

ARTICLE 3
GENERAL REGULATIONS

SECTION 301 ATTACHED ACCESSORY STRUCTURES

Accessory structures which are attached to a principal structure shall be considered a part of the principal structure and shall comply with the same yard and lot requirements applicable to the principal structure.

SECTION 302 UNATTACHED ACCESSORY STRUCTURES

302.1 NONRESIDENTIAL

When the principal use or structure is nonresidential, an unattached accessory structure shall comply with the front yard setback requirements applicable to the principal structure or use for the zoning district in which it is located and shall not be less than fifteen (15) feet from any side yard lot line or rear yard lot line.

302.2 RESIDENTIAL

When the principal structure is residential, unattached accessory structures shall only be erected within the rear yard or side yard areas of the lot subject to the following requirements:

- (A) The maximum height shall not exceed fifteen (15) feet. (See Article 2, definition of Building Height)

- (B) An accessory structure shall not be located less than three (3) feet from a side lot line or the rear lot line; in cases where an accessory structure abuts a street or an alley, a minimum setback distance of ten (10) feet shall be required.

302.3 OUTDOOR WOOD-FIRED BOILER

Excluding the S-1 District, an outdoor wood-fired boiler shall be deemed to be an accessory structure permitted in all zoning districts, as a special exception use, thereby requiring approval from the Zoning Hearing Board and subject to the standards as set forth in Section 802.23 and Section 1510 of this Ordinance

SECTION 303 CORNER LOT RESTRICTION

On a corner lot there shall be provided on each side thereof, adjacent to a street, a yard setback equal in depth to the required front yard setback of the prevailing zoning district in which the corner lot is located. This provision shall apply to both accessory and principal structures.

SECTION 304 TYPES OF RESIDENTIAL ACCESSORY STRUCTURES

For residential lots, permitted accessory structures shall include noncommercial greenhouses, tool or lawn sheds, private garages or carports, private noncommercial swimming pools, gazebos and noncommercial satellite antenna dishes.

SECTION 305 NONCOMMERCIAL SATELLITE DISH ANTENNA

A noncommercial satellite dish antenna, as so defined in this Ordinance, shall be deemed an accessory use, permitted by right in all zoning districts. Granting approval for the establishment and/or construction of a satellite dish antenna shall not restrict or imply to restrict the use or development of another zoning lot. The height of a noncommercial satellite dish antenna, including any supporting device, measured from ground level to its highest point of elevation, shall not exceed the maximum height restriction of the zoning district in which it is located.

SECTION 306 RESIDENTIAL ACCESSORY STRUCTURES IN A
NONRESIDENTIAL ZONE

In cases when a residential structure is a nonconforming use, located in a nonresidential zone, the proposed erection of an accessory residential structure shall be deemed exempt from classification as an expansion of a nonconforming use, but shall be subject to the regulations contained under Section 304.2 of this Ordinance.

SECTION 307 PRIVATE NONCOMMERCIAL SWIMMING POOLS

A private noncommercial swimming pool capable of containing water to a depth of twenty-four (24) inches or greater shall be permitted as an accessory use in any zone subject to the following:

307.1 Yard Area and Setback Requirements

A private swimming pool shall be located in either a side yard or rear yard with a minimum side yard and rear yard setback of ten (10) feet as measured from the water's edge.

307.2 In-Ground Pools

The pool or the entire property on which the pool is located, shall be enclosed with a permanent fence not less than four (4) feet in height, which includes a gate secured with a lock. The required fencing for an in ground pool must be installed upon the completion of the excavation work for said pool.

307.3 Above Ground Pools

A. Pools With Exterior Supports

An above ground pool which is manufactured, designed and erected with supporting devices around and/or within the outer wall or edge of a pool shall be enclosed with a permanent fence not less than four (4) feet in height which includes a gate secured with a lock in accordance with the above requirements of Section 309.2 or in lieu of a fence, a barrier not less than four (4) feet in height. Said barrier may include the pool wall and any extension thereto which equals or exceeds a height of four (4) feet. Access into a pool which includes a deck shall be secured by a gate with a lock. Pools without access from a deck, shall include retractable steps or any similar device which prohibits uncontrolled access into the pool when not in use. Shrubbery is not to be

considered as a barrier. Decks which are attached to the pool shall required a side yard and/or rear yard setback of not less than ten (10) feet.

B. Inflatable Pools without Exterior Supports

An above ground pool which may be inflated and used without supporting devices around and/or within the outer wall or edge of a pool shall be enclosed with a permanent fence not less than four (4) feet in height which includes a gate secured with a lock in accordance with the above requirements of Section 309.2

SECTION 308 LOTS DIVIDED BY ZONING BOUNDARIES

If a zoning district boundary line divides a lot held in single and separate ownership prior to the effective date of this Ordinance, placing ninety (90%) percent or more of the lot area in a particular zoning district, the location of such district boundary line may be construed to include the remaining ten (10%) percent or less of the lot so divided.

SECTION 309 PROJECTIONS INTO REQUIRED YARDS

The following projections shall be permitted into required yards and shall not be considered in the determination of yard setback requirements or building coverage:

- (A) Terraces or Patios: provided that such terraces or patios are located in the rear yard or sideyard, are not under roof, without walls or other form of enclosure and are not closer than five (5) feet to any adjacent lot line.
- (B) Projecting Architectural Features: such as bay windows, cornices, eaves, fireplaces, chimneys, window sills, or other similar architectural features provided that any of the aforementioned features do not extend more than two (2) feet into any required setback.
- (C) Porches and Decks: provided such porches or decks are not under roof, are located in the rear yard or sideyard, and that it does not exceed four and one-half (4¹/₂) feet in depth as extended from the structure.
- (D) Handicapped Ramps: may be constructed without meeting any applicable front and/or rear yard setback requirements in any Zoning District, but shall have a minimum side yard setback of not less than five (5) feet.

SECTION 310 EXCEPTIONS TO HEIGHT LIMITATIONS

The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas, domes, chimneys, flagpoles, water towers, skylights; or to any accessory mechanical appurtenances usually located above the roof level.

SECTION 311 REQUIRED ACCESS

Every building or structure hereafter erected shall have access to or be located upon a lot adjacent to a public or private street.

SECTION 312 VISIBILITY AT INTERSECTIONS AND PRIVATE DRIVEWAYS

312.1 INTERSECTION OF STREETS

On any corner lot no visual obstruction, including but not limited to fences, structures and/or vegetation, exceeding a height of two and one-half (2^{1/2}) feet, excluding street signs, utility poles or traffic signs, shall be erected, planted and/or maintained on any corner lot within the triangle formed by the intersecting property lines of the corner lot and a line projected between points of each of those adjacent property lines at a distance of twenty (20) feet from the intersection of said lot lines

312.2. PRIVATE DRIVEWAYS

The clear sight triangle at driveway and street intersections: Where a driveway enters the street right-of-way, a clear sight triangle shall be formed horizontally, by measuring 10 feet into the lot as measured from the sidewalk edge that is closest to the property line (or from the property line if no sidewalk exists), and 20 feet along the sidewalk edge (or property line if no sidewalk exists) parallel to the street, within which all visual obstructions including but not limited to fences, structures and/or vegetation shall be limited to a height of not more than two and one-half (2^{1/2}) feet.

312.3 REQUIRED SETBACK

No driveway or part thereof shall be located closer than ten (10) feet from a side property line.

SECTION 313 FENCES AND WALLS

The posts and/or structural supports of a fence shall be located within the interior yard space to be enclosed.

313.1 RESIDENTIAL

Fences and walls to be constructed within a residential zoning district or upon a lot in any other type of zoning district which contains a residential property, shall be permitted according to the following subsections:

A. FRONT YARD

The maximum height of any fence or wall in a front yard shall not exceed four (4) feet in height above the adjacent ground level.

B. SIDE AND REAR YARDS

The maximum height of any fence or wall located in a side yard or rear yard shall not exceed six (6) feet in height.

C. MATERIALS

All fences shall be constructed with materials recognized by the fencing industry and designed to provide a permanent enclosure. No barbed wire or other potentially injurious material shall be contained upon the fence or as part of the material to construct the fence.

313.2 NONRESIDENTIAL

Fences to be constructed within any commercial zoning district shall not exceed eight (8) feet in height above the adjacent ground level. Fences to be constructed within any industrial zoning district shall not exceed ten (10) feet in height above the adjacent ground level.

313.3 EXEMPTIONS

The provisions of this Section shall not be applied to prevent the construction of a chain link in excess of ten (10) feet in height, designed as an enclosure to a public park, a public playground or similar public outdoor recreational facility.

SECTION 314 PUBLIC UTILITIES

With the exception of storage yards, the provisions and regulations of this Ordinance shall not apply to any existing or proposed building or extension thereof, used or to be used by a public utility corporation deemed necessary for the convenience or welfare of the public in accordance with Section 619 of the Pennsylvania Municipalities Planning Code, Act 247, as amended.

SECTION 315 SEWAGE DISPOSAL

The provision of sewage service to any proposed use and/or development of property shall be consistent with the Borough's Act 537 Sewage Facility Plan. Any use or development of property which proposes to utilize on-lot sewage disposal shall secure approval from the Borough's Sewage Enforcement Officer in accordance with the applicable governing standards of the Pennsylvania Department of Environmental Protection prior to the issuance of a zoning permit.

SECTION 316 SETBACK EXEMPTIONS FOR STRUCTURAL REPLACEMENTS

Any exterior structural portion of a building such as a deck, patio, porch or similar feature or a water based structure in the S-1 District such as a dock and/or boathouse that does not meet the applicable required setback requirements of this Ordinance and is in need of repair to the point of replacement shall be exempt from complying with such setback requirements when all of the following conditions exist:

- A. The use of the building and/or structure represents a use permitted by right in the district in which it is located.
- B. There are no outstanding zoning or building code violations against the owner of the property.

- C. The exterior structural replacement for a portion of a building and/or the replacement of a water based structure in the S-1 District may be at the exact same location subject to said location being not less than 50% of the required applicable setback distance for the Zoning District in which it is located. The exterior structural replacement for a portion of a building and/or the replacement of a water based structure shall be the same size, dimensions and height, or less, than that which is being replaced.
- D. A photograph of the subject property, taken prior to the start of work, must be submitted to the Zoning Officer with a completed Zoning Permit Application and applicable fee, along with any other information deemed necessary by the Zoning Officer to process the application. A Site Plan shall be required for properties located in the S-1 District.
- E. The provisions of this Section shall not be applied if the exterior structural portion of a building to be replaced and/or the replacement of a water based structure extend beyond the property line. In such cases, the replacement shall meet the applicable setback requirements in the Zoning District in which it is located, unless a variance for a lesser setback distance is approved by the Zoning Hearing Board.

SECTION 317 MOBILE HOMES - PERMANENT FOUNDATIONS

A mobile home shall be constructed and anchored to a permanent foundation. Under such conditions said mobile home shall be deemed to be a single family residence.

SECTION 318 TEMPORARY STRUCTURE AND/OR TEMPORARY USE

A temporary structure and/or a temporary use may be allowed in all Zoning Districts as a special exception approval by the Zoning Hearing Board subject to the criteria as set forth in Section 1510 of this Ordinance and also subject the following supplemental requirements:

- a. Approval of a temporary structure and/or temporary use shall be valid for a period of 180 days from the date on which the Zoning Hearing Board granted special exception approval to such structure and/or use.
- b. The use of a temporary structure and/or temporary use shall be directly related to the principal use of the property and shall be located upon the same lot.
- c. A temporary structure and/or temporary use shall not be permitted if either the principal structure and/or principal use are nonconforming.
- d. The size of the gross floor area and/or land area of a temporary structure and/or a temporary use shall not exceed that of the principal structure and/or principal use.
- e. A temporary structure and/or temporary use shall meet all applicable setback requirements for the Zoning District in which it is to be located.
- f. Trailers placed upon a property as a field office during the construction activities for a permanent principal structure and/or use shall be exempt from securing special exception approval by the Zoning Hearing Board, but shall be required to

submit a Zoning Permit Application and shall be subject the 180 day time limitation.

- g. Required off-street parking and/or loading shall be provided for a temporary structure and/or temporary use in accordance with the applicable provisions contained in Article 10, Off-Street Parking and Loading.
- h. Not more that one (1) temporary structure and/or temporary use shall be permitted upon any property during any period of 180 days.

The time limitation of 180 days for a temporary structure and/or use shall be cumulative in nature. Any intermittent cessation and subsequent resumption of a temporary structure and/or use shall be included within the 180 day time limitation from the date on which approval was originally granted. On or before the expiration of the 180 day time limitation, the owner of the property the may seek a time extension which shall require approval of the Zoning Hearing Board in the form of a variance. Failure to cease all operations and activities by the termination the 180 day time limitation, or any approved time extension, shall constitute a violation of this Ordinance. The Zoning Officer may revoke approval prior to the expiration the180 day time limitation, or any approved time extension, if any standards, conditions, and/or terms under which approval was granted are violated.

SECTION 319 CONVERSION OF NONRESIDENTIAL STRUCTURES

The conversion of a building not constructed for residential use which is located in the following R Districts may be converted into a residential use upon approval of such as a special exception use by the Zoning Hearing Board subject to the criteria set forth in Section 1510 of this Ordinance and also subject to the following supplemental requirements:

- A. In an R-1 Zone, a ratio of one (1) dwelling unit for every eight thousand (8,000) square feet of lot area, provided that not more than two (2) dwelling units shall be created in the conversion of any such building.
- B. In an R-IA Zone, a ratio of one (1) dwelling unit for every seven thousand (7,000) square feet of lot area, provided that not more than two (2) dwelling units shall be created in the conversion of any such building.
- C. In an R-2 Zone, a ratio of one (1) dwelling unit for every six thousand (6,000) square feet of lot area, provided that not more than two (2) dwelling units shall be created in the conversion of any such building.
- D. In an R-3 Zone, a ratio of one (1) dwelling unit for every six thousand (6,000) square feet of lot area, provided that not more than three (3) dwelling units shall be created in the conversion of any such building.
- E. All other applicable requirements of this Ordinance are met, including but not limited to, the provision of one (1) off-street parking space for each dwelling unit created.

SECTION 320 PROHIBITION OF GENERAL NUISANCES

The use, operation and/or condition of any property found to be a “GENERAL NUISANCE” as so defined in Article 2 of this Ordinance shall constitute a violation of this Ordinance and shall be subject to the violation procedures and penalties as set forth in Section 1304 (Enforcement Procedures) of this Ordinance.

SECTION 321 PROHIBITION OF AUTOMOTIVE AND BOAT SALES IN A PUBLIC RIGHT-OF-WAY

It shall be expressly prohibited to use any street, road or public right-of-way to display and/or offer any motor vehicle and/or boat intended for sale.

SECTION 322 HIGHWAY OCCUPANCY PERMIT

Zoning approval for any proposed use and/or development of a property, which includes the construction and/or relocation of a driveway onto a State Legislative Route, a County road or a Borough road shall be conditioned upon the applicant securing a Highway Occupancy Permit from the applicable entity having jurisdiction over the same.

SECTION 323 SOIL EROSION AND SEDIMENTATION CONTROL PLAN

Zoning approval for any proposed use and/or development of a property that requires a Soil Erosion and Sedimentation Control Plan shall be conditioned upon the applicant’s the submission, approval and implementation of an approved Soil Erosion and Sedimentation Control Plan.

In accordance with the requirements of the Pennsylvania Department of Environmental Protection, any proposed development having a cumulative land disturbance equal to or in excess of five thousand (5,000) square feet shall be required to prepare and implement a Soil Erosion and Sedimentation Control Plan, in accordance with the most recent addition of the Department of Environmental Protection Erosion and Sedimentation Control Manual.

For stormwater discharges from construction activities, for any proposed development that will disturb between one (1) and up to five (5) acres of land over the life of the project, and has a point source discharge to surface waters shall be required to secure a National Pollutant Discharge Elimination System Permit (NPDES) from the Luzerne County Conservation District. No zoning permit for development shall be issued by the Borough until written notification is received from the Luzerne County Conservation District verifying compliance in securing the NPDES Permit.

Any proposed use or development of a property which includes any form of earth disturbance, including the use of fill that is located within fifty (50) feet of Harveys Lake or within one hundred (100) feet of any other body of water or watercourse shall be subject to the submission of a Soil Erosion and Sedimentation Control Plan to the Luzerne County Conservation District and approval of said Plan by said agency.

SECTION 324 USES NOT ADDRESSED WITHIN ORDINANCE

Whenever, in any district established under this Ordinance, a use is neither specifically permitted nor denied and an application is made by a landowner to the Zoning Officer for such use, the Zoning Officer shall refer the application to the Zoning Hearing Board to hear and decide such request as a special exception. The Board shall have the authority to permit the use or deny the use in accordance with the standards governing special exception applications. The proposed use may be permitted if only if it is determined to be similar to and compatible with permitted uses in the district and in no way is in conflict with the general purposes and intent of this Ordinance. The burden of proof shall be upon the applicant to demonstrate that the proposed use would meet the standards and criteria for a special exception as contained in Section 1510.2 of this Ordinance and would not be detrimental to the public health, safety and welfare and/or environmental features and characteristics of the site and/or surrounding areas.