

**BOROUGH OF MILLERSBURG
COUNTY OF DAUPHIN
COMMONWEALTH OF PENNSYLVANIA**

ORDINANCE NO. 3-22

MAIN STREET OVERLAY ZONING DISTRICT REGULATIONS

AN ORDINANCE AMENDING CHAPTER 27 (RELATING TO ZONING ESTABLISHED BY ORDINANCE 2-16), PART 4.4 (DEFINITIONS) AND PART 4.2 (GENERAL REGULATIONS) OF THE BOROUGH OF MILLERSBURG CODE OF ORDINANCES, AMENDING DEFINITIONS, AND AMENDING AND ESTABLISHING A MAIN STREET OVERLAY DISTRICT AND ESTABLISHING SUCH ALLOWABLE USES AND OTHER REGULATIONS WITHIN THIS DISTRICT

SECTION 1. INTRODUCTION

WHEREAS, the Pennsylvania Municipalities Planning Code, act of July 31, 1968, as amended, 53 P.S. §§ 10101 et seq., enables a municipality through its zoning ordinance to regulate the use of property; and

WHEREAS, the Borough of Millersburg, Dauphin County, Pennsylvania seeks to promote the general health, safety and welfare of the community by adopting and implementing this Ordinance creating a Main Street Zoning District; and

WHEREAS, the Borough of Millersburg recognizes the importance of providing a vibrant and healthy Main Street area to allow for the improved economic wellbeing and health for its residents, and

WHEREAS, the purpose of this Ordinance is to establish the district and set requirements for the uses within this district, and;

WHEREAS, Chapter 27, ZONING – Established by Ordinance 2-16, is to be amended with the addition of language to meet the mentioned goals;

IT IS HEREBY ENACTED AND ORDAINED by the governing body of the Borough of Millersburg, Dauphin County, Pennsylvania is as follows:

SECTION 2. APPLICATION

- A. The regulations and standards contained in this Part shall apply to all applications to:
1. The first floor of any new or existing structures; and
 2. Add to or increase the size of the first floor of a new and existing structure.

SECTION 3. PURPOSE AND INTENT

- A. The purpose and intent of the Main Street Zoning District is to:
1. Create a district that allows and promotes the commercial development within the Main Street area of Millersburg Borough;

2. Regulate and restrict the use of new uses, constructed structures, and new constructed structures;
3. Regulate and restrict the uses on the first floor of the new uses, constructed structures, and new constructed structures

SECTION 4. RELATION TO OTHER ZONING DISTRICTS

- A. The Main Street Zoning District shall not modify the boundaries of any other zoning district. Where identified, the Main Street Zoning District shall impose certain requirements on land use, construction and development in addition to those contained in the applicable underlying zoning district and/or applicable overlay zoning district for the same area.

SECTION 5. DEFINITIONS

The following words and phrases when used in this ordinance shall have the meaning given to them in this section unless the context clearly indicates otherwise.

Adult Business : Any commercial establishment, including but not limited to Adult Book Stores, Adult Motion Picture Theaters, Adult Mini-Motion Picture Theaters, Adult Entertainment Cabaret, swinger or adult lifestyle clubs, or other adult entertainment establishments, in which is offered for sale as a substantial or significant portion of its stock in trade video cassettes, movies, books, magazines, or other periodicals or other media which are distinguished or characterized by their emphasis on nudity or sexual conduct or activities which if presented in live presentation would constitute adult entertainment; and Any commercial establishment that offers for a consideration physical contact in the form of wrestling or tumbling between Persons of the opposite sex; and Any commercial establishment that offers activities between male and female Persons and/or Persons of the same sex when one or more Persons are nude or Semi-Nude; and Any commercial establishment that offers for a consideration nude human modeling.

Adult Book Stores - An establishment having as a substantial or significant portion of its stock in trade, books, magazines, films for sale or viewing on Premises by use of motion picture devices or any other coin-operated means, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "Specified Sexual Activities," or "Specified Anatomical Areas," or an establishment with a segment or section devoted to the sale or display of such material.

Adult Entertainment Cabaret – A public or private establishment that is licensed to serve food and/or alcoholic beverages, which features topless dancers, strippers, or similar entertainers.

Arcade or Gaming Location: An establishment with more than two mechanical and/or electronic coin- or token-operated amusement devices.

Art Gallery: A room or building for the display or sale of works of art.

Automobile Repair Garage: An area where repairs, improvements and installation of parts and accessories for motor vehicles and/or boats are conducted that involves work that is more intense in character than work permitted under the definition of “automobile service station/body shop”. An automobile repair garage shall include, but not be limited to, a use that involves any of the following work: major mechanical or body work, straightening of body parts, painting, welding or rebuilding or transmissions. Any use identified as part of an “automobile service station/body shop” is also identified as part of an “automobile repair garage”.

Automobile Service Station/Body Shop: Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels; servicing and repair of automobiles; and including as an accessory use the sale and installation of lubricants, tires, batteries, and similar vehicle accessories

Bakery (retail): Any establishment whose principal business is the sale of baked products such as breads, cakes, cookies, donuts, pastries, bagels, rolls, and similar products that are baked on the premises.

Bed and Breakfast: An owner-occupied residence where not more than five guest rooms are rented to not more than 10 overnight guests on a daily basis for periods not exceeding one week.

Beverage Distributor (retail): A retail establishment that offers the sale of beverages, alcoholic and non-alcoholic, in beverage containers to consumers.

Brewery: A building where the brewing, processing and production of beer, malt, and related alcoholic beverages occurs on site in accordance with the Pennsylvania Liquor Code and in compliance with the requirements of the Pennsylvania Liquor Control Board. The term may or may not include an area for the consumption of such beverages.

Brewpub: A retail restaurant, tavern/pub restaurant establishment in which beer or malt beverages, wine, and other alcoholic beverages are manufactured, brewed on site and which establishment is licensed and operated in accordance with the Pennsylvania Liquor Code and in compliance with the requirements of the Pennsylvania Liquor Control Board.

BYOB Club: Any building, structure, or portion of structure not licensed by the Pennsylvania Liquor Control Board, wherein persons may, after payment of entry fee, cover charge, membership fee, set-up fee, or similar payment in money or in-kind, consume alcoholic beverages, which beverages said persons have brought onto the subject premises or purchased therein. The preparation and consumption of food may occur at this location.

Catering: The business of providing food service at a remote site or a site such as a hotel, hospital, pub, aircraft, cruise ship, park, filming site or studio, entertainment site, or event venue.

Cigarette Outlet: A retail business which primary business is the sale of primarily off price or reduced cost cigarettes. Off price means excess, slow moving, obsolete and discontinued inventory. This includes means factory-second (imperfect goods produced, but still sellable) and cigarettes produced exclusively for budget conscious customers, utilizing lower-cost materials.

Coffee/Tea Shop: A facility that prepares or serves primarily coffee, tea and other non - alcohol beverages directly to the public for on- or off-premise consumption. It may also include an accessory retail sales area and custom prepared foods.

Convenience Store with Fuel Dispensing: A retail establishment that sells groceries, household dry goods and hot or cold prepared or take-out meals for consumption either on or off-premise and have pumps or other dispensing devices are available for the dispensing of gasoline or other flammable liquids for sale to the public. The establishment may also have drive thru facilities for the dispensing of such retail and food items and drive thru car wash facilities as accessory uses.

Communications Office: A space involved with helping other companies communicate effectively for improved business operations.

Crematorium: A facility with cremation chambers used for the reduction of the human body to ashes by heat.

Cultural Center or Museum: A building providing for display, performance, or enjoyment of heritage, history, or the arts. This includes the following uses, but is not limited to: art performances, corporate retreats, art galleries, historic interpretation/reenactment, cultural activities, weddings, or interpretive sites.

Daycare, in home—child: An occupied single-family residence in which the occupant(s) of that dwelling provide(s) child day care service for more than five children, but not in excess of the number of children which two staff members can handle in accordance with Pennsylvania regulations.

Distillery: A distillery facility which produces by distillation liquor for consumption, the sales and distribution of which are subject to regulation by the PA Liquor Control Board and where liquor is manufactured.

Flea Market/Auction – excluding livestock or living animals: A type of market that provides space for vendors to sell previously owned merchandise.

Florist: retail sale of fresh cut flowers, potted ornamental plants, floral arrangements, floral bouquets, wreaths, or any similar products, used for decorative and not landscaping purposes.

Funeral Home: A business that arranges services in accordance with the wishes of surviving friends and family members and the dead is prepared for burial or cremation. Does not include crematoriums.

Government Offices: Any permanent structure wholly or partially enclosed which is intended to provide offices, hearing and meeting rooms, storage spaces, and other facilities for carrying on the functions of a borough, county, state or federal government.

Home Occupation: Any activity carried out for gain by a resident and conducted as a customary, incidental, and accessory use in the resident's dwelling unit. The conducting of a home base business does not change the principle definition or classification of a building or use from residential to commercial for the zoning classification and/or the building permit requirements. Also see No-Impact Home Based Business

Hotel/motel: A commercial lodging establishment that offers units for sleeping purposes to transient guests and which provides twenty-four-hour service for receiving and assisting guests. A conference/convention center/meeting area may be part of the hotel.

Laundromat/Dry Cleaner: An establishment providing washing, drying or dry-cleaning machines on the premises, for rental use to the general public for family laundering or dry cleaning purposes.

Hardware or garden center (retail): A retail establishment typically selling hardware, lumber and other related building materials, plant and other landscaping materials, paint, tools, fixtures and similar items. Hardware stores are open to the general public and are less than 10,000 square feet. Stores with similar inventories, but larger than 10,000 square feet are excluded from this definition.

Marijuana /Head Shop An establishment which includes in its stock-in-trade, with intent to deliver or sell for use with drugs or controlled substances, or advertises drug paraphernalia intended for use with drugs, such as scales; small spoons; sieves; gelatin capsules; hashish heads; water pipes intended for use with marijuana, hashish, hashish oil or cocaine; roach clips; smoking and carburetion masks; separating pins for use or intended for use in cleaning marijuana pipes, cocaine vials, hypodermic syringes and needles; or any other drug paraphernalia. Notwithstanding the foregoing, a retail shop selling or advertising the sale of electric cigarettes or "e-cigarettes" intended for smoking tobacco, an act commonly referred to as "vaping," shall not be a "head shop" merely because of such sales or advertisements.

Medical Marijuana Dispensary: A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit issued by the Department of Health (DOH) of the Commonwealth of Pennsylvania to dispense medical marijuana.

Membership Club: An area of land or building used by a recreational, civic, social, fraternal, religious, political, or labor union association of persons for meetings and routine

socializing and recreation that is limited to members and their occasional guests, but not including members of the general public. These uses are restricted to those not conducted primarily for gain, although a restaurant may be operated primarily to serve members and their guests. This use shall not include boardinghouse, a tavern, restaurant open to the general public, or an auditorium, unless that particular use is permitted in that district and the applicable requirements of that use are met.

Micro-Brewery/ Mini-Brewery: A brewery where the total amount of beer sold or delivered directly to all retailers does not exceed ten thousand (10,000) barrels a year and in accordance with the Pennsylvania Liquor Code (PLC) and in compliance with the requirements of the Pennsylvania Liquor Control Board. (PLCB) It may also include an accessory tasting room and retail sales area and, or restaurant. A tasting room allows customers to taste samples of products manufactured on-site and purchase related sales items.

Micro-distillery — A distillery that produces less than one -hundred -thousand (100, 000) gallons of distilled liquor per year and has the right to sell bottled liquors on the leased premises to the Pennsylvania Liquor Control Board licensees and the public. It may also include an accessory tasting room and retail sales area and, or restaurant. A tasting room allows customers to taste samples of products manufactured on-site and purchase related sales items. Sales of alcohol manufactured outside the facility are prohibited.

Motor Freight Terminal: A terminal that is primarily centered around the storage and distribution of motor freight.

No Impact Home Based Business: A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and 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. The conducting of a No Impact Home Based Business does not change the principle definition or classification of a building or use from residential to commercial for the zoning classification and/or the building permit requirements. [Also see Home Occupation]

Personal Services: Service activities shall include and be similar to barbershops, beauty salons, health spas, massage; photographic studios; repair shops for home appliances, tools, electronic devices (phone, computer, television, etc), bicycles, guns, locks, shoes and watches repair, dry-cleaning establishments; tailor and dressmaking shops; and pet grooming with no overnight boarding. Personal service establishments shall not be construed to be adult regulated facilities as defined herein.

Professional Office: Includes but are not limited to offices for real estate, stock, and bond brokers, accountants, adjusters, appraisers, utility companies, physicians, lawyers, clergymen, teachers, dentists, architects, engineers, insurance agents, opticians, banks, financial institutions, contractors (excluding storage) and similar office- oriented uses.

Recreation—Commercial: A building or lot used solely for recreation purposes for profit or gain. This includes uses such as dance halls, theaters, billiards or pool halls, bowling alleys, bocce courts, pinball arcades, and bingo (and other games of chance) halls.

Repair Service- household appliance: (See Personal Services)

Restaurant including Tavern/Pub: A public eating place primarily offering sit down counter or table service and custom prepared foods for on premises consumption. This can include the consumption of alcoholic beverages on-site.

Retail Stores: An establishment whose primary activities involve the sale or rental of merchandise, goods and products directly to the consumer.

Sidewalk Cafes- as accessory use: An outdoor dining area operated by a food service establishment located on a sidewalk area containing removable tables, chairs, plants, and related appurtenances, which is not located or does not encroach upon the pedestrian walkway. It shall not be enclosed by fixed walls and shall be open to the air.

Smoking lounge: A business establishment that is dedicated, in whole or in part, to the smoking of tobacco products, electronic cigarettes, or other substances, including but not limited to establishments known variously as cigar lounges, hookah lounges, tobacco clubs, tobacco bars, etc. (Collectively referred to as “smoking lounge(s)).

Storage, personal storage facility: structures containing generally small, individual, compartmentalized stalls or lockers rented as individual storage spaces.

Tattoo Parlor: Any place where an operator performs or practices the art of tattooing which is any method of placing designs, letters, scrolls, figures, symbols, or any other marks upon or under the skin of a human with ink or any other substance, resulting in the coloration of the skin by the aid of needles or any other instrument designed to touch or puncture the skin. . Microblading, a technique involving semi-permanent pigmentation of the skin, is expressly included within this definition and subject to the provisions of this definition. Medical doctors or doctors of veterinary medicine acting in performance of their professional duties are specifically excluded from this definition.

Television or radio studio: A building or portion of a building used as a place of used for radio or television broadcasting.

Theater- other than associated with adult uses: A Building or part of a building devoted to the showing of moving pictures or theatrical productions on a commercial basis.

Tobacco or Smoke Shop: Any store, stand, booth, or concession that devotes 30% or more of its display floor area to tobacco products, or to the display and sale of tobacco, to purchasers for consumption or use. This classification of use does not include cigarette outlet,

smoking lounges, medical marijuana dispensaries, and vape shops which are defined separately.

Trade center or vocational school: A facility, either public or private, that provides instruction to students of special skills, knowledge, or techniques that are generally related to furthering a specific vocation or professional occupation. Facilities may also be considered business schools, cosmetology schools and schools for self-improvement.

Transportation Terminal: Land and buildings used as a relay station for the transfer of a load from one vehicle to another or one party to another. The terminal cannot be used for permanent or long-term accessory storage for principal land uses at other locations. The terminal facility may include storage areas for trucks and buildings or areas for the repair of trucks associated with the terminal. The terminal may also serve as a passenger station that is central to an area and serves as a junction at any point with another line. A bus terminal would be a central point for passengers, and a truck terminal would be a central point for freight.

Vape Shop: Any business whose principal product line for retail sale is vape, vape related products, or both. Principal means that vape, vape-related products, or both constitute at least twenty-five percent of the business's aggregate retail sales. Vape or vape juice refers to any liquid that contains compounds containing pharmaceutical grade vegetable glycerin, propylene glycol, nicotine, food-grade flavoring, and water, and can be used for vaping by means of an alternative nicotine product. Vape-related products refers to any products or devices that employ an electronic heating element, power source, electronic circuit, battery, or other electronic, chemical, or mechanical means to produce a vapor that delivers nicotine to the person inhaling from the device, including electronic cigarettes, electronic cigars, electronic hookahs, electronic bongos and electronic pipes, whether manufactured, distributed, marketed, or sold as an electronic cigarette, electronic cigar, or electronic pipe.

Warehouses: Facilities for the storage of furniture, household goods, or other commercial goods of any nature. Includes cold storage. Does not include: warehouse, storage or mini-storage facilities offered for rent or lease to the general public (see "Storage—Personal Storage Facilities"); warehouse facilities in which the primary purpose of storage is for wholesaling and distribution (see "Wholesaling and Distribution"); or terminal facilities for handling freight (see "Truck or Freight Terminals").

Wholesaling and Distribution: Establishments engaged in selling merchandise to retailers; to contractors, industrial, commercial, institutional, farm, or professional business users; to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. Examples of these establishments include:

- agents, merchandise or commodity brokers, and commission merchants,
- assemblers, buyers and associations engaged in the cooperative marketing of farm products,
- merchant wholesalers,

stores primarily selling electrical, plumbing, heating and air conditioning supplies and equipment.

Also includes storage, processing, packaging, and shipping facilities for mail order and e-commerce retail establishments.

Winery, retail: A facility with emphasis on pedestrian-oriented retail sales and services and on-site tasting, but without primary fruit processing or bulk fermentation.

Veterinarian Office—excluding large animals or boarding: A building used for the treatment of small domestic animals such as dogs, cats, rabbits, and birds or fowl by a veterinarian.

SECTION 6. CONFLICT

- A. When interpreting and applying the provisions of this Ordinance, said provisions shall be held to the minimum requirements for the promotion of public health, safety, comfort, convenience and greater welfare. Wherever and whenever the requirements of this Ordinance are inconsistent with the requirements of any other Ordinance or Section of this Chapter, the most restrictive, or that imposing the higher standards shall govern.

SECTION 7. ESTABLISHMENT OF MAIN STREET DISTRICT ZONE

- A. There are hereby created and established certain zone designated as the Main Street Zoning District, defined in Sections 2 and 3 of this Part and depicted and illustrated on the “*Millersburg Borough, Dauphin County, Pennsylvania: Main Street Zoning District Map*”. A copy of the map is attached as Exhibit A to this document. A certified copy of map is also available at the Millersburg Borough Office.
- B. The area is also to be generally described as follows:
 1. Market Street properties on the east and west sides, starting from the intersection with Pine Street and proceeding north to the intersection of Moore Street;
 2. Union Street properties on the north and south sides, containing the intersection of Market Street, and proceeding east to intersection of Race Street.

SECTION 8. VARIANCES

- A. In addition to the provisions set forth in Section 4:1:2 of the Zoning Code, relating to variances, any request for a variance shall include documentation in compliance with:
 1. Pennsylvania Municipalities Planning Code” (MPC or PA MPC); Act 247 of 1968, P.L. 805; 53 P.S. § 10101 - Section 910.2 – Administration.
- B. Such requests for variances shall be granted where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and that relief granted will not be contrary to the public interest, will not create a hazard to the public, will do substantial justice, and will be in accordance with the intent of this ordinance.

SECTION 9. USE RESTRICTIONS

A. Notwithstanding any other provisions of this Ordinance, the following uses shall be allowed as a Permitted Use by Right with no size restriction within the first floor of structures within the Main Street District:

1. Arcade/Gaming Location
2. Art Gallery
3. Bakery
4. Bed and Breakfast
5. Beverage Distributor (retail)
6. Brewery
7. Brewpub
8. BYOB Club
9. Catering
10. Coffee/Tea shop
11. Communications Office
12. Cultural Center or Museum
13. Daycare, in home—child
14. Distillery
15. Flea Market/Auction – excluding livestock or living animals
16. Florist
17. Funeral Home, crematorium as an accessory to a funeral home
18. Government Offices
19. Hotel/motel
20. Home Occupations
21. Laundromat/Dry Cleaning
22. Hardware or garden center (retail)
23. Medical Marijuana Dispensary
24. Membership Club
25. Micro-Brewery/ Mini-Brewery
26. Micro-distillery
27. No Impact Home Based Business
28. Personal Services
29. Professional Office
30. Recreation—Commercial
31. Repair Service- household appliance: (See Personal Services)
32. Restaurant including Tavern/Pub
33. Retail Stores
34. Sidewalk Cafes- as accessory use to a restaurant
35. Smoking Lounge
36. Tattoo Parlor
37. Television or radio studio
38. Theater- other than associated with adult uses
39. Tobacco or Smoke Shop
40. Trade center or vocational school
41. Winery, retail
42. Veterinarian Office—excluding large animals or boarding

B. Personal uses by owners for their own purposes and pleasure are permitted within the district. The personal use are not to be utilized for residential or non-approved commercial uses.

- C. Residential Uses are excluded from the first floor of structures in the Main Street District. They are permitted on any floor above the first floor.
 - 1. No Impact Home based business or a home occupation are permitted in areas allowed for residential uses, including those permitted as pre-existing, non-conforming uses.
 - 2. When a permitted use as a No Impact Home based business or a home occupation is converted or not utilized by the occupant for such purpose, the use is permitted to return as a residential use in the area previously occupied for No Impact Home based business or a home occupation.

- D. Notwithstanding any other provisions of this Ordinance, the following uses shall be considered an Excluded Use and not be allowed within the Main Street District:
 - 1. Adult Business
 - 2. Adult Book Store
 - 3. Adult Entertainment Cabaret
 - 4. Automobile Repair Garage
 - 5. Automobile Service Station/Body Shop
 - 6. Convenience Store with Fuel Dispensing
 - 7. Cigarette Outlet
 - 8. Crematorium
 - 9. Marijuana /Head Shop
 - 10. Motor Freight terminal
 - 11. Storage, personal storage facility
 - 12. Transportation terminal
 - 13. Vape Shop
 - 14. Warehouse
 - 15. Wholesale and Distribution
 - 16. Veterinarian office for large animals or boarding

SECTION 10. PRE-EXISTING, NON-CONFORMING USES, DISCONTINUANCE OF USE/ABANDONMENT

- A. The regulations prescribed by this Ordinance shall not be construed to require the removal or other change or alteration of any structure or use not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of a non-conforming use.

- B. Any building or premises devoted to a non-residential use not permitted in the district in which it is located, may be enlarged, extended or altered so long as the enlarged building does not exceed by more than 5% the established gross floor area of the original nonconforming use. Nonconforming setbacks shall not be further extended. Pre-existing, non-conforming residential uses may be expanded to the extent permitted under other provisions of the code.

- C. No building or structure designed or intended to be utilized for a nonconforming use shall be constructed or allowed unless construction is already underway at the time of the enactment or subsequent amendment of this Ordinance and is being diligently prosecuted so that such building or structure will be completed within 18 months from the time of the enactment or subsequent amendment of this Ordinance. All outstanding building permits for construction, which do not meet these requirements are hereby rendered null and void

- D. Any building or structure containing a nonconforming use which is damaged by fire, flood, wind or other act of God shall be allowed to be repaired or reconstructed to the extent of the original building size and location.
- E. Discontinuance of use: Whenever a nonconforming use of a building or structure or part thereof has been discontinued for a period of 12 consecutive months, such use shall not, after being discontinued or abandoned, be reestablished, and the use of the premises thereafter shall be in conformity with the regulations of the district. Where no enclosed building is involved, discontinuance of a nonconforming use for a period of six months shall constitute abandonment, and any new use must be in conformity.
- F. If a commercial use was established on the first floor of a residential structure prior to the effective date of this ordinance, a residential use may be again established on the first floor of the building upon the abandonment of the commercial use provided a certain condition is met. {A residential structure is a building that was built and used originally as a residence only and originally not intended for commercial purposes.} A residential use may again be established provided the commercial use has not made any modifications or additions to the structure from the previous residential use that would necessitate it to have received a commercial building permit.

SECTION 11. USES NOT SPECIFICALLY REGULATED – SPECIAL EXCEPTION

- A. Any use not defined as a Permitted Use or an Excluded Use in Section 9 and allowed as a Pre-existing Non-Conforming Use in Section 10 may be permitted as a Special Exception Use. The Zoning Hearing Board may permit such use as a Special Exception use if the applicant specifically proves to the clear satisfaction of the Zoning Hearing Board that all of the following conditions would be met:
 - 1. Proposed use would be less intensive in external impacts and nuisances than uses that are permitted in the Zoning District.
 - 2. Proposed use would be closely similar in impacts and character to uses permitted in the Main Street Zoning District.
 - 3. Use meets the standards under the General Regulations Article (Section 4.2 of Zoning Ordinance).
 - 4. Use is not specifically prohibited in that Zoning District.

SECTION 12. SEVERABILITY

- A. If any section, clause, provision, or portion of these regulations shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect any other section, clause, provision, or portion of these regulations. It is hereby declared to be the intent of the Borough that this Ordinance would have been adopted if such invalid or unconstitutional section, clause, provision or portion had not been included herein.

SECTION 13. REPEALER

- A. Any Ordinance or part thereof inconsistent herewith is hereby repealed to the extent of such inconsistency
- B. Nothing in this Ordinance hereby adopted shall be construed to affect any suit or legal proceeding now pending in any court, or any rights accrued or liability incurred, or any cause of action accrued or existing under any Ordinance hereby repealed; nor shall any right or remedy of any character be lost, impaired or affected.

SECTION 14. EFFECTIVE DATE

A. This Ordinance shall take effect on the 9th day of June, 20 22.

SECTION 15. ENACTMENT

ENACTED AND ORDAINED INTO AN ORDINANCE THIS 8th day of June, 20 22.

BOROUGH OF MILLERSBURG, DAUPHIN COUNTY, PENNSYLVANIA

ATTEST: Ann Bourne Jackson
Borough Secretary

Chas C. Ditt
President of Council

APPROVED THIS 8th day of June, 20 22.

[Signature]
Mayor

(Seal)