearing Board or by the court having jurisdiction of zoning appeals on petition after notice to the Zoning Officer or other appropriate agency or body.
  
- (B) When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Zoning Hearing Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Zoning Hearing Board. The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court.
  
- (C) All appeals from decisions rendered by the Zoning Hearing Board shall be taken to the Fayette County Court of Common Pleas and shall be filed within thirty (30) days after the entry of the decision or, in the case of a deemed decision, within thirty (30) days after the date upon which notice of said deemed decision is given as required by this Chapter.

This Ordinance shall be effective ten days from the date of enactment by City Council.

**ENACTED AND ADOPTED** this 15<sup>TH</sup> day of June, 2021

**CITY COUNCIL OF THE CITY OF CONNELLSVILLE:**

BY: \_\_\_\_\_  
Mayor and President of Council

ATTEST:

\_\_\_\_\_  
City Clerk