

# ZONING ORDINANCE OF 2013

## BOROUGH OF MACUNGIE LEHIGH COUNTY, PENNSYLVANIA

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ARTICLE I  
PRIOR ZONING ORDINANCES

§ 345-1. Prior Zoning Ordinance incorporated by reference.

- A. The Zoning Ordinance of 2001 as amended through the adoption date of this Ordinance shall apply if for any reason this new Zoning Ordinance is found to be invalid in its entirety by a court with jurisdiction. Any enforcement actions initiated by the Borough under the Zoning Ordinance of 2001 as amended shall continue to be valid, unless such action or structure would be allowed under this new Ordinance.

ARTICLE II  
INTRODUCTION

§ 345-2. Introduction

- A. This Chapter of the Codified Ordinances of Macungie is a legal document, which places restrictions on the use and development of land for the purpose of achieving an orderly land use pattern. More specifically, this Chapter divides the Borough into districts having different regulations relating to the control of height, area, use of buildings and land, and density of population. All such regulations relate to the public health, safety, and general welfare and have been established in accordance with the Regional Comprehensive Plan.
- B. This Chapter is a replacement of the Macungie Borough Zoning Ordinance of 2001 in its entirety. This chapter is divided into ten (10) sections as described below:
- (1) Article III, Title and Purpose. States the title and explains the purpose of the chapter.
  - (2) Article IV, Application of Regulations. States the conditions under which the chapter must be applied.
  - (3) Article V, Zoning District Regulations. This is part of the chapter which specifies the detailed regulations to be applied to each district.
  - (4) Article VI, Supplementary Regulations. Summarizes additional regulations applied to all districts as well as special regulations for parking and truck loading and signs.

- (5) Article VII, Special Exception Uses. Provides standards and criteria that must be met before a special exception use will be permitted by the Zoning Hearing.
  - (6) Article VIII, Administration and Enforcement. This article describes the powers and duties of the zoning officer, building permit procedures, and regulations governing nonconforming uses and buildings. The article also deals with fees, violations and penalties.
  - (7) Article IX, Zoning Hearing Board. This article deals with the powers and authorities of the Zoning Hearing Board in granting special exceptions and in hearing hardship cases. The Zoning Hearing Board is created to hear and decide on cases where the literal application of this chapter under circumstances unique to an individual property would create undue hardships. The Article also covers appeals on interpretation of this chapter or map and challenges to the validity of this chapter or map.
  - (8) Article X, Procedure For Amendment. This article explains how this chapter can be amended and the procedures for holding a public hearing.
  - (9) Article XI, Definitions. This article explains terms used in the chapter.
  - (10) Article XII, Floodplain Management Regulations. This article regulates construction regulations within the floodplain.
- C. The regulations in this Chapter generally apply to new development or changes proposed to existing development. Existing lawful businesses can continue to operate and ownership can be transferred regardless of the zoning district in which it is located. In addition, in most instances, owners of lots, which are smaller than the minimum requirements specified in the chapter, can build on them as specifically provided for in this chapter. Lots created after the adoption of the chapter, however, must be in conformity with the requirements hereof.
- D. This chapter may be amended as provided in the Pennsylvania Municipalities Planning Code.

ARTICLE III  
TITLE AND PURPOSE

§ 345-3. Title.

This is a new New Zoning Ordinance that replaces the existing Zoning Chapter of the Codified Ordinances of the Borough of Macungie, and that:

- A. Divides the Borough into districts with varying regulations;
- B. Permits, prohibits, regulates and determines the allowed uses of land, watercourses and other bodies of water, the size, height, bulk, location, erection, construction, repair, expansion, razing, removal and use of structures, the areas and dimensions of land and bodies of water to be occupied by uses and structures, as well as yards and other open areas to be left unoccupied;
- C. Establishes the maximum density and intensity of uses;
- D. Provides for the administration and enforcement of this chapter in accordance with the Pennsylvania Municipalities Planning Code, including provisions for special exceptions and variances to be administered by a Zoning Hearing Board; and
- E. Establishes provisions for the protection of certain natural features and various other zoning regulations as set forth in this Chapter.

§ 345-4. Short Title.

This Chapter shall be known and may be cited as “The Macungie Borough Zoning Ordinance of 2013”.

§ 345-5. Purposes.

This Chapter is adopted to promote the public health, safety, and the general welfare of the community, and to serve the following objectives:

- A. To guide and regulate the orderly growth, development and redevelopment of the Borough, in accordance with the purposes and objectives stated in the Southwestern Lehigh County Regional Comprehensive Plan and Lehigh Valley Comprehensive Plan, as may be amended, and to serve the authorized purposes for a zoning ordinance as provided in the Pennsylvania Municipalities Planning Code, as amended.
- B. To protect the established character and the social and economic well-being of both private and public property.
- C. To promote, in the public interest, the utilization of land for the purposes for which it is most appropriate.
- D. To secure safety from fire, panic and other dangers, and to provide adequate light, air and convenience of access.

- E. To prevent overcrowding of land or buildings, and to avoid undue concentration of population.
- F. To lessen and, where possible, to prevent traffic congestion and safety problems on public streets and highways.
- G. To conserve the value of buildings and to enhance the value of land throughout the Borough.

§ 345-6. Severability.

It is hereby declared to be the legislative intent that if a court of competent jurisdiction declares any provisions of this chapter to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this chapter shall continue to be separately and fully effective. Borough Council hereby declares that it would have passed this chapter and each section or part thereof, other than any part declared invalid, if it had advance knowledge that any part would be declared invalid.

§ 345-7. Procedural defects in enactment.

Allegations that this chapter or any amendment hereto was enacted in a procedurally defective manner shall be appealed as provided in State law.

§ 345-8. Repealer.

The Macungie Borough Zoning Ordinance of 2001 and all amendments thereto are hereby repealed. This chapter does not repeal provisions of other laws or ordinances except those specifically or implicitly repealed by this chapter.

§ 345-9. Enactment.

Under the authority conferred by the Pennsylvania Municipalities Planning Code, as amended, the Borough Council of Macungie Borough hereby enacts and ordains into this chapter, the attached document this date of \_\_\_\_\_. This chapter shall become effective in 5 calendar days after the enactment date.

Date of Planning Commission Public Meeting: August 8, 2013

Date of Borough Council Public Hearing:

\_\_\_\_\_  
President, Borough Council

\_\_\_\_\_  
Attest, Borough Secretary

ARTICLE IV  
APPLICATION OF REGULATIONS

§ 345-10. Uniformity of Application.

The regulations set forth in this chapter are to be considered the minimum requirements adopted for the promotion of the public health, safety, and general welfare. The regulations shall apply uniformly to each class of uses and structures within each district except as otherwise provided in this chapter.

§ 345-11. Application of Regulations; Municipal Exception.

No structure or land shall be used or occupied and no structure or part thereof shall be erected, constructed, reconstructed, moved or altered after the effective date of this chapter, except in conformity with the intent and regulations specified in this Ordinance for the district in which it is located. This provision shall not apply to non-conformities as provided in § 345-30 or when a variance is granted as provided for in § 345-37.

- A. No yard or lot existing as of the effective date of the Zoning Ordinance of 2001 shall be reduced in dimensions or area below the minimum applicable requirements specified in this chapter.
- B. Yards or lots created on or after the effective date of this chapter shall meet or exceed the minimum applicable requirements specified in this chapter.
- C. Municipal Exception. This Zoning Ordinance shall not apply to uses or structures owned or operated by Macungie Borough for uses and structures that are intended for a public utility, stormwater, public recreation, public health and safety, or other legitimate municipal governmental purpose.

§ 345-12. Relation of this Ordinances to Other Provisions of Law.

In interpretation and application, the provisions of this Chapter shall be held to be the minimum requirements adopted for the public health, safety and general welfare. Where this chapter imposes a greater restriction upon the use of buildings, structures, or requires larger lots, yards, courts, or other open spaces than imposed or required by other provisions of law, ordinance or regulation, the provisions of this chapter shall control. Wherever the provisions of any other law or ordinance or regulations impose a greater restriction than this chapter, the provisions of such other law or ordinance or regulation shall control.

ARTICLE V  
**ZONING DISTRICT REGULATIONS**

§ 345-13. Classes of Districts and District Boundaries.

- A. For the purposes of this chapter, the Borough is divided into the following zoning districts as follows:
- R-10 Low Density Residential
  - R-7.8 Medium Density Residential
  - GC General Commercial
  - LIC Light Industrial/Commercial
  - TC Town Center
  - CR Conservation-Recreation
- B. Zoning Map. The boundaries of each zoning district are established as shown on the Official Zoning Map of Macungie Borough, which, together with any explanatory matter thereon, is declared to be part of this chapter. The Official Zoning Map shall be signed by the President of the Borough Council and the Borough Secretary or Borough Manager. At least one official copy of the Zoning Map shall be located and displayed in the office of the Code Enforcement Officer. Any subsequent amendment to this chapter, which involves matter portrayed on the official zoning map shall be promptly reflected on the official zoning map, or on accompanying supplemental maps. The map, which accompanies this chapter, is a replica of the official zoning map at the date of the adoption of this chapter. Approximate floodplain information is shown for general information purposes based upon mapping available when the ordinance was prepared. The separate most up-to-date federal floodplain maps need to be viewed to make official determinations.
- C. Replacement of Official Zoning Map. In the event that the official zoning map becomes damaged, lost or difficult to interpret because of the nature or number of changes and additions, the Borough Council may, by ordinance, adopt a new official zoning map, which shall supersede the prior official zoning map. Drafting revisions to the zoning map may correct drafting or other errors or omissions and/or updated base information, provided that no changes to the zoning map boundaries shall occur without compliance of the processes authorized under State law.
- D. Delineation of district boundaries. The following rules shall apply as to the delineation of district boundaries:
- (1) Where district boundaries are indicated as approximately coinciding with the centerlines of streets, highways, public utility rights-of-way, or streams, such centerlines shall be construed to be such boundaries.
  - (2) Where district boundaries are so indicated that they approximately coincide with lot lines, such lot lines shall be construed to be said boundaries, except where the zoning boundaries extend to a municipal border that is not a lot line.

- (3) Where district boundaries are so indicated that they are approximately parallel to lot lines or the centerlines of streets, highways, public utility rights-of-way, or streams, such district boundaries shall be construed as being parallel thereto. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- (4) Where there has been uncertainty regarding the exact location of a municipal border of the Borough, the nearest adjacent zoning district shall apply to all lands that extend to the actual municipal border. As a result, all land areas of the Borough shall be within a zoning district.
- (5) Any mapping of the 100 Year Floodplain on the Zoning Map shall be considered unofficial, approximate and subject to revision. The latest version of the official FEMA Federal Floodplain Maps shall apply.

E. Interpretation of district boundaries. In cases of uncertainty as to the true location of a district boundary line in a particular instance, the Zoning Officer thereof shall make the determination. Appeals of decisions by the Zoning Officer may be taken to the Zoning Hearing Board, as provided in § 345-35 of this chapter.

#### § 345-14. C-R Conservation and Recreation District.

This district is established to recognize existing parks and open spaces. This district is intended to allow for a variety of conservation and recreation uses, as well as limited residential development.

##### A. Permitted by Right Uses.

- (1) Single family detached dwellings.
- (2) Agriculture, forestry, and their accessory uses, but not including the keeping or raising of livestock or poultry, except where keeping of animals is specifically allowed by this Chapter.
- (3) Community Center, Swimming Pool, and Special Event Exhibition Facilities.
- (4) Parks and playgrounds that are open to the public, and which may include accessory snack bar facilities without drive-through service.
- (5) Nature Center, Non-commercial educational facilities, or interpretive center.
- (6) Cemetery, which shall not include a crematorium.
- (7) Outdoor recreation uses, such as summer camps

##### B. Accessory Uses.

- (1) Private garage or private parking area, pursuant to supplemental regulations of § 345-21, 345-22 and 345-23.
  - (2) Customary accessory structures and uses
  - (3) Allowed Signs, in compliance with § 345-24.
  - (4) Low-Impact Home Occupation, as provided in § 345-22.K.
  - (5) Non-commercial swimming pool in compliance with Section 345-22.C.
  - (6) Solar energy collectors: a) on building rooftops, or b) that cover a maximum of 5 percent of the lot area and meet Section 345-26.V.
  - (7) Farmers Market, involving sale of primarily agricultural products during a maximum of 3 days per week.
- C. Special exception uses. Applications for special exception uses shall require review and approval by the Zoning Hearing Board under the provisions of § 345-36, Article VII and other applicable provisions of this chapter. The Zoning Hearing Board may attach any reasonable conditions and safeguards in addition to those expressed in this chapter, as it deems necessary to implement the purpose of this chapter, and to protect the public health, safety and general welfare.
- (1) Public or private primary or secondary schools licensed by the Department of Education, but not including correctional institutions, and which shall include a minimum lot area of one acre.
  - (2) Public utility building, structure or facility.
  - (3) Membership Club, which shall be limited to meeting facilities and non-commercial outdoor recreation facilities.
  - (4) Unit for Care of Relative, consistent with § 345-26T.
  - (5) Home Occupation, other than a Low-Impact Home Occupation, in compliance with Section 345-22.K.
  - (6) The care of 4 to 6 children at one time in a dwelling unit (other than “relatives” of the caregiver). The care of 1 to 3 children is permitted by right.
- D. Lot area, width, coverage and building requirements, unless specifically provided otherwise.

	Minimum Lot Area	Minimum Lot Width	Maximum Building Coverage of Lot	Maximum Building Height Feet	Maximum Building Height Stories	Maximum Impervious Lot Coverage
All Lawful Uses	30,000 sq. ft.	100 ft.	10%	35 ft.	2-1/2	20%

E. Minimum yard requirements.

	Front Yard Depth	One Side Yard Width	Combined Both Sides Total Width	Each Side Yard Width Abutting Street On Corner Lot	Rear Yard Depth
All Lawful Uses	25 ft.	10 ft.	25 ft.	15 ft.	25 ft.

§ 345-15. R-10 Low Density Residential District.

This district is established to preserve a low density suburban environment that primarily involves single family detached dwellings, and which protects residential neighborhoods from incompatible uses.

A. Permitted by Right Uses.

- (1) Single family detached dwellings.
- (2) Agriculture, forestry, and their accessory uses, but not including the keeping or raising of livestock or poultry, except where keeping of animals is specifically allowed by this Chapter.
- (3) Expansion of a Place of Worship that existed within the zoning district prior to the enactment of this Ordinance, and which may include one dwelling unit for the housing of religious staff-person(s) and a religious staff-person's family. A Day Care Center shall be an allowed accessory use within a Place of Worship.
- (4) Public parks and playgrounds.
- (5) Group home within an existing lawful dwelling unit, in compliance with § 345-2D.
- (6) Golf course, which may include customarily incidental accessory recreation and dining and clubhouse facilities, with a minimum lot area of 85 acres, and provided that no driving range lighting shall be directed towards dwellings within Macungie or an adjoining municipality. Driving range lighting shall not result in a spillover of lighting of more than 0.1 foot-candle onto a residential lot.

- (7) Community center building, museum, public library, municipal building, fire or police station. A community center building may be used for activities that include but are not limited to: youth group meetings and programs, training seminars, business meetings, seminars, music and educational classes, musical concerts, dance recitals, art displays, craft shows, blood drives, community group and municipal meetings, organization and private family banquets, holiday activities, religious organization meetings, and similar events.
- B. Accessory Uses.
- (1) Private garage or private parking area, pursuant to supplemental regulations of § 345-21, 345-22 and 345-23.
  - (2) Customary and incidental accessory structures and uses
  - (3) Allowed Signs, in compliance with § 345-24.
  - (4) Low-Impact Home Occupation, as provided in § 345-22.K.
  - (5) Non-commercial swimming pool in compliance with Section 345-22.C.
  - (6) Solar energy collectors a) on building rooftops, or b) that cover a maximum of 5 percent of the lot area and meet Section 345-26.V.
- C. Special exception uses. Applications for special exception uses shall require review and approval by the Zoning Hearing Board under the provisions of § 345-36, Article VII and other applicable provisions of this chapter. The Zoning Hearing Board may attach any reasonable conditions and safeguards in addition to those expressed in this chapter, as it deems necessary to implement the purpose of this chapter, and to protect the public health, safety and general welfare.
- (1) Public or private primary or secondary schools licensed by the Department of Education, but not including correctional institutions, and which shall include a minimum lot area of one acre.
  - (2) Public utility building, structure or facility.
  - (3) Cemetery, which shall not include a crematorium.
  - (4) Unit for Care of Relative, consistent with § 345-26T.
  - (5) Place of Worship, beyond what is allowed as a permitted right use. A minimum lot area of one acre shall be required. A Place of Worship may include on the same lot one dwelling unit for the housing of religious staffperson(s) and a religious staffperson's family. A Day Care Center shall be an allowed accessory use within a Place of Worship.

- (6) Home Occupation, other than a Low-Impact Home Occupation, in compliance with Section 345-22.K. A maximum of 1 person who does not reside in the dwelling may work in the home occupation on the lot at one time, except such number shall be raised to 2 persons if the lot is adjacent to an arterial street.
- (7) Conference Center and/or Hotel, which are integrated with a Golf Course that has a minimum lot area of 85 acres, and which has a 100 feet setback between any new or expanded buildings or vehicle parking areas and any lot line of a residential lot in the Borough or another municipality.
- (8) Golf Course Open Space Development (GCOSD). A portion of a Golf Course lot that includes more than 100 acres may be partially developed with new housing as part of a GCOSD if all of the following requirements are met:
  - (a) The GCOSD may include the development of a maximum of 10 percent of the total acreage of the GCOSD in single family detached, single family semi-detached or townhouse dwellings and their required lot areas and streets and parking. The individual dwellings shall meet the dimensional requirements of the R-7.8 district, provided that the maximum density of the residential development portion of the GCOSD shall not exceed 6 dwelling units per acre. Each dwelling unit shall have a minimum length and minimum width of 26 feet.
  - (b) A minimum of 85 percent of the total acreage in the GCOSD shall be permanently preserved in open space through a conservation easement. Such conservation easement shall allow the use as a golf course and/or a range of other outdoor recreation uses that shall be specified as a condition of the special exception approval.
    - (i) The Conservation Easement shall prohibit the use of the required 85 percent open space for the construction, expansion or placement of buildings or vehicle parking. Buildings and vehicle parking that are necessary to serve a golf course and other allowed outdoor recreation uses may be part of the same lot as the land protected by the Conservation Easement, provided that such land areas are in excess of the 85 percent requirement.
    - (ii) For example, a lot might include 120 acres, with 20 acres including existing buildings and parking areas, 85 acres including a golf course, 10 acres including new housing, and 5 acres including stormwater facilities and shared roads. In that case, the 85 percent open space and the 10 percent in housing is based upon the 100 acres that are not occupied by buildings and vehicle parking.
    - (iii) Such conservation easement shall be enforceable by Borough Council, and may be modified in the future with mutual written consent of the current property owner and Borough Council to adjust it to accommodate changing circumstances, provided the intent of the conservation easement is still met.
    - (iv) The Conservation Easement shall provide for a responsible default owner and a range of allowed uses if the use as a golf course should cease to operate in the future.

- (v) Land within the 100 year floodplain shall not count towards the 85 percent minimum open space requirement. Lands occupied by buildings and vehicle parking shall not count towards the 85 percent minimum requirement. Portions of the 85 percent open space requirement may be met by lands within an adjacent municipality that are in common ownership.
  - (c) Where existing dwellings exist on another lot outside of the GCOSD, only new dwellings, outdoor golf courses activities, stormwater facilities or common open space shall be allowed within 150 feet from the lot lines of such existing dwellings. Where existing single family detached dwellings exist on another lot outside of the GCOSD, any new dwellings within 150 feet from the lot lines of such existing dwellings shall be single family detached dwellings.
  - (d) The Zoning Hearing Board shall have the authority to approve a request by the applicant to adjust specific dimensional requirements of this Chapter by special exception to approve flexibility in the layout of the development where the applicant proves such flexibility would reduce the alteration of natural features or provide for vehicle accesses that are not public streets and that would still be suitable for access by emergency vehicles.
  - (e) The land areas and percentages in these GCOSD shall only apply to lands within the Borough of Macungie, except as provided in subsection 8(b)(iv) above.
- (9) The care of 4 to 6 children at one time in a dwelling unit (other than “relatives” of the caregiver). The care of 1 to 3 children is permitted by right.

D. Lot area, width, coverage and building requirements, unless specifically provided otherwise.

	Minimum Lot Area	Minimum Lot Width	Maximum Building Coverage of Lot	Maximum Building Height Feet	Maximum Building Height Stories	Maximum Impervious Lot Coverage
All Lawful Uses	10,000 sq. ft.	80 ft.	25%	40 ft.	2-1/2	50%

E. Minimum yard requirements.

	Front Yard Depth	One Side Yard Width	Combined Both Sides Total Width	Each Side Yard Width Abutting Street On Corner Lot	Rear Yard Depth
All Lawful Uses	25 ft.	10 ft.	25 ft.	15 ft.*	25 ft.

\* Except if a new lot is proposed within a subdivision or land development totaling more than one acre, then the side yard abutting a street on a corner lot shall have a 25 feet width.

§ 345-16. R-7.8 District – Medium Density Residential District.

The district mainly is comprised of relatively denser and older sections of the Borough, as well as areas of newer townhouse and apartment developments. Planned groupings of multiple dwellings are also encouraged as a means of providing a variety of housing types in the Borough and to help create continuity between old areas and new areas.

A. Permitted by right uses.

- (1) Single family detached dwellings.
- (2) Forestry.
- (3) Expansion of a Place of Worship that existed within the zoning district prior to the enactment of this Ordinance, and which may include one dwelling unit for the housing of religious staff-person(s) and a religious staff-person's family. A Day Care Center shall be an allowed accessory use within a Place of Worship.
- (4) Public parks and playgrounds.
- (5) Group home within an existing lawful dwelling unit, in compliance with § 345-2.D.
- (6) Single family semi-detached dwellings.
- (7) Multiple dwellings (apartments), but not including the conversion of one existing dwelling unit into two or more dwelling units. Multiple dwellings may result from the conversion of a existing principal non-residential building, provided all of the dimensional, parking and other requirements of this Chapter are met for multiple dwellings. A site plan shall be required in compliance with § 345-19.
- (8) Townhouses.
- (9) Multiple dwellings (apartments) for the elderly on a lot with a minimum lot area of 0.5 acres. A site plan shall be required in compliance with § 345-19.

B. Accessory uses.

- (1) Private garage or private parking area, pursuant to Supplemental Regulations of §§ 345-21, 345-22 and 345-23.
- (2) Customary accessory structures and uses.
- (3) Allowed Signs, pursuant to §345-24.
- (4) Low-Impact Home occupation as defined in Section 345-43 and in compliance with Section 345-22.K.
- (5) Non-commercial swimming pool as defined in § 345-22.C.

- (6) Solar energy collectors a) on building rooftops, or b) that cover a maximum of 5 percent of the lot area and meet Section 345-26.V.
- C. Special exception uses. Applications for special exception uses shall require review and approval by the Zoning Hearing Board under the provisions of §345-36, Article VII and other applicable provisions of this chapter. The Zoning Hearing Board may attach any reasonable conditions and safeguards, in addition to those expressed in this chapter, as it deems necessary to implement the purpose of this chapter, and to protect the public health, safety and general welfare.
- (1) Public or private primary or secondary schools licensed by the Department of Education, but not including correctional institutions.
  - (2) Community center building, public library, municipal building.
  - (3) Unit for Care of Relative, consistent with §345-26.T.
  - (4) Public utility building, structure or facility.
  - (5) Cemetery, not including a crematorium.
  - (6) Membership club, which shall be limited to meeting facilities and non-commercial recreation facilities.
  - (7) Government uses and structures.
  - (8) Child day care centers.
  - (9) Ambulance corps, fire company.
  - (10) Place of Worship, beyond what is allowed as a permitted right use. A minimum lot area of one acre shall be required. A Place of Worship may include on the same lot one dwelling unit for the housing of religious staffperson(s) and a religious staff-person's family. A Day Care Center shall be an allowed accessory use within a Place of Worship.
  - (11) Home Occupation, other than a Low-Impact Home Occupation, in compliance with Section 345-22.K.
- D. Lot area, width, coverage and building requirements in the R-7.8 District, unless specifically provided otherwise by another section of this Chapter.

For:	Min. Lot Area	Min. Lot Width	Max. Building Coverage of Lot	Max. Building Height Feet	Stories	Maximum Impervious Coverage
Single Family Semi-Detached Dwellings or Single Family Detached Dwellings	5,000 sq. ft. per dwelling unit	50 ft. per dwelling unit	40%	40 ft.	2-1/2	75%
Multiple Dwellings	Min. average of 3,000 sq. ft. per dwelling unit. See also subsection F.	100 ft.	40%	40 ft.	2-1/2	75%
Townhouses*	Min. average of 3,000 sq. ft. per dwelling unit. See also subsection F.	18 ft.	40%	40 ft.	2-1/2	75%
Multiple** Dwellings For the Elderly	Min. average of 2,500 sq. ft. per dwelling unit. See also subsection F.	200 ft.	40%	40 ft.	2-1/2	75%
All other Lawful Non-Residential Uses	7,800 sq .ft.	65 ft.	40%	40 ft.	2-1/2	75%

\* A minimum dwelling unit width of 24 feet shall apply if the townhouse will have garage door(s) for two or more motor vehicles facing onto the front of the dwelling or onto a public street or if more than 60 percent of the front yard is occupied by driveways or parking spaces.

\*\* The minimum average lot area per dwelling unit shall be reduced to 2,000 square feet per dwelling unit if the dwelling units will be within an existing building constructed prior to January 1, 1950. As an alternative, multiple dwelling units for the elderly may also be developed under the provisions for regular “Multiple Dwellings.”

E. Minimum yard requirements in the R-7.8 District.

For:	Front Yard Depth	Each Side Yard Width	Combined Side Yards Total Width	Each Side Yard Width Abutting Street On Corner Lot	Depth of Rear Yard
Single Family Semi-Detached Dwellings or Single Family Detached Dwellings	25 ft.	5 ft.	10 ft.	10 ft.*	25 ft.
Multiple Dwellings	50 ft. per bldg. or group of bldgs.	30 ft. per bldg. or group of bldgs.	60 ft. per bldg. or group of bldgs.	30 ft. per bldg. or group of bldgs.	50 ft. per bldg. or group of bldgs.
Townhouses	25 ft.	15 ft. end unit	30 ft. per bldg.	15 ft.*	25 ft.
Multiple* dwellings for the elderly	25 ft.	15 ft.	30 ft.	30 ft.	50 ft.
All other lawful uses	25ft.	8 ft.	18 ft.	10 ft.*	25 ft.

\* Except if a new lot is proposed within a subdivision or land development totaling more than one acre, then the side yard abutting a street on a corner lot shall have a 25 feet width.

F. Maximum density. The maximum density for townhouses and multiple dwelling units (not including multiple dwelling units for the elderly) on a lot that included more than 20,000 square feet at the time of adoption of this Chapter shall not exceed 6 dwelling units per acre. This maximum density shall be calculated based upon the total lot area in acres (to 2 decimal places), minus existing rights-of-way of existing streets, multiplied by 6 dwelling units. Proposed new private or public streets or alleys, parking courts, storm water basins and common open space are not required to be deleted from this lot area for the purposes of determining maximum density.

- (1) A development must meet the dimensional requirements of this district, in addition to meeting this maximum density. Whichever standard is more restrictive applies.
- (2) This maximum density shall not apply to the conversion of an existing non-residential

building into multiple dwellings that is on a lot of less than one acre.

- (3) Any dwelling unit in the R-7.8 district may be developed in a condominium or similar Planned Community Act form of ownership; provided that, the applicant proves that the same dimensional requirements (such as yards) would be met as if a non-condominium ownership would be used.

G. Prohibited uses. In no case shall an existing individual dwelling unit be converted into two or more dwelling units.

#### § 345-17. GC General Commercial District.

This district is designed to provide for a wide range of commercial uses, including heavier auto-related commercial uses that are prohibited in the TC District, and to carefully control traffic access to avoid traffic safety and congestion problems.

A. Permitted by Right Uses.

- (1) Single family detached dwellings or single family semi-detached dwellings, which shall meet the requirements of the R-7.8 district.
- (2) Forestry.
- (3) Place of Worship, which may include one dwelling unit for the housing of religious staff-person(s) and a religious staff-person's family. A Day Care Center shall be an allowed accessory use within a Place of Worship.
- (4) Public parks and playgrounds.
- (5) Group home within an existing lawful dwelling unit, in compliance with § 345-2D.
- (6) Multiple dwellings (apartments) pursuant to the provisions of the R-7.8 district, provided that the street level floor of any building shall be occupied by one or more allowed principal commercial use and shall not be occupied by dwellings. A site plan shall be required in compliance with § 345-19.
- (7) Townhouses, which shall meet the requirements of the R-7.8 district.
- (8) Retail store or shop, which may include drive-through facilities, but which shall not apply to any Adult Uses.
- (9) Bank or other financial institution, which may include drive-through facilities.
- (10) Offices or medical clinics, laboratories, treatment or testing facilities, not including a Treatment Center.
- (11) Barber shop, beauty shop, self-service laundry or dry-cleaning establishment or pick up agency, tailor or dressmaking shop, or closely similar personal service shop.

- (12) General servicing or repair shop; such as watch, clock, radio, television or other home appliance repair.
- (13) Restaurant, which may include drive-through facilities, and which may include outdoor seating provided the outdoor seating area shall not be located within 200 feet of a residential district if it is used after 11 P.M. For uses meeting the definition of a “Tavern”, special exception approval is required.
- (14) Membership Club, not including an Adult Use.
- (15) A place of amusement such as a bowling alley, a theater or motion picture theater, other than an outdoor drive-in theater.
- (16) Off-street parking lots or parking garage pursuant to the provisions of §§ 345-21, 345-22 and 345-23.
- (17) Hotel, motels or rooming houses.
- (18) Funeral home.
- (19) Printing or publishing establishment.
- (20) Vehicle sales or rental with accessory service facilities.
- (21) Wholesale sales establishment, lumber yard, or warehouse or storage within a completely enclosed building.
- (22) Bed and breakfast establishments.

B. Accessory Uses.

- (1) Private garage or private parking area, pursuant to the Supplemental Regulations of §§ 345-21, 345-22 and 345-23.
- (2) Customary accessory structures and uses.
- (3) Allowed Signs, pursuant to § 345-24.
- (4) Home Occupations, meeting § 345-22.
- (5) Solar energy collectors a) on building rooftops, or b) that cover a maximum of 5 percent of the lot area and meet Section 345-26.V.
- (6) One or more wind turbines that meet Section 345-26.W.

C. Special exception uses. Applications for special exception uses shall require review and approval by the Zoning Hearing Board under the provisions of § 345-36, Article VII and other

applicable provisions of this chapter. The Zoning Hearing Board may attach any reasonable conditions and safeguards in addition to those expressed in this chapter, as it deems necessary to implement the purpose of this chapter, and to protect the public health, safety and general welfare.

- (1) Hospital.
- (2) Vehicle gas station, which may be combined with other allowed uses on the same lot.
- (3) Car wash.
- (4) Community center building, public library, municipal building.
- (5) Inter-city bus passenger station.
- (6) Public utility building and structure or facility.
- (7) Vehicle repair garage or auto body shop.
- (8) Child day care centers.
- (9) Personal care home or assisted living facility.
- (10) Tavern that is open to the public after 11 P.M. Any outdoor seating area shall not be located within 200 feet of a residential district if it is used after 11 P.M.

D. Dimensional requirements in the GC District.

- (1) Dwelling units shall meet the same dimensional and density requirements as set forth in the R-7.8 district (see §§ 345-16), except that up to 2 dwelling units may be placed above a principal street level commercial use within an existing building without meeting any density requirements.
- (2) The following requirements shall apply to all uses other than dwelling units:
  - (a) Minimum lot area: 10,000 square feet. However, if a lot will involve the creation of an additional new driveway involving left-hand turns onto Main Street at a location not served by a traffic signal, then a minimum lot area of 2 acres shall apply. If such lot includes less than 2 acres, then the applicant shall be required to provide coordinated driveway access with an adjoining lot; provided, however, that requirement shall not apply if a commercial driveway is simply relocated or improved. If an existing lot of record does not meet this subsection and includes less than 2 acres, it may be used for an allowed use, but shall not be subdivided.
  - (b) Minimum lot width: 50 feet. However, if a lot will involve the creation of an additional new driveway involving left-hand turns onto Main Street at a location not served by a traffic signal, then a minimum lot width of 200 feet

shall apply. If such lot includes less than 2 acres, then the applicant shall be required to provide coordinated driveway access with an adjoining lot. This additional requirement shall not apply if a commercial driveway is simply relocated or improved.

- (c) Maximum building coverage of lot: 40 percent.
- (d) Maximum impervious coverage of lot: 75 percent.
- (e) Maximum building height: 4 stories or 50 feet, whichever is more restrictive.
- (f) Minimum side yard setback (each of 2): 15 feet, except 30 feet if the abutting lot is occupied by a residential use and not a principal business use.
- (g) Minimum rear yard setback: 20 feet, except 40 feet if the abutting lot is occupied by a residential use and not a principal business use.
- (h) Minimum parking setback: Any parking spaces, drive-through lanes, aisles and driveways shall be separated from Main Street by a planting strip with a minimum width of 20 feet. The only driveways permitted in this planting strip shall be approximately perpendicular crossings. This planting strip shall be occupied by attractive vegetation, including trees selected, located and trimmed to maintain safe sight distances.
- (i) The Borough may require that a business use include provisions to allow traffic to pass from one business lot to an adjoining business lot without having to re-enter a public street. If permission is not immediately available from the adjoining lot owner, then the Borough may require that easements are provided and a stub driveway constructed to the lot line to allow a connection in the future.
- (j) A lot may include multiple uses, provided that the requirements of each use are met. For example, if one use requires a one acre minimum and the second use requires a two acre minimum, then a two acre minimum lot size shall be required. If one use requires “x” number of parking spaces and another use on the same lot requires “y” number of parking spaces, then the minimum number of parking spaces shall be “x” plus “y” unless otherwise provided by this chapter.

#### § 345-18. LIC Light Industrial/Commercial District.

This district is designed to provide for a range of light industrial and commercial uses. It also recognizes that there are not suitable locations for heavy industrial uses within the Borough, because of the proximity of creeks, wetlands and homes to most business areas, and because the Borough participates in a Regional Comprehensive Plan. This district is intended to help protect adjacent residential areas from nuisances and hazards.

##### A. Permitted by Right Uses.

- (1) Agriculture, horticulture, forestry and their accessory uses, excluding the keeping or raising of livestock or poultry.
- (2) Manufacturing and/or bulk processing of the following products: apparel, textiles, shoes, ceramics, clay/brick/or tile, computers, electronics and microelectronics, electrical equipment, fabricated metals, welding, food and beverage products, gaskets, glass products, jewelry or silverware, leather products, machinery, transportation equipment, manufactured or modular housing construction and housing components, medical equipment and supplies, mineral products, paper products, pharmaceuticals and medicine, medical equipment, scientific/electronic/precision instruments, sporting goods, toys, games, musical instruments, signs, wood products, and furniture.
- (3) Offices, research institute or laboratory.
- (4) Public utility building, structure or facility.
- (5) Vehicle sales and/or vehicle repair.
- (6) Dry-cleaning plant, laundry.
- (7) Wholesale sales, distribution center, storage building.
- (8) Printing plant, newspaper plant.
- (9) Building materials sales and storage yard.
- (10) Off-street parking lot or parking garage pursuant to the provisions of §§ 345-21, 345-22 and 345-23.
- (11) Municipal buildings, public parks.
- (12) Commercial indoor or outdoor recreation uses, such as bowling alleys, roller rinks and similar uses.
- (13) Exercise Clubs.
- (14) Self-storage developments.
- (15) Car wash.
- (16) Retail store or personal service use with a maximum floor area per establishment of 10,000 square feet.
- (17) Building contractor or building service contractor headquarters and accessory storage.
- (18) Assembly or finishing of products produced elsewhere, or packaging.

- (19) Solar energy collectors, as a principal or accessory use.
  - (20) College, university or trade/hobby school.
  - (21) Restaurant, without drive-through service. Any area used for outdoor seating after 11 P.M. shall be setback a minimum of 200 feet from a residential district.
- B. Accessory uses.
- (1) Private garage or private parking area, pursuant to §§ 345-21, 345-22 and 345-23.
  - (2) Customary accessory uses and structures.
  - (3) Allowed Signs, pursuant to § 345-24.
  - (4) Solar energy collectors on building rooftops, or that meet Section 345-26.V.
  - (5) One or more wind turbines that meet Section 345-26.W.
- C. Special exception uses. Applications for special exception uses shall require review and approval by the Zoning Hearing Board under the provisions of § 345-36, Article VII and other applicable provisions of this chapter. The Zoning Hearing Board may attach any reasonable conditions and safeguards in addition to those expressed in this chapter, as it deems necessary to implement the purpose of this chapter, and to protect the public health, safety and general welfare.
- (1) Inter-city bus passenger station in compliance with §345-26.H.
  - (2) Manufacturing and/or bulk processing of the following:  
concrete/cement/lime/gypsum products, paving materials other than asphalt, plastics, polymers, resins, vinyl, sealants.
  - (3) Membership club in compliance with §345-26.C.
  - (4) Bed and breakfast establishments in compliance with § 345-26.O.
  - (5) Communication antennae and towers in compliance with § 345-26.P. That section also allows certain antennae as permitted by right accessory uses.
  - (6) A use not listed in any other zoning district as a permit, special exception or conditional use may be approved as a special exception use provided the applicant establishes that the use will not create a hazard to the public health, safety or welfare and will be compatible with adjacent uses and dwellings in the vicinity. For these uses, the Zoning Hearing Board may require a minimum setback of up to 400 feet from any TC or residential district.
  - (7) Adult bookstore, adult motion picture theater, cabaret or massage parlor, in compliance with § 345-26.N.

- (8) Treatment center in compliance with § 345-26.S.
- (9) Correctional institution.
- (10) The following uses provided there is a minimum setback for any structure, storage or other use on the property from any residential district of 300 feet, and the applicant establishes that there will not be a significant threat to the public health and safety or create significant nuisances to residents:
  - (a) Kennel in compliance with § 345-26.R.
  - (b) Truck Stop.
  - (c) Mineral Extraction.
- (11) Trucking company terminal.
- (12) Bulk recycling processing center, not including a junkyard or scrapyards.
- (13) Wind turbines, provided that the total height from the ground level to the top of the extended blade shall not exceed the setback from any lot line.
- (14) Day Care Center.
- (15) Crematorium, provided that the Zoning Hearing Board may place conditions upon the stack height and location to minimize potential conflicts with existing or future uses of neighboring properties.

D. Lot area, width, coverage and building requirements.

Min. Lot Area	Min. Lot Width	Max. Impervious Coverage of Lot	Max. Building Coverage of Lot	Max. Building Height Feet    Stories
30,000 sq. ft.	100 ft.	75%	40%	60 ft.    4

E. Minimum yard requirement.

Front Depth	One Side Width	Both Sides Total Width	Side Yard Width Abutting Street on Corner Lot	Rear Depth
25 ft.	25 ft.	50 ft.	25 ft.	25ft

F. Any building used for manufacturing, industrial hazardous materials storage, any tractor

trailer truck loading docks and any area routinely used for the overnight parking of two or more tractor trailer trucks shall be setback a minimum of 75 feet from the lot line of an existing residential use or residentially zoned lot.

- G. Multiple uses. A lot may include multiple allowed uses, provided that the requirements of each use are met.

§ 345-19. Site plan review procedures for certain uses.

- A. When site plan required. A separate site plan review by the Planning Commission is required for any of the following uses if the physical layout of the use will not be approved as: (a) a subdivision or (b) a land development.

- (1) Any expansion of more than two thousand five hundred (2,500) square feet in the floor area of any non-residential building.
- (2) Any construction of new or expanded impervious area of greater five thousand (5,000) square feet.

- B. Site plan review procedures. The following procedures shall be followed for any use required to be reviewed under this section:

- (1) Submission of Plan. The applicant shall submit eight (8) complete folded copies of any required site plan to the Zoning Officer. The Zoning Officer shall not accept an application if it does not contain sufficient information to determine compliance with this Chapter. A minimum of one (1) copy shall be retained in Borough files. The site plan shall include the information listed in § 345-19C.
- (2) Timing. The applicant shall submit a complete site plan within a minimum of 21 days prior to the first Planning Commission meeting at which the site plan is intended to be reviewed. The Zoning Officer may allow a reduction of this time limit for projects that do not involve complex proposals. The Planning Commission shall be given an opportunity to review the site plan and provide any comments in writing to the Zoning Officer, provided that such review shall not by itself cause a delay of more than 60 days in granting a zoning approval for a permitted by right use.
- (3) Zoning Officer action. The Zoning Officer shall review the site plan and determine its compliance or non-compliance with this chapter, based upon his/her review and recommendations of the Planning Commission. The Zoning Officer shall make such determination after the Planning Commission has been provided with an opportunity for a review.
- (4) Notice. The Zoning Officer should mail or personally deliver a copy of the Zoning Officer's decision to the applicant or his/her representative within 15 days after such decision. If an application is denied, the Zoning Officer shall state the reason(s) therefore.

- (5) Borough Engineer Review. The Zoning Officer may require that the Site Plan be reviewed, at the cost of the applicant, by the Borough Engineer.
- C. Drafting and submission requirements for site plans. The following information shall be submitted by the applicant for any use for which Site Plan Review is required, unless the Zoning Officer determines such information is not applicable or necessary for a particular application.
- (1) A statement describing the proposed use.
  - (2) A site plan drawn at a standard readable scale.
  - (3) The site plan shall depict the following information:
    - (a) Location, area and dimension of the lot or lots.
    - (b) Location, area and dimensions of existing and proposed buildings, structures, uses and expansions thereof.
    - (c) Front, side and rear yard set backs.
    - (d) Location and width of existing and proposed abutting streets.
    - (e) Phasing lines, if any.
    - (f) The width and location of any buffer yard.
    - (g) Location, height and species of plants to be used for screening.
    - (h) Location, length, width and number (along with the method of calculating the number of required off-street parking spaces) of existing and proposed off-street parking spaces.
    - (i) Location, length, width and number (along with the method of calculating the number of required off-street loading spaces) of existing and proposed off-street loading spaces.
    - (j) Location, height and intensity of exterior lighting.
    - (k) Location, area and lighting of existing and proposed signs.
    - (l) Location and width of existing and proposed sidewalks and curbing.
    - (m) Location of existing and proposed public and private utilities on the property, including but not limited to, electric, gas, water and sewer service.
    - (n) Description of existing or proposed commercial or industrial uses including any existing or potential nuisances or hazards regarding noise, large trucks,

glare, air pollution, odors, painting, dust, fire or toxic or explosive hazards or other significant hazards to the public safety, health and welfare, together with proposed methods to control such hazards and nuisances.

- (o) If re-grading is proposed, existing and proposed contours at two (2) foot intervals.
- (p) Identification of slopes in excess of fifteen percent (15%).
- (q) Existing and proposed method of managing storm water runoff. If a separate review will occur under the Stormwater Ordinance, then such information is not required on the Site Plan.
- (r) Boundaries of any one hundred-year flood plain and wetlands.
- (s) Zoning district name and any boundary lines.
- (v) Name, address, telephone number and any seal of the person who prepared the plan.
- (w) Name, address and telephone number of the owner of the property and the applicant.
- (x) Lehigh County Tax Map Parcel Number(s) and Parcel Identification Number(s).
- (y) Signature blocks for the owner of the property and the applicant.
- (z) Such other information as may be required by the Zoning Officer or the Planning Commission to determine compliance with this Ordinance.

§345-20. TC Town Center District.

The intent of this section is to strengthen the downtown as a center of commercial activity, provide for a mix of retail, service, office, institutional, light commercial and residential uses that will be compatible with historic buildings and nearby homes, recognize the historic nature and mixed uses along Main Street as identifying features of the Borough, encourage the reuse of older buildings, as opposed to the conversion of Main Street into a faceless commercial strip, provide for types of commercial uses that will be compatible with homes in this district, prohibit heavier commercial uses (such as auto repair and auto sales) that are most likely to cause demolition of historic buildings and conflicts with homes, promote a pedestrian-friendly environment and serve the purposes for Traditional Neighborhood Development as stated in the State Municipalities Planning Code.

A. Permitted by Right Uses.

- (1) Single family detached dwellings, single family semi-detached dwellings, townhouses, multiple dwellings and multiple dwellings for the elderly, but provided that one existing dwelling unit shall not be converted into two or more dwelling units.

- (2) Agriculture, forestry and customary accessory uses, but not including keeping or raising of livestock or poultry.
- (3) Places of worship (such as churches), which may include accessory child day care, Sunday school rooms, cemetery and one dwelling unit for a religious leader and his/her family.
- (4) Public parks and playgrounds.
- (5) Public or private primary or secondary school or trade school.
- (6) Community center building, library or municipal building.
- (7) Public utility building, structure or facility.
- (8) Membership club, which shall be limited to meeting facilities and recreation facilities, unless another use (such as a tavern) is approved separately.
- (9) Governmental facility, other than a correctional facility.
- (10) Child or adult daycare centers.
- (11) Ambulance corps or fire company.
- (12) Retail store, not including drive-through facilities, or Farmer's Markets.
- (13) Offices.
- (14) Barbershop, beauty shop, tailor, nail service or similar personal service uses.
- (15) Restaurants with drive-through facilities being prohibited. A restaurant shall be at least partly within an enclosed building, and may include accessory outdoor dining areas, but shall not be located within a motor vehicle or a trailer. Any outdoor seating shall not be located within 200 feet of a residential district if it is used after 11 P.M.
  - (a) An adjacent indoor restaurant may include an outdoor café, which may extend into a street right-of-way provided the applicant proves that adequate clear sidewalk width will remain available for pedestrian and wheelchair movement and provided Borough Council approves the use of the right-of-way. Other use of the public right-of-way for food sales shall be prohibited, except as may be specifically approved by the Borough during farmers markets, parades and other special events.
  - (b) For uses that meet the definition of a "Tavern", special exception use approval is required.
- (16) Exercise clubs.

- (17) State licensed nursing home, personal care facilities or assisted living facility.
- (18) Indoor recreation uses, excluding a bowling alley or roller rink.
- (19) Financial institutions (such as banks), provided that any drive-through facilities shall need special exception approval, which shall only be granted if the applicant proves that the drive-through facilities will be designed in a manner that will not conflict with pedestrian traffic along Main Street.
- (20) Funeral home, not including a crematorium.
- (21) Hotel or Bed and breakfast inn within a building that existed prior to the adoption of this Chapter.
- (22) Repair of appliances and similar items.
- (23) Business services, such as photocopy or custom print shop.
- (24) Laundromat.
- (25) Movie theater or live entertainment theater, not including a cabaret.
- (26) Parking lot, other than specifically prohibited uses.
- (27) Group home within an existing lawful dwelling unit, in compliance with § 345-22D.
- (28) Bus station or taxi headquarters, not including on-site repair of motor vehicles.
- (29) Manufacture and sale of custom crafts and similar types of custom manufacturing of jewelry, optical goods, precision instruments and similar items that will not routinely require loading and unloading by tractor-trailer trucks.
- (30) Microbrewery. If this use also meets the definition of a “Tavern”, then special exception approval is required.
- (31) Engraving and Etching.

B. Accessory uses.

- (1) Uses that are customarily incidental to an allowed use.
- (2) Private garages, parking areas. See §§ 345-21, 345-22 and 345-23.
- (3) Signs meeting all applicable regulations of this district.
- (4) Home occupation meeting Section 345-22.K.

- (5) Communications Antenna extending a maximum of 20 feet from an existing non-residential building or structure, but not including a telecommunications tower, except that a telecommunications tower shall be an allowed accessory use to a fire, ambulance or police station.
  - (6) Solar energy collectors on building rooftops, or that cover a maximum of 5 percent of the lot area and meet Section 345-26.V.
- C. Special exception uses. Applications for special exception uses shall require review and approval by the Zoning Hearing Board under the provisions of § 345-36, Article VII and other applicable provisions of this chapter. The Zoning Hearing Board may attach any reasonable conditions and safeguards in addition to those expressed in this chapter, as it deems necessary to implement the purpose of this chapter, and to protect the public health, safety and general welfare.
- (1) Tavern that is open to customers after 11 pm. This use may also include a microbrewery. Other businesses with a liquor license that are not open to customers after 11 pm shall be considered to be restaurants and are permitted by right. Any outdoor seating area that is used after 11 P.M. shall not be within 200 feet of a residential district.
  - (2) Parking structure of two or more levels which shall meet the minimum yard requirements for a principal building for above-ground space and which may be constructed within a setback for completely below-ground spaces.
  - (3) Printing or publishing, other than custom photocopying or print shop.
  - (4) Unit for care of relative, consistent with § 345-26T.
- D. Prohibited uses. If a use is not listed as allowed in a zoning district that use shall be considered to be prohibited, unless specifically stated otherwise. The following uses shall be specifically prohibited in the TC District:
- (1) Motor vehicle sales, sales of gasoline, repair of motor vehicles, car wash, sale of manufactured/mobile homes for off-site placement.
  - (2) Adult bookstore, adult motion picture theater, massage parlor or cabaret.
  - (3) Restaurant with drive-through facilities.
  - (4) Uses open to the public, customers, members or patrons between the hours of 2 a.m. and 5 a.m.
  - (5) Warehousing, distribution or truck terminal uses as the principal use of the lot.
  - (6) Wholesale sales uses that are not open to the public.
  - (7) Crematorium.

- (8) Outdoor storage or display or parking of trucks or construction equipment as the principal use of the lot.
  - (9) Hotel or motel, other than is allowed by right.
  - (10) Self-storage development.
  - (11) Manufactured (mobile) home parks.
  - (12) Treatment center.
  - (13) Prison or correctional facility.
  - (14) Junkyard.
- E. Multiple uses on a lot. A lot in the TC District may include multiple uses, provided that the requirements of each use are met.
- F. Dimensional requirements within the TC District.
- (1) Single family detached, single family semi-detached, and townhouse dwelling units shall meet the same dimensional requirements as apply within the R-7.8 District, except the minimum width of any side yard shall be reduced to 3 feet and except as provided in § 345-20F(3).
  - (2) The following requirements shall apply to all uses other than single family detached, single family semi-detached and townhouse dwelling units:
    - (a) Minimum lot area: 5,000 square feet. However, if a lot will involve the creation of an additional new vehicle driveway onto Main Street, a minimum lot area of 1 acre shall apply. This additional requirement shall not apply if a driveway is simply relocated or improved.
    - (b) Minimum lot width: 30 feet. However, if a lot will involve the creation of an additional new vehicle driveway onto Main Street, a minimum lot width of 150 feet shall apply. This additional requirement shall not apply if a driveway is simply relocated or improved.
    - (c) Maximum building coverage of lot: 75 percent.
    - (d) Maximum impervious coverage of lot: 90 percent.
    - (e) Maximum building height: 4 stories or 60 feet, whichever is more restrictive. Any new principal building or addition shall have the appearance of a pitched or peaked roof when viewed from Main Street.
    - (f) Minimum side yard setback (each of 2): 3 feet, except 10 feet if a new or

expanded primarily business use will be contiguous to a primarily residential use on another lot. No side yard is required for reuse of a building that existed prior to the adoption of this chapter.

- (g) Minimum rear yard setback: 15 feet.
- (h) Multi-family density. A minimum of 2,500 square feet of lot area shall be provided for each multi-family dwelling unit, which shall be reduced to 2,000 square feet of lot area for each multi-family dwelling unit that is permanently limited to occupancy by persons age 55 and older and their spouses.

[1] However, multiple dwelling units shall be permitted within previously non-residential building space that existed prior to the adoption of this chapter without having to meet the density, lot area and other dimensional requirements of this chapter. This exemption shall not apply to space on the street level. Any expansion of such a building shall be required to meet all dimensional requirements of this chapter, except for additions necessary for emergency or disabled person access.

[2] In any case, each dwelling unit shall include a minimum of 600 square feet of habitable floor area and meet all parking and other requirements of this chapter are met.

[3] In no case shall one existing dwelling unit be converted into two or more dwelling units.

- (3) The following additional requirements shall apply for all uses in the TC District:

- (a) Minimum front yard depth: 5 feet.
- (b) New building placement. If a new principal building is proposed on a lot that is adjacent to Main Street, then more than 50% of the front wall of such building shall have a maximum front yard building setback of 20 feet, and no new off-street parking spaces on the lot shall be placed between the principal building and Main Street.
- (c) Parking setback. If an off-street parking area of 4 or more new parking spaces is proposed adjacent to Main Street, it shall be separated from Main Street by a planting area with a minimum width of 5 feet. Such planting area shall include a mix of low level plantings and deciduous shade trees. A minimum of one deciduous shade tree with an initial trunk width of 2.5 inches measured 6 inches above the ground shall be planted or maintained for each 40 feet of length along Main Street. Such shade tree may either be planted or maintained in the planting area or within the right-of-way, with Borough Council approval. The low-level plantings shall have a minimum initial height of 2 feet and be intended to have a maximum height when trimmed of 5 feet to allow views into the parking lot for security purposes.

- (d) Garage doors. No new vehicle garage doors or loading docks located within 80 feet from the curblineline of Main Street shall face onto Main Street.
  - (e) Architectural plans. If a new principal building or building addition of over 2,500 square feet of floor area is proposed within view of Main Street in the TC District, then the applicant shall submit information to the Zoning Officer regarding the architecture of the proposed project. Such information shall include a written description of the exterior building materials proposed to be used along Main Street, as well as a cross-section or rendering of the project as viewed from Main Street.
- (4) Off-street parking in the Town Center District.
- (a) Optional fee-in-lieu of parking.
    - [1] As a special exception, the Zoning Hearing Board may permit the reduction of off-street parking requirements in the TC District if the applicant commits to pay a fee-in-lieu-of providing a certain number of required off-street parking spaces. This provision shall only be available if the applicant proves they cannot meet the parking requirements on their lot.
    - [2] For each required off-street parking space that is waived, a fee shall be required that has been established and may be updated by ordinance or resolution of Borough Council.
    - [3] All such fees shall be paid to the Borough or an authority authorized by the Borough to receive such fees. All such fees shall be accounted for separately, with any interest credited to the account until the fees are used. All such fees shall only be used for the creation of additional on-street or off-street public parking to serve the surrounding area. Such fees may also be used for the payment of debt for improvements to increase the amount of public parking or for the acquisition of land for public parking. Such fees may also be used to lease privately owned space for public use.
    - [4] The fee shall be a one-time payment. The reduction of the required number of parking spaces shall continue with the land over time, regardless of ownership or use of the property.
    - [5] The application shall be offered to the Borough Planning Commission and Borough Council for any review they care to make prior to an approval by the Zoning Hearing Board.
    - [6] There shall be no maximum time limit for use of the fees.
  - (b) Off-site parking - Section 345-23.B.(5) shall apply.

(c) In the TC District, special exception approval shall be required for 4 or more new off-street parking space(s) proposed between the street curb of Main Street and an existing or proposed principal building if such spaces would be at least partially within 50 feet of the curb. The Zoning Hearing Board shall only approve such parking if the applicant proves that:

- [1] There is no feasible alternative to placing the parking in that location, as opposed to placing parking to the rear or side of the building.
- [2] The parking and any related driveway will be designed to minimize interference with pedestrian movements along Main Street.

G. Historic Building Demolition - See § 345-21.1.

ARTICLE VI  
SUPPLEMENTARY REGULATIONS

§ 345-21. General regulations applying to all districts and uses.

A. Accessory uses and structures. The placement of a private garage, accessory parking area or other accessory building or use shall be subject to the following requirements:

- (1) An accessory vehicle garage shall have a minimum setback of 6 feet from an alley from which the garage has vehicle access. Except for such setback, any accessory building that is accessory to a dwelling (such as a Utility Shed as defined in Article XI) shall have a minimum side and rear yard setback of 3 feet. This 3 feet setback shall apply even along a lot line along which principal buildings are attached. Any other commercial or industrial accessory building shall meet the applicable principal building setbacks, except that a Utility Shed may be setback a minimum of 3 feet from the lot line of another principal business.
- (2) Nothing contained herein shall prevent the construction of a private garage or accessory use or structure as a structural part of a main dwelling, provided that when so constructed, the exterior garage or accessory use or structure walls shall be regarded as the walls of the main dwelling in applying the front, rear and side yard regulations of this chapter.
- (3) No private garage or other accessory building shall be within a required front yard, nor within a required side yard, except: (a) that in any commercial or LIC district, a parking area may utilize that portion of a side yard otherwise not required for a buffer yard or planting screen; and/or (b) as specifically provided by another section. Within the area between a principal residential building and the front lot line, no more than 60 percent shall be occupied by vehicle parking areas.
- (4) Any access driveway may be located within a yard provided that any crossing of a required buffer yard shall be approximately perpendicular to the buffer yard.
- (5) Accessory buildings and uses shall be on the same lot with the main building or buildings or on an immediately adjacent lot in the same ownership.

- (a) If an accessory building has a floor area of more than 1,000 square feet in a residential district on a lot of less than 15,000 square feet in lot area, the building shall be required to meet setbacks for a principal building.
- (6) Required accessory parking areas and loading spaces shall have safe and adequate access to a public street either by a driveway on the same lot or by means of a permanent recorded easement across an adjoining lot.
- (7) No required accessory parking area or off-street loading space shall be encroached upon by buildings, open storage or any other use.
- (8) Vehicle driveways shall not at any point have a finished grade in excess of ten percent (10%).
- (9) Satellite dishes. Satellite dishes which are 3 feet or less in diameter, shall be permitted in all zoning districts. In commercial and industrial districts, a satellite dish may have a maximum diameter of 6 feet.
  - (a) No satellite dish shall be located in the minimum front yard areas of a lot, unless they are attached to a building.
  - (b) All satellite dishes shall conform to the height requirements for the zoning district.
- (10) Accessory antenna to receive television signals, to transmit local or amateur radio signals, and similar purposes shall be allowed, provided the following additional requirements are met:
  - (a) See the separate provisions for wireless telecommunications antennae and towers in Section 346-26.P, which are not addressed by this subsection.
  - (b) An amateur “ham” radio antenna may have a total height of 75 feet above the ground level.
  - (c) Other antennas may have a height of 25 feet above the maximum building height.
  - (d) See any applicable requirements of the Construction Code, such as anchoring to address high winds.
- (11) Fees. An applicant for a permit shall submit the information described herein and a non-refundable fee as established by resolution and/or ordinance of the Borough Council.
- (12) Allowed Projections.
  - (a) An unenclosed front porch and/or roof overhang may extend a maximum of 8

feet into the required front yard. An unenclosed residential deck, porch or roof overhang may extend into a side or rear yard, provided a minimum rear yard of 15 feet is maintained and a minimum side yard of 5 feet shall be maintained where adjacent dwellings are not attached to each other.

- (b) Steps, a stoop and/or a handicapped ramp that are necessary to provide entry into a building may extend into a required yard and may also extend a maximum of 3 feet into a street right-of-way, provided that a minimum sidewalk width of 4 feet is maintained within a public right-of-way. Such steps, stoop or handicapped ramp may include a roof but not enclosed sides, if it projects into a yard.

- (13) A rear yard setback shall not, by itself, limit the location of vehicle parking, provided that any buffer yard requirement is met.

B. Buffer yards. On non-residentially zoned or used properties, the owner thereof shall, adjacent to every side and rear lot line which abuts a residentially zoned or used property, establish a protective planting strip, designated and laid out with suitable mostly evergreen plant material which will be planted at a minimum height of four (4) feet and that involves spacing and species that is intended to attain and shall be maintained at a height of not less than eight (8) feet, so as to provide an effective natural screen and head-light barrier between the residential and non-residential properties.

- (1) This same type of buffer yard shall be required between any industrial outdoor storage or any area routinely used for the overnight storage of 2 or more tractor-trailer trucks (or trailers of tractor-trailers or tractors) and any public street right-of-way from which the tractors, trailers or storage is visible.
- (2) If a buffer yard will involve over 20 plants, then no more than 50 percent shall be of one species. Weak-stem plants should not be used to meet buffer yard requirements.
- (3) The Borough may require that the buffer plantings be protected from vehicle damage using curbing, curb stops or similar measures.

C. Nonconforming Lots. Notwithstanding the lot area, lot width and lot coverage requirements listed in Article V, a dwelling, where it is permitted or special exception use, may be erected on any lot with less than the required lot width or lot area if it meets all of the following additional requirements: 1) it is separately owned and not adjacent to any lot in the same ownership at the effective date of this chapter; 2) the aggregate width of the side yards are not less than twenty-five percent (25%) of the lot width, and 3) the narrower side yard is not less than three (3) feet in width. If an existing lot does meet this section, it may not be used for a new principal use or building unless a variance is approved.

D. Height.

- (1) Nothing herein contained shall restrict the height of a place of worship spire, cupola, dome, mast, belfry, clock tower, radio or transmission line, tower, flagpole, chimney, water tank, elevator or stair bulkhead, stage tower, theater fly loft or similar structure. Any such structure that exceeds the maximum height shall comply with the following additional requirements:

- (a) Not have a lot coverage at the base in excess of ten percent (10%) of the lot area.
  - (b) Not be used or routinely occupied by persons.
  - (c) Not have any advertising sign or device inscribed upon or attached to such structure.
- (2) No private garage or other accessory building shall exceed the height of the existing main dwelling situated upon the same lot or a maximum of 25 feet, whichever is less.
  - (3) See antenna provisions in 345-21.A.(10).
  - (4) Skylights and solar collector panels attached to a building may exceed the maximum height by 6 feet.

E. Yards.

- (1) Front Yard. The space in a required front yard shall be open and unobstructed except as allowed by Subsection A(12) above.
- (2) All yards. Every part of a required yard shall be open to the sky and be unobstructed by structures except for retaining walls and for accessory buildings meeting required yards, and except for the ordinary projections of sills, belt courses and for ornamental features projecting not to exceed six (6) inches.
- (3) Permitted projections. Open or lattice enclosed fireproof fire escapes or stairways, required by law, may project into a yard not more than four (4) feet, and the ordinary projections of chimneys and pilasters shall be permitted when placed so as not to obstruct light and ventilation.

F. Traffic visibility across corners.

- (1) In any district, no structure, fence, planting or other obstruction to vision shall be constructed, installed or maintained between a plane two (2) feet above curb level or pavement edge elevation (if no curb is constructed) and a plane eight (8) feet above curb level or pavement edge elevation (if no curb is constructed) within the clear sight triangle described by the following points:
  - (a) The point of intersection of the centerlines of the two (2) streets.
  - (b) A point on the centerline of a street approaching a stop sign and located ten (10) feet from the nearest edge of a travel lane of the major (through) street.
  - (c) A point on the centerline of the major (through) street and located the following distances from the intersection of the centerline of the two (2) streets:

Through Street Classification	Distance left (ft)	Distance Right(ft)
Local	250	195
Collector	440	350
Arterial	635	570

- (d) This section F. shall not regulate the locations of on-street parking spaces, which shall be regulated by the Borough and/or PennDOT.
  - (e) These clear sight triangles shall not be required at a four-way stop or an intersection with a traffic signal.
- (2) At each point where a private accessway intersects a public street or road, a clear sight triangle as described in Subsection F(1) above shall be maintained.
  - (3) Local streets are those streets classified as "local" according to the official Borough street classification map and roadways with right-of-way widths equal to or less than 20 feet (except for Cotton Street which is classified as a collector street).
  - (4) Alleys.
    - (a) See definition of "Street" in § 345-43, which distinguishes streets from alleys.
    - (b) Where a street intersects with an alley, a clear sight triangle shall be established with one leg of the triangle 15 feet long along the edge of the right-of-way of the street and one leg of the triangle 5 feet long along the edge of the right-of-way of the alley, with the two legs connected by a third longer leg.
    - (c) Where two alleys intersect, a clear sight triangle shall be established with each leg of the triangle 5 feet long along the edge of each right-of-way, and with the two legs connected by a third longer leg.
    - (d) Within these clear sight triangles, no new sight obstruction shall be allowed that obstructs the views of motorists of oncoming vehicle and pedestrian traffic.

G. Fence and walls.

- (1) Man-made fences and walls may be erected, altered and maintained within the yards, provided that any such fence or wall in the primary front yard shall not exceed four (4) feet in height, and any fence or wall in the secondary front, side or rear yard shall have a maximum height of six (6) feet. Fences in the minimum front yard shall be at least 50 percent open vs. structural, such as a picket or split rail type of fence. A wall or fence may have a taller height if it is within a principal building setback area. A taller height may also be approved by the Zoning Officer if the applicant proves such height if necessary around a hazard, such as an electric substation.

- (2) All yards used for the outdoor storage of any material needed for the operation or conduct of a manufacturing enterprise shall be enclosed by a solid wall, uniformly colored mostly solid fence, or screen planting, on all sides which face upon a street or face upon a lot in a residential zone.
  
- H. Flood plain overlay area. Any construction or other activity to take place within the flood plain overlay area as delineated on the Floodway Boundary and Floodway Map for the Borough of Macungie, dated November 7, 2001, as may be officially amended, is subject to the requirements and restrictions of Article XII, flood prone area regulations.
  
- I. Temporary uses. It is hereby recognized that certain uses and activities, which might otherwise be prohibited by this chapter are nevertheless such that their establishment and operation for a limited period of time would serve the public interest. For the purposes of this chapter, such uses are declared to be temporary uses which may be permitted only on commercial properties situate in the GC and LIC Districts; and further provided that temporary uses shall not be permitted to exist for more than fourteen consecutive days in any continuous six month period. Permits for temporary uses shall be secured from the Zoning Officer prior to the establishment thereof. The Zoning Officer shall only approve temporary uses that are incidental and customary.

**§345-21.1. Demolition of Older Buildings, and Re-use Incentives.**

- A. Purposes. In addition to serving the overall purposes of this chapter, this section is intended to:
  - 1. Promote the retention of community character through preservation of the local heritage by recognition and protection of historic and architectural resources;
  - 2. Establish a clear process to review and approve demolition of designated historic buildings;
  - 3. Encourage continued use, appropriate rehabilitation and adaptive reuse of historic buildings;
  - 4. Implement Sections 603(b), 603(g), 604(1) and 605(2) of the Pennsylvania Municipalities Planning Code, which address protecting and facilitating the preservation of historic values through zoning and using zoning to regulate uses and structures at or near places having unique historic, architectural or patriotic interest or value;
  - 5. Strengthen the local economy by promoting heritage tourism, improving property values and increasing investment in older buildings;
  - 6. Utilize the traditional neighborhood development provisions of the Pennsylvania Municipalities Planning Code; and
  - 7. Carry out recommendations of the Southwestern Lehigh Regional Comprehensive Plan, including recommendations to preserve historic buildings and community character.
  
- B. Applicability.
  - 1. This section shall apply to any principal building constructed prior to or in 1940. This

section shall not apply to a building or building addition that the Zoning Officer knows was built after 1940. The applicant may provide evidence to the Zoning Officer that a building was built after 1940.

2. For a building regulated by this section, all of the provisions of the applicable underlying zoning district shall also continue to apply, in addition to the provisions of this section. In the event there is a direct conflict between the provisions of this section and the underlying zoning district, the provision that is most restrictive upon development, demolition and uses shall apply.

C. General provisions.

1. Any partial or complete demolition of a building regulated by this section that is visible from a public street shall only occur in compliance with this section.
2. Definitions. In addition to the definitions provided in Section 345-43, the following terms shall have the following meanings for the purposes of this section:

DEMOLITION - The dismantling, tearing down, removal or razing of the exterior of a building, in whole or in part. This term shall not include changes to the interior of a building, provided such changes do not alter the structural integrity of the building.

DEMOLITION BY NEGLECT - The absence of routine maintenance and repair which leads to structural weakness, decay and deterioration in a building to a point that causes a need for major repair or may cause a need for demolition.

MAINTENANCE AND REPAIR - Work that does not alter the appearance or harm the stability of exterior features of a building.

STREETSCAPE - The overall appearance of a block along a public street, including yards visible from a public street, the relationship of building setbacks, the consistency of architectural styles or features, the spacing and shapes of windows and doors and rooflines and similar features that give the block its distinctive visual character.

D. Approval of demolition of building regulated by this section.

1. A building regulated by this section shall not be demolished, in whole or in part, unless the applicant proves by credible evidence to the satisfaction of the Zoning Hearing Board as a special exception use that one or more of the following conditions exist:
  - (a) The existing building cannot feasibly and reasonably be reused, and that such situation is not the result of intentional neglect or demolition by neglect by the owner;
  - (b) The denial of the demolition would result in unreasonable economic hardship to the owner, and the hardship was not self-created;
  - (c) The demolition is necessary to allow a project to occur that will have

substantial, special and unusual public benefit that would greatly outweigh the loss of the building regulated by this section, and the project needs to occur at this location (for example, a demolition may be needed for a necessary expansion of an existing public building or to allow a street improvement that is necessary to alleviate a public safety hazard);

- (d) The existing building has no historical or architectural significance (see subsection (2)(c) below) and the demolition will not adversely impact upon the streetscape;
- (e) The proposed design of a replacement building, porch or similar feature will result in a net improvement to the streetscape; and/or
- (f) The building will be replaced with a new building that will have essentially the same appearance as viewed from a public street.

(2) Additional Standards for Decision-Making.

- (a) For approval of a demolition, the standards of this section shall apply in place of the special exception use standards of Article VII.
- (b) In reviewing the application, the Zoning Hearing Board shall consider the following:
  - (i) The effect of the demolition on the historical significance, streetscape and architectural integrity of neighboring historic buildings and on the historic character of the surrounding neighborhood.
  - (ii) The feasibility of other alternatives to demolition.
- (c) Historical or Architectural Significance. Where the Zoning Hearing Board is asked to make a determination about whether a building has historical or architectural significance, the following factors should be considered:
  - (i) The significance of the building as part of historical events and/or the life of an historical figure;
  - (ii) The building includes architectural features, details, materials or craftsmanship that have significance, as viewed from the street;
  - (iii) The building is an integral part of an older streetscape that provides familiar visual features in the neighborhood; or
  - (iv) The building is potentially eligible for listing on the National Register of Historic Places.

- (3) An application for partial or complete demolition of a building regulated by this section shall not be approved unless all of the requirements of this section have been met. A partial demolition shall include, but not be limited to, removal of an attached front porch roof, removal of front porch columns, and removal of historic architectural features on a building side that faces a public street. See definition of "demolition" above.

- (a) After receiving a complete application, the Zoning Officer may approve the removal of features regulated by this Section if the applicant proves they will be replaced with new features that will have the same appearance as viewed from a public street. For example, an older front porch may be replaced with a new front porch with the same appearance, even if the materials are different.
- (4) A complete application for the demolition shall be submitted by the applicant in writing. This application shall include the following:
  - (a) The name, address and daytime telephone number of the owner of record and the applicant for the demolition.
  - (b) Recent exterior photographs of the building proposed for demolition. If the applicant is alleging that the building cannot be reused or rehabilitated, then interior photos and floor plans shall be provided as needed to support the applicant's claim.
  - (c) A site plan drawn to scale showing existing buildings and the proposed demolition.
  - (d) A written statement of the reasons for the demolition.
  - (e) The proposed use of the site, and a proposed timeline for development of that proposed use.
- (5) Procedures. The demolition application shall be submitted to the Zoning Hearing Board for consideration as a special exception use. The applicant shall be informed of meeting dates where the application is intended to be discussed and encouraged to be present to discuss the proposed demolition. Notification of the application should be sent to the Macungie Historical Society as soon as possible for any comments prior to the Zoning Hearing.
- (6) Evidence. The applicant shall provide sufficient credible evidence to justify any claims that a building cannot feasibly be repaired or reused. The following types of expert testimony and documentation are encouraged to be provided: (i) a property appraisal, income and expense statements for the property, (ii) a written estimate of the costs of rehabilitation by a qualified contractor, (iii) a written report from a professional engineer regarding the structural soundness of the building, (iv) testimony concerning efforts to market the property over time, (v) information regarding the applicant's purchase price of the building, and (vi) similar relevant information.
- (7) Self-created conditions. The conditions that justify the proposed demolition of a building regulated by this section shall not have been self-created by the applicant. These conditions include, but are not limited to:
  - (a) Lack of proper maintenance of the building, including but not limited to structural elements, the roof, windows or architectural elements; or

- (b) Leaving parts of a building open to the elements or accessible to vandalism.
- (8) The Zoning Officer may require any unoccupied building to be properly sealed and secured to prevent decay from the elements and vandalism.
- (9) Emergency. The Zoning Officer may issue a permit for the demolition without compliance with this section if the Building Official certifies in writing that the building represents a clear and immediate hazard to public safety, and that no other reasonable alternatives exist to demolition.
- (10) Exceptions. Special exception use approval shall not be needed for the following:
  - (a) Demolition of accessory buildings or structures.
  - (b) Interior renovations or removal of features (such as a rear porch) that do not harm the structural stability of the building and that are not visible from a public street. Features that are only visible from an alley and not a street are not regulated by this Section.
  - (c) Removal of features that were added after 1940, such as a modern porch, aluminum siding or carport.
  - (d) Relocation of a building within the Borough, provided that the relocation does not result in a partial or complete demolition that is regulated by this section.
- E. Demolition by neglect (see definition above).
  - (1) Every property owner of a building regulated by this section shall repair and maintain the building to avoid demolition by neglect.
  - (2) Every property owner of a building regulated by this section shall properly repair and maintain the building to maintain the structural integrity of the building and to protect the building and attached features from damage from the elements. The attached features that shall be protected, repaired and maintained include the roof, cornice, columns, beams, posts and lintels.
  - (3) If a property owner fails to comply with an order from the Building Official to repair a building regulated by this section to correct a code violation that threatens the structural integrity of a building, such matter shall be considered a violation of this Section 345-20.J(5) and the property owner may also be cited for a violation of this chapter.
- F. Additional uses allowed within a building regulated by this section.
  - (1) Section 345-21.1.J(6) allows certain additional uses if the use would be within a rehabilitated principal building built before December 31, 1940.

- (2) The following additional use shall be allowed within a building regulated by this section in any zoning district:
  - (1) The conversion of a building regulated by this section into a bed-and-breakfast inn. Such use shall meet the applicable requirements of Section 345-26.O.
  - (2) The conversion of a building regulated by this section into an office, without having to meet the requirements for a home occupation.
- (3) To be eligible for these uses, the applicant shall prove the following to the satisfaction of the Zoning Hearing Board that a registered architect with substantial experience in the rehabilitation of historic buildings provides a written certification that the exterior of the building as visible from public streets will be historically rehabilitated in conformance with the Secretary of the Interior's Standards for Historic Rehabilitation, and accompanying guidelines published by the National Park Service, and that any exterior repairs, alterations and additions visible from a public street will be in conformance with such standards and guidelines.
- (4) Plans shall be submitted showing the design and materials of any exterior changes to the building that are visible from a public street.
- (5) The building shall not be expanded by more than 50% in its floor area for a use under this section. This limitation on building expansion shall not apply if the proposed use would be allowed in the zoning district without applying under this section.

**§ 345-22. Regulations applying to certain uses and districts.**

**A. Private garages or private parking area in a residential district.**

- (1) A private garage or private parking area may be utilized only as an accessory use to the main use, except that no more than two (2) parking spaces in a private garage accessory to a single family detached or single family semi-detached dwelling may be rented to a person who is not a resident of the main building.
- (2) See Section 345-23.B(7) concerning parking of trucks, boats and recreational vehicles in a residential district.

**B. Private garages accessory to multiple dwellings.**

- (1) In private garages accessory to multiple dwellings, no commercial repairing of cars shall be done, but washing of tenants' cars shall be permitted, if done without the aid of washing machinery.
- (2) Private garages accessory to multiple dwellings shall conform in exterior architectural style and treatment to the architecture of the main building or buildings and shall be of similar materials.

**C. Non-commercial swimming pools.**

- (1) A non-commercial swimming pool which is designed to contain a water depth of twenty-four (24) inches or more shall not be located, constructed or maintained on any lot or land area, except in conformity with the requirements of these regulations. A permit shall be required to locate, construct or maintain a noncommercial swimming pool.
- (2) Such pool shall be located in the rear yard only.
- (3) Each pool shall be surrounded with a fence or other secure enclosure meeting the requirements of the Uniform Construction Codes. The pool fence and enclosure requirements of such Codes are hereby incorporated by reference, and compliance with such requirements shall be a condition of any permit or approval under this Chapter.

(Note - As of the adoption date of this Ordinance, the Construction Codes generally required a 4 feet high non-climbable barrier, with openings that do not allow the passage of a 4 inch diameter sphere, and with a self-closing and self-latching gate.)

- (4) Such pool shall not be less than ten (10) feet from side and rear lot lines.
- (5) If the water for such pool is supplied from a private well, there shall be no cross-connection with the public water system.
- (6) See the Plumbing Code concerning connections between a pool and a public water supply.
- (7) Chlorinated pool water shall not be drained in such a way that would result in flow into a creek or a storm drain. Pool water shall be drained in such a way that does not cause inundation of a septic drain field or the property of others, such as by draining onto vegetated areas on the same property. Pool water should be allowed to declorinate before it is drained.
- (8) No loud speaker or amplifying device shall be permitted which will project sound beyond the bounds of the property or lot where such pool is located.
- (9) No lighting or spotlighting shall be permitted which will shine directly beyond the bounds of the property or lot where such pool is located.

D. Group homes. Group homes are permitted within a lawful dwelling unit, provided the following additional requirements are met:

- (1) See definition in Article XI.
- (2) A group home shall not include any use meeting the definition of a "treatment center."
- (3) A group home shall include the housing of a maximum of 5 unrelated persons, except:

- (a) If a more restrictive requirement is established by another Borough ordinance.
  - (b) The number of bona fide paid professional staff shall not count towards such maximum.
  - (c) As may otherwise be approved by the Zoning Hearing Board under § 345-39.
- (4) The facility shall have adequate trained staff supervision for the number and type of residents.
  - (5) The applicant shall provide evidence of any applicable Federal, State or County licensing or certification to the Zoning Officer.
  - (6) The group home shall register in writing its location, general type of treatment/care, maximum number of residents and sponsoring agency with the Zoning Officer.
  - (7) Any medical or counseling services shall be limited to a maximum of 3 non-residents per day. Any staff meetings shall be limited to a maximum of 5 persons at one time.
  - (8) A minimum of one off-street parking space shall be provided per on-site employee, plus one space for every 2 residents of a type reasonably expected to be able to drive a vehicle
  - (9) If a group home is in a residential district, an appearance shall be maintained that is closely similar to nearby dwellings, and no sign shall identify the use.
  - (10) The persons living on-site shall function as a “common household unit.”

E. Dumpster screening and location.

- (1) Any newly placed solid waste dumpster shall be screened on all sides, as necessary to screen views from public streets and dwellings. This provision shall not apply if a dumpster is located more than 100 feet from the lot line of any public street and more than 100 feet from the lot line of all dwellings.
- (2) Such screening shall consist of decorative masonry walls, mostly solid weather-resistant fencing and a gate, or primarily evergreen plantings.
- (3) To the maximum extent feasible, as determined by the Zoning Officer, an outdoor solid waste container with a capacity of over 20 cubic feet shall be kept a minimum of 20 feet from the walls of a dwelling on an abutting lot.
- (4) If a solid waste dumpster is moved from one part of a lot to another part of a lot, then it shall come into compliance with this section.
- (5) This section shall not apply to dumpsters temporarily placed during actual construction or demolition on the premises.

- (6) Solid waste containers holding garbage shall be kept closed and shall be regularly emptied to prevent nuisances and health hazards.
- F. Setbacks from creeks. No paving, outdoor storage, buildings or paved or stone vehicle parking shall be located within 25 feet from the centerline of the Swabia Creek and the Mountain Creek.
- G. Noise.
- (1) No principal or accessory use, or operations or activities on its lot, shall generate a sound level exceeding the limits established in the table below, when measured at the specified locations:

Sound Level Limits by Receiving Land Use/ District

Land use or Zoning District receiving the noise	HOURS/ DAYS	Maximum sound level
At a lot line of a primarily residential use in a residential district	1) 7 a.m. to 9 p.m. other than Sundays, Christmas Day, Thanksgiving Day, New Years Day, Labor Day and Memorial Day	1) 65 dBA
	2) 9 p.m. to 7 a.m. plus all day Sundays, Christmas Day, Thanksgiving Day, New Years Day, Easter Sunday, Labor Day and Memorial Day	2) 60 dBA
At any other lot line	All times and days	70 dBA

Note- dBA means "A" weighted decibel.

- (2) The maximum permissible sound level limits set forth in the above table shall not apply to any of the following noise sources:
- (a) Sound needed to alert people about an emergency.
  - (b) Repair or installation of utilities or construction of structures, sidewalks or streets between the hours of 7 a.m. and 8 p.m., except for clearly emergency repairs which are not restricted by time.
  - (c) Household power tools and lawnmowers between the hours of 8 a.m. and 9 p.m.
  - (d) Agricultural activities, including permitted raising of livestock, but not exempting a commercial kennel.
  - (e) Public celebrations or festivals (which may include use of loudspeakers) specifically authorized by the Borough or a County, State or Federal

Government agency or body, or fireworks displays that have a Borough permit or approval, or musical concerts within the CR district.

- (f) Unamplified human voices or the sound of a single animal.
- (g) Routine ringing of bells and chimes by a place of worship or municipal clock.
- (h) Vehicles operating on a public street or railroad and aircraft.

H. Odors and dust. No use shall generate odors or dust that are offensive to persons of average sensitivities beyond the boundaries of the subject lot.

I. Control of light and glare. This subsection shall only regulate exterior lighting that spills across lot lines or onto public streets. This subsection shall not apply to street lighting that is owned, financed or maintained by the Borough or the State.

(1) Purposes. This Section is intended to control outdoor lighting to avoid nuisances and hazards to residents, motorists and pedestrians, including from glare from non-vehicular lighting.

(2) Lighting Definitions. In addition to the definitions provided in Section 345-43, the following terms shall have the following meanings for the purposes of this section:

- (a) Footcandle - Unit of light density incident on a plane (assumed to be horizontal unless otherwise specified). A unit of illumination equal to one lumen per square foot as measured with an Illuminance meter, a.k.a light meter. This is the illuminance provided by a light source of intensity one candle at distance of 1 ft, hence the name.
- (b) Full Cutoff - Attribute of a lighting fixture from which no light is emitted at or above a horizontal plane drawn through the bottom of the fixture and no more than 10% of the lamp's intensity is emitted at or above an angle  $10^\circ$  below that horizontal plane, at all lateral angles around the fixture.
- (c) Fully Shielded - Attribute of a lighting fixture provided with internal and/or external shields and louvers to prevent brightness from lamps, reflectors, refractors and lenses from causing glare at normal viewing angles.
- (d) Glare – Excessive brightness in the field of view that is sufficiently greater than that to which the eyes are adapted, to cause annoyance or loss in visual performance and visibility, so as to jeopardize health, safety or welfare.

(3) Diffusion and shielding. All light sources, including signs, shall be properly diffused as needed with a translucent or similar cover to prevent exposed bulbs from being directly visible from streets, public sidewalks, dwellings or adjacent lots. All light sources, including signs, shall be shielded around the light source or be carefully directed and placed to prevent the lighting from creating a nuisance to reasonable persons in adjacent dwellings, and to prevent the lighting from shining into the eyes of passing motorists.

- (4) Flickering. Flashing, flickering or strobe types of exterior lighting are prohibited, except for non-advertising seasonal lights between October 25th and January 10th.
- (5) Height of lights. No luminaire, spotlight or other light source shall be placed at a height exceeding 35 feet above the average surrounding ground level if they are within 100 feet of a lot line of an existing principal dwelling, and 20 feet height above such ground level if they are within 25 feet of the lot line of an existing principal dwelling. This limitation shall not apply to lights needed for air safety nor lights intended solely to illuminate an architectural feature of a building, nor lighting of outdoor public recreation facilities.
- (6) Spillover. Exterior lighting from any use onto a residential use shall not cause a spillover of light onto a residential lot that exceeds 0.1 of a foot-candle, measured at line of sight at the nearest residential building, deck, porch or gazebo inside the residential lot line.
- (7) Nuisance and Glare. The Zoning Officer shall have the authority to enforce this Section, including sending an Enforcement Notice that requires that the lighting be brought into compliance within a specified period of time.
- (8) Lights that project from or are attached to the side of a building shall only be allowed if they are effectively shielded to prevent glare from being visible from an adjacent residential lot.
- (9) Directional light fixtures (such as floodlights and spotlights) shall be installed, shielded and aimed so that they do not project their light output into the windows of neighboring residences.
- (10) When visible from residences, floodlights or spotlights shall not be aimed at an angle greater than 45 degrees above the ground level unless they only generate light when they are motion activated. When a floodlight or spotlight creates glare as viewed from a dwelling or an accessory gazebo, porch or deck, such lighting shall be required to be re-aimed or fitted with a shielding device to block the view of the source of the glare from that residential property.
- (11) Any new exterior lighting of a business or its parking area shall be turned off during hours when the business is not in operation and after employees have departed, except for lighting that is necessary for safety and security purposes. Such safety and security lighting should typically not be in excess of 25 percent of the lighting level that is used during business hours.
- (12) Lighting under the canopy of a gas station, drive-through use or similar structure shall be accomplished with lighting that shines downwards and that is shielded in a way that prevents the luminaire from being visible from beyond the property line. The maximum illumination in the area directly below the canopy of a gas station shall not exceed 30 foot-candles.

- (13) Signs. Any conversion of the type of lighting of a sign shall require a Borough permit, such as changing a sign to an internally lit sign, or changing a sign to an electronically changeable message. Off-premises signs (such as billboards) shall have any exterior lighting attached to the top of the structure to shine down onto the sign.
- (a) Sign lighting shall be aimed directly towards the sign image, and shall be shielded as necessary to prevent the lighting element from causing glare for any person or motorist.
  - (b) Any lighting of an off-premises sign or an internally illuminated business sign shall be extinguished between the hours of 11 PM and 6 AM if the sign face would be visible from one or more dwellings, except for on-premises signs if the business is open for business during later hours.
  - (c) An off-premises sign shall not be newly illuminated or turned into an electronic sign if it is within 400 feet of an existing dwelling. A sign shall not have a lighting level exceeding 30 vertical foot-candles during hours of darkness.
  - (d) It is requested that internally illuminated signs have a dark background and light letters.
- (14) Rotating, traveling, pulsing, flashing or oscillating light sources, lasers, beacons, searchlights or strobe lighting shall not be permitted if it would be visible beyond a property line. See also electronic sign requirements in Section 345-24.M.
- J. Easements. No structure or use shall be allowed that would obstruct the purpose of a deeded stormwater, pedestrian, conservation or utility easement. It is the responsibility of the applicant to identify any affected easements at the time of any construction permit or development approval application.
- K. Home Occupations shall be subject to the following requirements:
- (1) See the definitions in 345-43. A Low-Impact Home Occupation is defined by that section as a type of Home Occupation that involves limited vehicle traffic to the property and that meets the requirements of this Section. Note - In residential districts, a Low Impact Home Occupation is typically allowed by right, while other types of Home Occupation may need special exception approval from the Zoning Hearing Board.
  - (2) A Low-Impact Home Occupation shall only involve the following activities:
    - (a) work routinely conducted within an office,
    - (b) custom sewing and fabric and basket crafts,
    - (c) cooking and baking for off-site sales and use,
    - (d) creation of visual arts (such as painting or wood carving),
    - (e) repairs to and assembly of computers and computer peripherals,
    - (f) a construction tradesperson, provided that no more than one employee who does not reside on the property shall routinely travel to and from the lot, and.or
    - (g) another use that the applicant proves would meet the definition in the PA. Municipalities Planning Code for a "No Impact Home-Based Business."

- (3) The business activity shall be compatible with the residential use of the property and surrounding residential uses.
- (4) The business shall employ a maximum of one employee other than persons residing in the dwelling, unless specifically stated otherwise in a zoning district.
- (5) There shall be no exterior display, storage or sale of goods for sale.
- (6) There shall be no outside appearance of a business use, except for any parking and one sign with a maximum sign area of 2 square feet, which shall not be illuminated in a residential district. Any exterior lighting shall be limited to amounts and intensities typically found on a residential property.
- (7) The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including with radio or television reception, which is detectable beyond the confines of the dwelling unit, including transmittal through vertical or horizontal party walls. If the lot only includes a single family detached dwelling unit, then this standard may be met at the lot line.
- (8) The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with a typical residential use.
- (9) The business activity shall be conducted only within the dwelling and/or one accessory building and may not occupy a floor area that exceeds 25% of the total building floor area on the lot.
- (10) The business may not involve any illegal activity.
- (11) The storage, use or processing of hazardous or toxic substances are prohibited, except for amounts and types typically found within a dwelling.
- (12) The use shall not involve deliveries or pickups by tractor-trailer trucks.
- (13) No more than one person shall conduct haircutting or hairstyling on-site at any one time.
- (14) When special exception approval is required, the Zoning Hearing Board shall deny a Home Occupation application, or limit its intensity through conditions, if the Board determines the use would be too intense for the proposed location. In making such determination, the Board shall review the likely amounts of traffic, the types of deliveries needed, the types of operations involved and related nuisances, the amount of off-street and on-street parking that is available, the density of the neighborhood, whether the use would be adjacent to another dwelling, and setbacks from other dwellings.
- (15) The use shall not involve manufacturing, other than of custom crafts and sewing. The use shall not involve commercial repair of motor vehicles.

- (16) The use may include sales using telephone, mail order or electronic methods. On-site retail sales shall be prohibited, except for sales of hair care products as accessory to a barber/beauty shop.
- (17) A home occupation shall not be conducted in a manner that is perceptible to other residents between the hours of 9 p.m. and 7 a.m.
- (18) Any tutoring or instruction shall be limited to a maximum of 3 students on the property at a time.
- (19) A barber or beauty shop shall not involve any employees who do not reside on the property.
- (20) The main office of a medical doctor, chiropractor or dentist shall not be permitted as a home occupation.
- (21) No more than one person who does not reside on the property shall come to the property on a regular basis to operate motor vehicles based at the property or to load or unload trucks on the property or an adjacent street on a regular basis.

L. Clothing Donation Bins. These bins shall meet the following additional requirements.

- (1) Such bins shall only be allowed as accessory to a place of worship, municipal use or fire or ambulance company building.
- (2) Such bin shall be enclosed and constructed of metal or other Borough-approved material and be designed for the public to deposit clothing until it is picked up on a regular basis by the entity that registered to maintain the bin.
- (3) A zoning permit shall be required. As part of the permit, an entity shall register with the Borough to be responsible to properly maintain and regularly empty the bin, and to maintain the surrounding premises in a clean and sanitary manner. The applicant shall provide written proof that the landowner has agreed to the placement of the bin. A laminated copy of the permit shall be attached to the side of the bin. The permit shall be renewed each year. If the permit expires or is no longer in active use or being regularly emptied, the bin shall be removed within 10 calendar days. If the person responsible to maintain and empty the bin should change, the Zoning Officer shall be notified within one business day in writing.
- (4) The bin shall not obstruct safe sight distances, landscaping, buffer areas, on-site circulation, required parking, loading areas or other required features. The bin shall meet principal building setbacks if adjacent to residential lot, and accessory setbacks in other cases. A bin shall not be allowed within a minimum front yard. A bin shall not be placed within a public right-of-way.
- (5) A bin shall have a maximum width of 6 feet, a maximum length of 6 feet and a maximum height of 6 feet.

**§ 345-23. Off-street parking and loading**

A. Required number of parking spaces.

(1) Overall requirements.

- (a) Number of spaces. Each use that is developed, enlarged, significantly changed in type or increased in number of establishments after the date of this chapter shall provide and maintain off-street parking spaces in accordance with the following table and the regulations of this article.
- (b) Uses not listed. Uses not specifically listed in the following table shall comply with the requirements for the most similar use listed in the following table, unless the applicant proves to the satisfaction of the Zoning Officer that an alternative standard should be used for that use.
- (c) Multiple uses. Where a proposed lot contains or includes more than one type of use, the number of parking spaces required shall be the sum of the parking requirements for each separate use.

**TABLE 4.1 - OFF-STREET PARKING REQUIREMENTS**

(See also § 345-20F(4) if within the TC Town Center District)

Use	Number of off-street parking spaces required	Plus 1 off-street parking space for each:
<u>Residential uses:</u> a. Dwelling unit, other than types listed separately in this table.	2 per dwelling unit*, except: 1 per one bedroom or an efficiency unit. * Note: If desired, one space may be in a garage and one space in a driveway, if they serve the same dwelling unit. If a property is approved as a Live-Work Unit where the operator of the business lives on the premises, then one less parking space shall be required.	
b. Home occupation or Home-based business	Spaces required for the Dwelling Unit.	Non-Resident Employee. For uses that need a variance or special exception, the Zoning Hearing Board may require additional parking as they determine to be needed.
c. Multiple dwellings for the elderly	1 per dwelling/ rental unit, except 0.4 per dwelling/ rental unit if evidence is	Non-Resident Employee

Use	Number of off-street parking spaces required	Plus 1 off-street parking space for each:
	presented that the non-physically handicapped persons will clearly primarily be over 70 years old	
d. Boarding house	1 per rental unit or bed for adult, whichever is greater	Non-Resident Employee
e. Group home	See § 345-22	
<u>Institutional uses:</u>		
a. Place of worship or church	1 per 5 seats in room of largest capacity	Employee
b. Hospital	1 per 3 beds	1.2 Employees
c. Nursing home	1 per 5 beds	1.2 Employees
d. Assisted living facility and/or personal care center	1 per 4 beds	1.2 Employees
e. Day care center	1 per 10 children, with spaces designed for safe and convenient drop-off and pick-up	1.2 Employees
f. School, primary or secondary	1 per 4 students aged 16 or older	Employee
g. Utility facility	1 per vehicle routinely needed to service facility	
h. College, university or trade school	1 per 1.5 students not living on campus who attend class at peak times (plus required spaces for on-campus housing)	Employee
i. Library, community center or cultural center or Museum	1 per 5 seats (or 1 per 250 sq. ft. of floor area accessible to patrons and/or users if seats are not typically provided)	Employee
j. Treatment Center	1 per 2 residents aged 16 years or older plus 1 per non-resident intended to be treated on-site at peak times	Non-Resident Employee
k. Swimming pool, commercial	1 per 50 sq. ft. of water surface, other than wading pools	1.2 Employee

Use	Number of off-street parking spaces required	Plus 1 off-street parking space for each:
<u>Commercial uses:</u>	All commercial uses, as applicable, shall provide additional parking or storage needed for maximum number of vehicles stored, displayed or based at the lot at any point in time. These additional spaces are not required to meet the stall size and parking aisle width requirements of this chapter.	
a. Auto service station or repair garage	5 per motor vehicle mechanic and 1/4 per fuel pump with such spaces separated from accessways to pumps	Employee; plus any parking needed for a convenience store under "retail sales"
b. Auto, boat, recreational vehicle or manufactured home sales	1 per 15 vehicles, boats, RVs or homes displayed	Employee
c. Bed and breakfast use	1 per rental unit plus the 2 per dwelling unit	Non-resident employee
d. Bowling alley	2 per lane plus 2 per pool table	1.2 Employees
e. Car wash	Adequate waiting and drying areas.	1.2 Employees
f. Financial institution (including banks)	1 per 200 sq. ft. of floor area accessible to customers, plus "office" parking for any administrative offices	1.2 Employees
g. Funeral home	1 per 5 seats in rooms intended to be in use at one time for visitors, counting both permanent and temporary seating	Non-resident Employee
h. Miniature golf	1 per 2 holes	1.2 Employees
i. Haircutting/hairstyling	1 per customer seat used for haircutting, hair styling, manicuring or similar work	1.2 Employees
j. Hotel or motel	1 per rental unit plus 1 per 4 seats in the largest meeting room (plus any required by any restaurant)	1.2 Employees
k. Laundromat	1 per 3 washing machines	On-site Employee
l. Offices or clinic, medical/dental	5 per physician and 4 per dentist	1.2 Employees

Use	Number of off-street parking spaces required	Plus 1 off-street parking space for each:
<u>Commercial uses:</u>	All commercial uses, as applicable, shall provide additional parking or storage needed for maximum number of vehicles stored, displayed or based at the lot at any point in time. These additional spaces are not required to meet the stall size and parking aisle width requirements of this chapter.	
m. Offices, other than above	1 per 350 sq. ft. of total floor area	
n. Personal service use, other than haircutting/hairstyling (min. of 2 per establishment)	1 per 200 sq. ft. of floor area accessible to customers	1.2 Employees
o. Indoor recreation (other than bowling alley), membership club or exercise club	1 per 4 persons of maximum capacity of all facilities	1.2 Employees
p. Outdoor recreation (other than uses specifically listed in this table)	1 per 4 persons of capacity (50% may be on grass overflow areas with major driveways in gravel)	1.2 Employees
q. Restaurant	1 per 5 seats, or 4 spaces for a use without customer seats	1.2 Employees
r. Retail sales (other than types separately listed)	1 per 200 sq. ft. of floor area of rooms accessible to customers.	
s. Retail sales of only furniture, lumber, carpeting, bedding or floor covering	1 per 400 sq.ft. of floor area of rooms accessible to customers	
t. Tavern	1 per 30 sq. ft. of total floor area	1.2 Employees
u. Theater or auditorium	1 per 4 seats, one-half of which may be met by convenient parking shared with other business uses on the same lot that	1.2 Employees

Use	Number of off-street parking spaces required	Plus 1 off-street parking space for each:
<u>Commercial uses:</u>	All commercial uses, as applicable, shall provide additional parking or storage needed for maximum number of vehicles stored, displayed or based at the lot at any point in time. These additional spaces are not required to meet the stall size and parking aisle width requirements of this chapter.	
	<b>are typically not routinely open beyond 9:00 p.m.</b>	
v. Trade/hobby school	1 per 2 students on-site during peak use	1.2 Employee
w. Veterinarian office	4 per veterinarian	1.2 Employee
<u>Industrial uses:</u>	In addition to parking or storage needed for maximum number of vehicles stored, displayed or based at the lot at any point in time, which spaces are not required to meet the stall size and aisle width requirements of this Ordinance	
a. All industrial uses (including warehousing, distribution and manufacturing)	1 per 1.2 employee, based upon the maximum number of employees on-site at peak period of times	1 visitor space for every 10 managers on the site
b. Self-storage development	1 per 20 storage units	1.2 Employee

(2) Parking reduction and flexibility in TC Town Center District. See § 345-20.F(4).

B. General regulations for off-street parking.

- (1) General. Parking spaces and accessways shall be laid out to result in safe and orderly use, and to fully take into account all of the following: vehicular access onto and off the site, vehicular movement within the site, loading areas, pedestrian patterns and any drive-thru facilities. No parking area shall cause a safety hazard or impediment to traffic off the lot.
- (2) Existing parking. Any parking spaces serving such pre-existing structures or uses at the time of adoption of this chapter shall not in the future be reduced in number below the number required by this chapter.
- (3) Change in use or expansion. A structure or use in existence at the effective date of this chapter that expands or a change in use of an existing principal building occurs

shall be required to provide all of the required parking for the entire size and type of the resulting use, except as follows:

- (a) If an existing lawful use includes less parking than would be required, then that deficit of parking shall be grandfathered for new uses. For example, if an existing store included 3 parking spaces and was required to provide 7 spaces, there is a deficit of 4 spaces. Therefore, if that store is converted to an office that would need 10 spaces, the office would need to provide a total of 6 spaces (10 minus the pre-existing deficit of 4).
  - (b) If a use expands by an aggregate total of up to 10 percent in the applicable measurement (such as building floor area) beyond what existed at the time of adoption of this chapter, then no additional parking is required. For example, if an existing building included 3,000 square feet, and a single addition of 300 square feet was proposed, then additional parking would not be required. However, if a second addition of 300 square feet would be proposed, then parking for the addition would be required.
- (4) Continuing obligation of parking and loading spaces. All required numbers of parking spaces and off-street loading spaces shall be available as long as the use or building which the spaces serve still exist, and such spaces shall not be reduced in number below the minimum required by this chapter. No required parking area or off-street loading spaces shall be used for any other use (such as storage or display of materials) that interferes with the area's availability for parking.
- (5) Location of Parking. Required off-street parking spaces shall be on the same lot with the principal use served, except as follows:
- (a) Required parking may be located on another lot within 200 feet of use that is served by the parking, provided the applicant proves to the satisfaction of the Zoning Officer that there is a lease or other legal commitment acceptable to the Borough to make sure that the parking continues to be available during the life of the use. For employee parking, this distance may be increased to 500 feet.
    - (i) The Zoning Officer may require a written and signed lease, or a deed restriction that prevents a second lot from being sold separately from the main lot. The Zoning permit may be conditioned upon the continuation of the lease, unless the parking is replaced by a new site that also is approved to meet Borough requirements.
    - (ii) Parking in a residential district that serves principal business uses shall need special exception approval and shall not be approved if it could create significant nuisances for adjacent residents.
- (6) Flexibility in Parking. As a special exception, an applicant may prove to the satisfaction of the Zoning Hearing Board that the minimum amount of off-street

parking should be modified for a specific application because of one or more of the following characteristics:

- (a) The applicant proves that parking will be shared with another use that will reduce the total amount of parking needed because the uses have different peak times of parking need, and that there is a legally guaranteed method to make sure that the parking will continue to be available during all of the years that the use is in operation.
  - (b) The applicant proves that the parking demand for a particular use is unusually low because of some unusual and peculiar characteristic of the use.
  - (c) Within the TC Town Center district, see also § 345-20F(4).
- (7) Truck, Recreational Vehicle and Boat Parking.
- (a) In any residential districts, no boats or recreational vehicles with a length greater than 24 feet shall be stored or parked outdoors within any front yard.
  - (b) In any residential district, a truck with a registered gross vehicle weight of greater than 14,000 pounds or a tractor and/or trailer of a tractor-trailer shall not be parked outdoors, except when necessary as part of on-site construction or repairs.
- (8) Unregistered Vehicles. See the separate Borough Ordinance that regulates unregistered motor vehicles.
- C. Design standards for off-street parking.
- (1) General Requirements.
- (a) Backing onto a street. No parking area shall be designed to require or encourage parked vehicles to back into a street in order to leave a parking space, except for a single family or two-family dwelling with its access onto a local street or parking court.
  - (b) Stacking and obstructions. Every required parking space shall be designed so that each motor vehicle may proceed to and from the parking space provided without requiring the moving of any other vehicle, except for spaces serving a single family, twin or townhouse dwelling. Each lot shall provide adequate area upon the lot to prevent back-up of vehicles on a public street while awaiting entry to the lot, or while waiting for service at a drive-thru facility.
  - (c) Parking areas shall not be within a required buffer yard or street right-of-way.
  - (d) Separation from street. Except for parking spaces immediately in front of individual dwellings, all areas for off-street parking, off-street loading and unloading and the storage or movement of motor vehicles shall be physically

separated from the street by a continuous grass or landscaped planting strip with a minimum width of 10 feet, (except where a 5 foot width is required in the TC district), except for necessary and approved vehicle entrances and exits to the lot. Such planting area shall include a mix of low level plantings and deciduous shade trees.

2. Size and marking of parking spaces.

- (a) Each parking space shall be a rectangle with a minimum width of 9.5 feet and a minimum length of 18 feet, except the minimum length shall be 22 feet for parallel parking and the minimum width 8 feet.
- (b) For handicapped spaces, see Subsection C.4 below.
- (c) All spaces shall be identified to indicate their location, except those of a one or two family dwelling.
- (d) Spaces and aisles used to store vehicles that are for sale or rent do not need to meet the dimensional requirements of this Section.

3. Aisles.

- (a) Each parking aisle providing for one-way traffic to access parking stalls shall have the following minimum width:

Angle of Parking	Minimum Aisle Width
Parallel or 30 degrees	12 feet
45 degrees	14 feet
60 degrees	18 feet
90 degrees	20 feet

- (b) Each parking aisle providing access to stalls for two-way traffic shall be a minimum of 24 feet in width, except a width of 20 feet may be allowed for parking areas with spaces that are parallel or involve an angle of parking of 45 degrees or less.

4. Handicapped parking.

- (a) Number of spaces. Any lot including one or more new off-street parking spaces shall include a minimum of one handicapped space. This requirement shall not apply to parking serving only one or two dwelling units. The following number of handicapped spaces shall be provided, unless a revised regulation is officially established under the Federal Americans with Disabilities Act:

TOTAL NO. OF PARKING SPACES ON THE LOT	REQUIRED MINIMUM NO./ PERCENT OF HANDICAPPED PARKING SPACES
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of required number of spaces
1,001 or more	20 plus 1% of required number of spaces over 1,000

- (b) Location. Handicapped parking spaces shall be located where they would result in the shortest reasonable accessible distance to a handicapped accessible building entrance. Curb cuts shall be provided as needed to provide access from the handicapped spaces.
- (c) Minimum size. Each required handicapped parking space shall be 8 by 18 feet. In addition, each space shall be adjacent to a 5 feet wide access aisle. Such access aisle may be shared by two handicapped spaces by being placed between them. However, 1 out of every 5 required handicapped parking spaces shall have an adjacent access aisle of 8 feet width instead of 5 feet.
- (d) Slope. Handicapped parking spaces shall be located in areas of less than 6 percent slope in any direction.
- (e) Marking. All required handicapped spaces shall be well marked by clearly visible signs or pavement markings. Blue paint is recommended.
- (f) Paving. Handicapped parking spaces and adjacent areas needed to access them with a wheelchair shall be covered with a smooth surface that is usable with a wheelchair.
- (g) These numbers of spaces are not in addition to the total number of required parking spaces. Instead, a portion of the total required number of parking spaces shall be designed to meet this sub-section.

D. Access Drives and Driveways.

- (1) Width of driveway/accessway at entrance onto a public street, at the edge of the cartway:\*

	1-Way Use	2-Way Use
Minimum	12 feet *	25 feet *
Maximum	20 feet *	30 feet *

\* Unless a different standard is required by PennDOT for an entrance to a State road, or the applicant proves to the satisfaction of the Zoning Officer that a wider width is needed for tractor-trailer trucks.

- (2) Drainage. Adequate provisions shall be made to maintain uninterrupted parallel drainage along a public street at the point of driveway entry. The Borough may require an applicant to install an appropriate type and size of pipe at a driveway crossing.
- (3) Paving, grading and drainage.
  - (a) Parking and loading facilities, including driveways, shall be graded and adequately drained to prevent erosion or excessive water flow across streets or adjoining properties.
  - (b) Except for landscaped areas, all portions of required parking, loading facilities and driveways shall be surfaced with asphalt, concrete, paving block, stone or Borough approved pervious parking materials. See also the Borough Sidewalk Ordinance [Chapter 296], which requires concrete aprons at driveway crossings. Stone parking lots shall not be allowed in the GC or TC Districts.
- (4) Lighting of parking areas. See "Light and Glare Control" in § 345-22.I.

E. Off-street loading.

- (1) Each use shall provide off-street loading facilities, which meet the requirements of this section, sufficient to accommodate the maximum demand generated by the use and the maximum size vehicle, in a manner that will not routinely obstruct traffic on a public street. If a reasonable alternative does not exist, traffic may be obstructed for occasional loading and unloading along an alley.
- (2) At the time of review under this chapter, the applicant shall provide evidence to the Zoning Officer on whether the use will have sufficient numbers and sizes of loading facilities. The Planning Commission and/or Borough Council may provide advice to the Zoning Officer on this matter as part of any plan review by such boards. For the purposes of this section, the words "loading" and "unloading" are used interchangeably.
- (3) Each space and the needed maneuvering room shall not intrude into approved buffer areas and landscaped areas.
- (4) Fire lanes shall be provided where required by State or Federal regulations or other local ordinances. The specific locations of these lanes are subject to review by Borough fire officials.

F. Paved area landscaping (parking lot trees).

- (1) The term "paved area" shall include all off-street parking spaces, driveways, loading areas, vehicle storage areas and related aisles, other than areas that are allowed to remain in grass.

- (2) A maximum of 15 consecutive and contiguous parking spaces in a row shall be allowed without being separated by a landscaped area.
- (3) One deciduous tree shall be required for every 3,000 square feet of new Paved Area. The trees shall be planted around and/or within parking areas. This number of trees shall be in addition to any trees required by any other section of this chapter or by the Subdivision and Land Development Ordinance [Chapter 305]. Where existing healthy trees will be maintained that will serve the same purposes, the Borough may allow such existing trees to count towards the requirements for new trees.
- (4) Required trees required by this section shall meet the following standards:
  - (a) Type of Trees Permitted. Required trees shall be chosen from the following list of approved deciduous trees, unless the applicant proves to the satisfaction of the Zoning Officer that another type of tree would shade paved areas, be durable, be resistant to disease, road salt and air pollution and be attractive.

Types of Deciduous Trees Permitted to Meet Ordinance Requirements

Acer platanoides – Norway Maple  
 Acer rubrum – American Red Maple  
 Acer saccharum – Sugar Maple  
 Celtis occidentalis – Common Hackberry  
 Fagus sylvatica – European Beech  
 Fraxinus americana White Ash  
 Fraxinus pennsylvanica – Green Ash  
 Ginkgo biloba fastigiata – Maiden Hair Tree (male only; female has noxious odor)  
 Gleditsia triacanthos – Thornless Locust  
 Liquidambar styraciflua – Sweet Gum  
 Liriodendron tulipifera – Tulip Poplar  
 Prunus sargentii – Sargent Cherry  
 Quercus All species of Oaks  
 Sophora japonica – Scholar or Pagoda Tree  
 Tilia americana – American Linden  
 Tilia cordata Little Leaf European Linden  
 Tilia euchlora – Crimean Linden  
 Tilia petiolaris – Silver Linden  
 Ulmus - hybrids – Homestead or Sapporo Autumn Gold  
 Ulmus parviflora – Chinese or Lacebark Elm, not including Siberian Elm  
 Zelkova serrata – Zelkova

Note: This chapter only regulates the species of trees that are used to meet requirements of the Borough. The species of trees that are not required by Borough ordinances are not regulated.

- (b) Quality of trees. Required trees shall be of symmetrical growth and free of insect Pests and disease.

- (c) Minimum size. The trunk diameter (measured at a height of 1 foot above the finished grade level) shall be a minimum of 2 inches or greater.
- (d) Planting and maintenance. Required trees shall be:
  - [1] Planted in conformance with good landscaping practices, with adequate unpaved surface around each for water and air.
  - [2] Properly protected by raised curbs, distance or other devices from damage from vehicles.
  - [3] Surrounded by a minimum of 16 square feet of pervious ground area.
  - [4] Properly maintained.
- (e) A required tree(s) shall not be removed without being replaced by the current landowner by another tree(s) that meets the requirements of this section. Trees which have died or have become diseased or pest ridden within 18 months from the time of planting shall be replaced by the developer.

**§ 345-24. Signs.**

**A. Applicability.**

- (1) Purposes. This article is intended to: promote and maintain overall community aesthetic quality; establish reasonable time, place and manner of regulations for the exercise of free speech, without regulating content; promote traffic safety by avoiding distractions and sight distance obstructions; and protect property values and ensure compatibility with the character of neighboring uses and historic buildings.
- (2) Permit required. A zoning permit shall be required for all signs except for:
  - (a) Signs meeting the requirements of Subsection C below.
  - (b) Non-illuminated window signs constructed of paper, cardboard or similar materials and that are not of a permanent nature.

Only types, sizes and heights of signs that are specifically permitted by this chapter within the applicable District shall be allowed.
- (3) Changes on signs. Any lawfully existing sign, including nonconforming signs, may be painted or repaired or changed in logo or message without a new permit under this chapter provided that the changes do not increase the sign area or otherwise result in noncompliance or an increased non-conformity with this chapter.

**B. Nonconforming Signs.**

- (1) Signs legally existing at the time of enactment of this chapter and which do not conform to the requirements of the chapter shall be considered nonconforming signs.
- (2) In no case shall such sign obstruct safe sight distances.

C. Miscellaneous Signs.

- (1) The following signs shall be permitted by right within all zoning districts within the following regulations, and shall not be required to have a permit under this article, unless stated otherwise.

Type and Definition of Signs Not Requiring Permits	Max. No. Of Signs per Lot	Max. Sign Area per Sign * on a Lot, Other than a “Non-Residential Lot” (Sq. Ft.)	Max. Sign Area per Sign* on a “Non-residential Lot” ** (Sq. Ft.)	Other Requirements
<u>Christmas Tree Sign</u> - Advertises the seasonal sale of Christmas trees.	2	8	30	Shall only be posted when such products are actively offered for sale.
<u>Charitable Event Sign</u> - Advertises a special event held a maximum of 9 days in any calendar year that primarily is held to benefit a U.S. Internal Revenue Service certified tax-exempt nonprofit organization, fire company or place of worship.	2	4	40	Shall be placed a max. of 30 days prior to event and removed a maximum of 4 days after event. These signs shall not be illuminated.
<u>Contractor's Sign</u> - Advertises a building tradesperson, engineer or architect who is actively conducting significant work on a particular lot that is not such person's place of business, or an entity providing funding for a major construction project.	2	8	40	Shall only be permitted while such work is actively and clearly underway and a maximum of 10 days afterward. Such signs shall not be placed on the lot for more than 1 year. These signs shall not be illuminated.

Type and Definition of Signs Not Requiring Permits	Max. No. Of Signs per Lot	Max. Sign Area per Sign * on a Lot, Other than a “Non-Residential Lot” (Sq. Ft.)	Max. Sign Area per Sign* on a “Non-residential Lot” ** (Sq. Ft.)	Other Requirements
<u>Directional Sign</u> - provides information indicating traffic direction, entry or exit, loading or service area, directions to apartment numbers or parking courts in a development, fire lanes, parking or closely similar information regarding the same lot as the sign is on, and that does not include advertising.	No max.	3, in addition to signs painted on pavement	3, in addition to signs painted on pavement	Directional signs within a residential development shall not be illuminated. Note - Signs that are not readable from beyond any property line or street are not regulated by this chapter.
<u>Flag</u> - a banner or pennant made of fabric or materials with a similar appearance that is hung in such a way to flow in the wind and that includes some type of commercial message.	2	20	50	Governmental flags and colored flags without an advertising message are not regulated by this chapter. This provision shall not allow plastic pennants on a rope.
<u>Garage Sale Sign</u> - advertises an occasional garage sale/porch sale or auction.	2 per event	2 per sign	2 per sign	Shall be placed a maximum of 48 hours before event begins, and be removed maximum of 24 hours after event ends.

Type and Definition of Signs Not Requiring Permits	Max. No. Of Signs per Lot	Max. Sign Area per Sign * on a Lot, Other than a “Non-Residential Lot” (Sq. Ft.)	Max. Sign Area per Sign* on a “Non-residential Lot” ** (Sq. Ft.)	Other Requirements
<u>Home Occupation Sign</u> - advertises a permitted home occupation. If a home occupation is located in a commercial or industrial district, the applicant may choose to have a sign meeting the requirements of that district instead of the home occupation sign requirements. These signs shall require a permit.	1	2	2	Shall not be internally or externally illuminated. Shall be setback a minimum of 10 feet from the street right-of-way, unless printed on a mailbox. May be freestanding, attached flat on a building wall or within a window.
<u>Identification Sign</u> - only identifies the name of the resident and/or the name, street address and/or use of a lot, but that does not include advertising.	1	1	6	Maximum height of 8 feet.
<u>Open House Sign</u> - advertises the temporary and periodic open house of a property for sale or rent.	2 per event	4	4	Shall be placed a maximum of 4 days before open house begins, and be removed within 6 hours after open house ends. Such sign shall not be posted more than 5 consecutive days.
<u>Political Sign</u> - advertises a person or party seeking political office or a political cause or opinion on a referendum or matter of political concern.	No maximum number	Maximum total of 30	Maximum total of 60	Shall be removed within 7 days after such election, vote or referendum. Persons posting political signs shall maintain a written list of locations of such signs, unless posting

Type and Definition of Signs Not Requiring Permits	Max. No. Of Signs per Lot	Max. Sign Area per Sign * on a Lot, Other than a "Non-Residential Lot" (Sq. Ft.)	Max. Sign Area per Sign* on a "Non-residential Lot" ** (Sq. Ft.)	Other Requirements
If a political sign does not meet these requirements, then it shall be regulated as an "off-premises sign."				signs on their own property. Political signs shall not be placed on private property without the prior consent of the owner. Political signs shall not be placed on Borough-owned property, except in front of a polling place on the date of a vote.
<u>Public Service Sign</u> - advertises the availability of restrooms, telephone or other similar public convenience.	No maximum	2	2	
<u>Real Estate Sign</u> - advertises the availability of property for sale, rent or lease.	1 per street the lot abuts	6	30	Shall only be placed on the subject property and only while the property is actively for sale, lease or rent. Shall be removed a within 7 days after settlement or start of lease.
<u>Service Organization/ Place of Worship Sign</u> - an off-premises sign stating name of a recognized incorporated service organization or place of worship and that states the place and times of meetings or services and/or an arrow directing persons to such location.	2	2	2	Maximum of 2 such signs per such organization or place of worship.

Type and Definition of Signs Not Requiring Permits	Max. No. Of Signs per Lot	Max. Sign Area per Sign * on a Lot, Other than a “Non-Residential Lot” (Sq. Ft.)	Max. Sign Area per Sign* on a “Non-residential Lot” ** (Sq. Ft.)	Other Requirements
<u>Temporary Signs</u> - temporary banners, flags and other signs that advertise a special sale or event at a lawful principal commercial business. These signs shall require permits.	2	Not permitted	40 square feet for the total of all such signs (such as 2 signs of 20 sf each or one sign of 40 sf).	Shall be displayed a maximum of 60 days per calendar year. Such signs shall not: flash, be internally illuminated, or obstruct safe sight distances.
<u>Time and Temperature Sign</u> - with a sole purpose to announce the current time and temperature and any non-profit public service messages.	1	Not permitted	30	Such sign shall need a zoning permit.
<u>Trespassing Sign</u> - indicating that a road is private, that trespassing is prohibited on a lot, or controlling certain activities such as hunting and fishing on the lot.	No max.	2	4	

\* Maximum sign areas are for the aggregate of all sides of each permitted sign, measured in square feet.

\*\* A “Non-Residential Lot” shall be considered a lot occupied by a principal non-residential use in a commercial or industrial zoning district.

(2) In addition, the following types of signs are not regulated by this chapter:

- (a) Historic sign memorializes an important historic place, event, building or person and that is specifically authorized by the Borough or a County, State or Federal agency.
- (b) Holiday decorations that commemorates a holiday recognized by the Borough, County, State or Federal Government and that does not include advertising.

(3) Not Readable sign. Not readable from any public street or any exterior lot line.

- (4) Official sign. Erected by the State, County, Borough or other legally constituted governmental body, or specifically authorized by Borough ordinance or resolution, and which exists for public purposes.
- (5) Required sign. Only includes information required to be posted outdoors by a government agency or the Borough.
- (6) Right-of-way sign. Posted within the existing right-of-way of a public street and officially authorized by the Borough or PennDOT.

D. Freestanding, wall and window signs.

- (1) The following are the signs permitted on a lot within the specified districts and within the following regulations, in addition to "Exempt Signs" and "Temporary Signs" permitted in all districts by other provisions of this article. See definitions of the types of signs in Subsection K below.

Zoning District or Type of Use	Maximum Total Height of Freestanding Signs	Maximum Area of Wall Signs	Maximum Area of Window Signs	Maximum Area and Number of Freestanding Signs
<b>Within a Residential District</b> - These provisions only apply to signs serving allowed principal non-residential uses. <b>No new signs in these districts shall be internally illuminated.</b>	8 feet	20 square feet on each side of a principal building.	May be used in place of a wall sign with the same restrictions	1 sign on each street the lot abuts, each with a maximum sign area of 32 sq. ft. See also subsection (b) below.
<b>Within a Residential District</b> - for signs for residential and accessory uses. <b>No new signs in these districts shall be internally illuminated.</b>	The provisions of Section 345-24.C. shall apply.	The provisions of Section 345-24.C. shall apply.	The provisions of Section 345-24.C. shall apply.	The provisions of Section 345-24.C. shall apply.
<b>Within a TC District</b> -	12 feet	10% of the area of the building side	Temporary non-illuminated window signs are	1 sign per street that the lot abuts, each with a

Zoning District or Type of Use	Maximum Total Height of Freestanding Signs	Maximum Area of Wall Signs	Maximum Area of Window Signs	Maximum Area and Number of Freestanding Signs
<p><b>Within a Residential District</b> - These provisions only apply to signs serving allowed principal non-residential uses. <b>No new signs in these districts shall be internally illuminated.</b></p>	8 feet	20 square feet on each side of a principal building.	May be used in place of a wall sign with the same restrictions	1 sign on each street the lot abuts, each with a maximum sign area of 32 sq. ft. See also subsection (b) below.
<p><b>Within a Residential District</b> - for signs for residential and accessory uses. <b>No new signs in these districts shall be internally illuminated.</b></p>	The provisions of Section 345-24.C. shall apply.	The provisions of Section 345-24.C. shall apply.	The provisions of Section 345-24.C. shall apply.	The provisions of Section 345-24.C. shall apply.
<p><b>No new freestanding sign in the TC District shall be internally illuminated.</b></p>		on which the signs are attached, up to maximum total of 100 square feet. See also subsection (a) below.	not regulated. Other window signs are regulated as wall signs.	maximum area of 32 sq.ft. Freestanding signs shall not be allowed in the right-of-way. See also subsections (a) and (b) below.
<p><b>Within All Districts not listed above.</b></p> <p>See also “Temporary Signs” in § 345-24C.</p>	20 feet	15% of the area of the building side on which the signs are attached, up to a maximum total of 300 square feet.	Temporary non-illuminated window signs are not regulated. Other window signs are regulated as wall signs.	1 sign per street that the lot abuts, each with a maximum area of 60 sq.ft. See also subsections (b), and (c) below.

- (a) In the TC Town Center district, the following additional signs shall be permitted:

- (i) A maximum of one projecting sign or sign on a projecting awning is also permitted on a commercial lot, even if it intrudes into the public right-of-way, provided such sign:
    - (A) Has a minimum clearance over the sidewalk of 8 feet and a minimum setback from the curb of 5 feet (unless a differing standard is established by the Construction Code).
    - (B) In the case of a projecting sign, is constructed primarily of materials with an appearance similar to wood, in addition to any fasteners, and in the case of an awning, is constructed of materials that resemble a traditional fabric awning.
    - (C) Has a maximum sign area on each of 2 sides of 12 square feet, or 24 square feet in the case of a single sign on an awning.
    - (D) Is securely attached to the building.
  - (ii) A maximum of one “sandwich board” sign is also permitted outdoors on a commercial lot, provided:
    - (A) Such sign has a maximum sign area of 8 square feet on each of two sides and a maximum width of 3 feet.
    - (B) Such sign is taken indoors during all hours when the business is not open to the public.
    - (C) Such sign is not in a location that would interfere with pedestrian traffic, wheelchairs, emergency access or parking spaces.
    - (D) Such sign shall be durably constructed and shall be well maintained.
  - (b) If the permitted freestanding sign area is not used, such sign area may be added to the permitted wall sign area.
  - (c) If a lot includes 2 to 4 distinct commercial establishments, then along one street, in place of one 40 square foot freestanding sign, one or two freestanding signs shall be permitted with a maximum total freestanding sign area of 100 square feet. If a lot includes 5 or more distinct commercial establishments, then along one street, in place of one 40 square foot freestanding sign, one or two freestanding signs shall be permitted with a maximum total freestanding sign area of 150 square feet.
- (2) Maximum height of wall signs. The maximum height of wall signs shall be equal to the top of the roof along the wall to which they are attached. A sign may extend up

to 5 feet above the structural roof if it is attached to a vertical “parapet” wall that is architecturally integrated into the building facade.

- (3) Portable signs (including signs on mobile stands) and other temporary signs.
    - (a) Purpose. These standards recognize portable signs as a particular type of sign that has the characteristics of a temporary sign but that has been inappropriately used as a permanent sign. This section is based on the policy that if the owner or operator of a use desires to regularly display a sign for regularly changing messages, that it erect a permanent sign within all of the requirements of this chapter.
    - (b) Definition of a portable sign. A freestanding sign that is attached to a chassis or legs that allows it to be towed or carried from one location to another and that is not permanently attached to the ground.
    - (c) Portable signs are prohibited in all districts, except as a temporary Charitable Event sign or Temporary Sign as permitted by Subsection C(1) above. In any case, such signs shall not be in a right-of-way.
  - (4) Signs on walls. A freestanding sign may be attached to a decorative masonry or stone wall with a maximum height of 6 feet and a maximum length of 12 feet, without being regulated by the wall setback regulations of this chapter and with the wall itself not counting towards the maximum sign area. However, the wall shall meet clear sight triangle requirements.
  - (5) Sign area bonus. If a freestanding sign or wall sign has the appearance of relief-cut wood, and if the Borough Council determines that the proposed sign would have an attractive appearance consistent with the historic character of the Borough, then the Borough Council may authorize an increase in the maximum sign area for such sign of 20 percent beyond what would otherwise be allowed.
- E. Abandoned or outdated signs. Signs advertising a use no longer in existence (other than a sign relating to a building that is clearly temporarily vacant and being offered to new tenants or for purchase) shall be removed within 180 days of the cessation of such use.
- F. Location of signs. The following shall regulate the location of signs:
- (1) Setbacks
    - (a) A sign shall not project over or into any existing street right-of-way, except for permitted "projecting signs" and sandwich board signs within the TC district.
    - (b) A freestanding illuminated sign for a commercial or industrial business (where permitted) shall not be located within 10 feet of an abutting lot line of a lot that only includes one dwelling unit.

- (c) These setbacks shall not apply to official signs, nameplate signs, public service signs and directional signs.
  - (2) Sight clearance. No sign shall be located where it would interfere with views within a clear sight triangle.
  - (3) Off-premises. No signs except permitted off-premise, official, political or public service signs shall be erected on a property to which it does not relate.
  - (4) Permission of owner. No sign shall be posted on any property or sign pole or public utility pole, unless permission has been received by the owner.
  - (5) Utility poles. No sign shall be attached to a utility pole using metal fasteners, except by a utility or government agency. Commercial signs shall not be attached to a utility or light pole.
- G. Illumination of signs. See "Light and Glare Control" in § 345-22I.
- H. Vehicles functioning as signs. Any vehicle or structure to which a sign is affixed in such a manner that the carrying of such sign or signs no longer is incidental to the primary purpose of the vehicle or structure but becomes a primary purpose in itself shall be considered a freestanding sign and as such shall be subject to requirements for freestanding signs in the district in which such vehicle or structure is located.
- I. Prohibited signs. The following signs are prohibited in all zoning districts:
- (1) Any moving object used to attract attention to a commercial use shall be prohibited. Flags and banners shall be prohibited except as is permitted by Subsection C above and except for flags or banners meeting the requirements for a particular type of sign.
  - (2) Flashing, blinking, twinkling, animated or moving signs of any type shall be prohibited, except that time and temperature signs and Electronic Signs may be erected in the GC District. In addition, flashing lights visible from a street shall not be used to attract attention to a business. This restriction specifically includes window signs, but does not prohibit Holiday lighting or displays, within the parameters of § 345-36.
  - (3) Signs which emit smoke, visible vapors or particles, sound or odor shall be prohibited.
  - (4) Signs which contain information that states or implies that a lot may be used for a purpose not allowed by this chapter shall be prohibited.
  - (5) Signs that are of such character, form, shape or color that they imitate or resemble any official traffic sign, signal or device or that have any characteristics which are likely to confuse or distract the operator of a motor vehicle on a public street (such as prominent use of the words "Danger") shall be prohibited.
  - (6) Signs or displays visible from a lot line that include words or images that are obscene or pornographic shall be prohibited.

- (7) Balloons of greater than 35 cubic feet that are tethered to the ground or a structure for periods of over 24 hours and that are primarily intended for advertising purposes shall be prohibited, except as may be approved as a “Temporary Sign.”
  - (8) Outdoor lasers and searchlights aimed into the sky shall be prohibited, except as are necessary for an airport or heliport.
- J. Construction of signs. Every permanent sign permitted in this section shall be constructed of durable materials and shall be kept in good condition and repair. The Zoning Officer shall by, written notice, require a property owner or lessee to repair or remove a dilapidated or unsafe sign within 30 days from receipt of written notice. If such order is not complied with, the Borough may repair or remove such sign at the expense of such owner or lessee.
- K. Measurement and major types of signs.
- (1) Sign definitions. The following definitions shall be used in determining whether signs meet the measurement and type requirements of this article:
    - BUILDING SIDE - The vertical area of a particular front, rear or back of a building, but not including the area of any slanted roof.
    - ELECTRONIC SIGN - See § 345-43
    - FREESTANDING SIGN - A sign which is self-supporting upon the ground or which is primarily supported by poles attached to the ground and not primarily supported by a building.
    - HEIGHT OF SIGN - The vertical distance measured from the average ground level surrounding a sign to the highest point of the sign and its supporting structure. Religious symbols, when not accompanied by lettering, shall not be restricted by the sign heights of this Article when attached to a tower or spire of a place of worship.
    - ILLUMINATED SIGN, INTERNALLY - A sign illuminated by light from within the sign rather than a source adjacent to or outside of the sign. A sign within a display case with lights only shining onto the front of the sign shall be considered to be "externally" illuminated.
    - OFF-PREMISES SIGN - See § 345-43.
    - PROJECTING SIGN - A sign that is attached to the front of a building and extends perpendicular from the building. Such sign may project over a sidewalk and/or into part of a public right-of-way within the limitations of this Ordinance.
    - SIGN - See § 345-43.
    - WALL SIGN - A sign primarily supported by or painted on a wall of a building and which does not project more than 2 feet from such wall.

WINDOW SIGN - A sign which is readily visible and can be at least partially read from an exterior lot line and which is attached to a window or transparent door or that can be read through a window or transparent door.

- (2) Measurement of sign area.
  - (a) Sign area shall include all lettering, wording and accompanying designs and symbols, together with related background areas on which they are displayed. One "freestanding sign" may include several signs that are all attached to one structure, with the total "sign area" being the area of a common geometric form that could encompass all signs.
  - (b) The sign area shall not include any structurally supporting framework, bracing, or clearly defined wooden framing if such area does not include any display, lettering or sign and if such area is clearly incidental to the sign area itself.
  - (c) Where the sign consists of individual letters or symbols attached to or painted directly on a building or window, other than an illuminated background that is a part of the sign, the sign area shall be the smallest rectangle that includes all of the letters and symbols.
  - (d) The maximum sign area of sign shall be for each of two sides of a sign, provided that only one side of a sign is readable from any location.
  - (e) Unless otherwise specified, all square footages in regards to signs are maximum sizes.

L. Off-premise signs (including billboards).

- (1) Purposes. Off-premise signs are controlled by this chapter for the following purposes, to: ensure that a physical environment is maintained that is attractive to desirable types of development; prevent visual pollution in the Borough and protect property values, especially in consideration of the fact that most commercial areas of the Borough are within close proximity to existing residences; prevent glare on adjacent property and streets; avoid the creation of additional visual distractions to motorists, especially along busy arterial streets that involve complex turning movements and numerous traffic hazards; recognize the numerous alternative forms of free speech available in the Borough, including existing nonconforming off-premise signs, on-premise signs and temporary signs and printed and electronic media; carry out the purposes listed in Subsection A above.
- (2) Nonconforming off-premise signs. This section is not intended to require the removal of an existing lawfully placed off-premise sign that is in structurally sound condition.
- (3) PennDOT sign. Signs erected and maintained by PennDOT are permitted by right in all Districts.

- (4) Permitted off-premise signs. An off-premise sign is only permitted if it meets the following requirements:
- (a) District. An off-premise sign is only permitted in the LIC District.
  - (b) Location. All parts of an off-premise sign shall be setback a minimum of 30 feet from all lot lines and street rights-of-way.
  - (c) Maximum sign area: 300 square feet.
  - (d) Spacing. Any off-premise sign shall be separated by a minimum of 250 feet from any other off-premise sign, including signs on either side of a street and including existing signs in other municipalities. No lot shall include more than 1 off-premise sign structure.
  - (e) Maximum height. 35 feet above the elevation of the adjacent street, measured at the street centerline.
  - (f) Attached. No off-premise sign or sign face shall be attached in any way to any other off-premise sign, except that a sign structure may have two sign faces of 300 square feet each if they are placed approximately back-to-back.
  - (g) Control of lighting and glare. See standards in §345-22.I. An off-premise sign shall not be illuminated between the hours of 11 p.m. and 6 a.m. if the sign face would be visible from one or more dwellings.
  - (h) Residences. No off-premise sign greater than 10 square feet in sign area shall be located within 250 feet of an existing dwelling.
  - (i) Condition. The sign shall be maintained in a good and safe condition. The area around the sign shall be kept free of debris.

M. An Electronic Sign (see definition) shall meet the following additional requirements:

- (1) The message display shall not change more than once every 15 seconds for a electronically changing sign area of less than 30 square feet, and once every ~~30 seconds~~ minute for a larger sign, unless being controlled by a government agency for emergency purposes. A sign that only shows time and temperature may change more frequently.
- (2) The message shall change as quickly as possible without:
  - (i) Fading in and/or out;
  - (ii) Scrolling;
  - (iii) Blinking;
  - (iv) Sudden bursts of light or sound; and/or
  - (v) The appearance of graphics or animation;
- (3) The sign shall incorporate a brightness control system that adjusts the display

brightness to an appropriate level. The maximum brightness levels for electronic and digital signs shall not exceed 5000 nits when measured from the sign face at its maximum brightness, during daylight hours, and 500 nits when measured from the signs face at its maximum brightness between sunset and sunrise. Nits are a measure of the amount of light a sign emits, based upon candelas per meter squared.

- (4) The sign shall utilize a non-glare face combined with flat-colored borders to minimize the reflection of the sun or vehicle headlights;
- (5) The sign shall include a safety feature that enables the sign to turn off completely in the event the display panel malfunctions;
- (6) The sign shall include any displays that could be mistaken for a traffic signal;
- (7) The company controlling the sign should join a system to allow the display of emergency messages in cooperation with public agencies, and shall provide the Borough with current emergency point of contact name, address and phone number;
- (8) All other regulations pertaining to freestanding signs and location of signs shall be strictly adhered to; and
- (9) The sign shall be completely powered down when the company controlling the sign is not open for business. Any lighting of a multi-colored electronic sign of more than 30 square feet of sign area shall be extinguished between the hours of 11 PM and 6 AM if the sign face would be visible from one or more dwellings.

**ARTICLE VII**  
**SPECIAL EXCEPTION USES**

**§ 345-25. Procedure for Special Exception Uses.**

The Zoning Hearing Board shall make a determination that the proposed special exception use will or will not be approved pursuant to the procedures set forth in § 345-36. The use shall be approved if the standards and criteria set forth in Article VII are met. The use shall not be approved if the standards and criteria set forth in this section are not met. The Zoning Hearing Board may attach other reasonable conditions and safeguards which are necessary for the protection of the public health, safety or general welfare of the community in the permitting of a special exception use.

A. In addition to the other requirements of this chapter, an applicant for a special exception use shall prove that the following additional criteria are met:

- (1) Compliance with other laws. The approval may be conditioned upon proof of compliance with other specific applicable Borough, state and federal laws, regulations and permits. Required permits or other proof of compliance may be required to be presented to the Borough prior to the issuance of any zoning permit, building permit, certification of occupancy and/or recording of an approved plan.
- (2) Traffic. The applicant shall establish that the traffic from the proposed use will be accommodated in a safe and efficient manner that will minimize hazards and congestion, after considering any improvements proposed to be made by the applicant as a condition on approval. The lot shall include proper internal traffic circulation.
- (3) Neighborhood. The proposed use shall not substantially harm any surrounding residential neighborhood, after considering any proposed conditions upon approval and considering the proposed site planning, setbacks and buffering.
- (4) Safety. The use shall not create a significant hazard to the public health and safety, such as fire, toxic or explosive hazards.
- (5) Historic architecture. The application shall reasonably minimize negative impacts upon historically significant architecture on the lot, as viewed from a street.

**§ 345-26. Criteria.**

The following are the standards and criteria for each special exception use as noted in Article V. These standards apply only when the use is a special exception use.

A. Public and private primary or secondary schools.

- (1) The school shall be licensed by the Pennsylvania Department of Education.
- (2) Any outdoor play equipment, athletic fields, playing courts or parking lots shall be setback a minimum of 20 feet from an abutting lot line of a principal residential use.

- B. Municipal buildings, community center building, public library, fire, ambulance or police station.
  - (1) The storage of materials and supplies shall be limited to enclosed areas.
  - (2) Long-term storage of inoperable vehicles shall be limited to enclosed areas.
- C. Membership clubs.
  - (1) It shall be demonstrated to the Board that the private club or social organization shall operate on a membership basis only.
  - (2) It will serve a purely social, athletic, civic or community service purpose.
  - (3) A restaurant or tavern shall not be conducted on the site unless such use is allowed in the zoning district and the requirements for such use are met.
  - (4) It will not cause or create a nuisance to adjoining properties or to its general neighborhood in the conduct of its activities.
- D. Hospitals.
  - (1) Outside storage of gases must be made in areas inaccessible by and secure by the construction of fences.
  - (2) The location of hospital access points shall be properly suited to the safe operation of emergency vehicles.
  - (3) Access to hospitals shall be available at a minimum of two (2) locations.
  - (4) Suitable areas shall be provided for trash storage, which are so designed as not to be visible from a public street. The trash storage areas must allow for safe, easy removal of the trash.
- E. Outdoor storage of automobiles for sale.
  - (1) No loudspeaker audible beyond the property boundary line is permitted.
  - (2) Display area lighting shall be directed away from residential properties.
  - (3) All outside display areas shall be paved.
  - (4) The parking area shall be designed so that ordinary traffic movements associated with the display and sale of the vehicles can be accomplished within the bounds of the property.
- F. Car wash, public garage.
  - (1) The parking area shall be designed so that ordinary traffic movements associated with

the car wash or garage can be accomplished within the bounds of the property.

- (2) All exterior lighting shall be directed away from residential properties.
- (3) All storage shall be within enclosed structures.
- (4) Directions for the internal movement of traffic shall be clearly marked.
- (5) No public garage accommodating more than five (5) vehicles shall be located or shall have any entrance or exit within two hundred (200) feet of the entrance or exit to a public or parochial school, private school, public library, theater, assembly hall, church, hospital, semi-public institution, public park, playground or fire station.

G. Gas station or auto repair garages.

- (1) Spray painting or bodywork shall not be permitted, except in the LIC District.
- (2) All refuse shall be stored within an enclosed area. All parts shall be stored in an enclosed structure.
- (3) Vehicles awaiting repair and any inoperable, junk or unlicensed vehicles shall not be ~~stored~~ kept outside of enclosed areas for more than sixty (60) total days in a calendar year. If more than one vehicle is kept on the lot for more than five (5) days, it shall be placed behind landscaping or a solid fence at least six (6) feet in height so it is not visible from a street or dwelling.
- (4) The gasoline pumps shall be arranged so that sufficient area exists for expected lines of vehicles awaiting fueling within the property line.
- (5) When the rental of vehicles or trailers is conducted, sufficient space shall be reserved on-site for the parking and movement of such vehicles, and one additional off-street customer parking space shall be provided for each 10 vehicles offered for rent.
- (6) Ancillary businesses, such as car washes and convenience markets, must provide sufficient parking and a clear, safe access arrangement.
- (7) All exterior lighting shall be directed away from residential properties.
- (8) No garage accommodating more than five (5) vehicles and no gas station shall be located or shall have any entrance or exit within two hundred (200) feet of the entrance of or exit to a public or private primary or secondary school, day care center, public library, hospital, public park or playground.
- (9) Gasoline sales canopies. Any canopy over gasoline pumps shall have a maximum distance between the ground level and the underside of the canopy of 25 feet, measured on the side closest to the street or adjacent dwellings. Portions of a canopy can have a taller height on a sloped site or if the slope and height of the canopy is used to deflect lighting away from other properties. All light fixtures under the canopy shall be

recessed into the canopy or screened by an extension around the bottom of the canopy so that lighting elements are not visible from another lot.

H. Inter-city bus passenger station.

- (1) All areas used for vehicle storage, loading, fueling or maneuvering shall be paved.
- (2) The parking area shall be arranged so that all internal traffic movements can be made without entering the public right-of-way.
- (3) All repair operations shall be conducted within enclosed buildings.
- (4) All storage shall be within enclosed structures.
- (5) Access to and from inter-city bus stations shall only be allowed to roads classified as collector or arterial by the Borough.

I. Restaurants.

- (1) Suitable areas shall be provided for refuse storage which are so designed as not to be visible from a public street. The refuse storage area must allow for safe, easy removal of refuse. See screening of dumpster provisions in this Ordinance.
- (2) All exterior lighting shall be directed away from residential properties.
- (3) Where drive-through service is allowed, 2 menu board signs shall be allowed of up to 50 square feet each, provided the signs are not intended to be readable from beyond the property line.

J. Public utility buildings, structures or facilities. The storage of materials and supplies shall be limited to enclosed areas.

K. Child day care centers.

- (1) Once other requirements have been met, and the Zoning Hearing Board has approved the application, the final Certificate of Occupancy from the Borough shall only be issued after the applicant provides evidence that any needed approvals have been received from the Pennsylvania Department of Welfare, or its successor agency.

L. Personal care facilities.

- (1) The facility shall be designed so that the public use and common use portions are readily accessible to and usable by persons with physical or mental impairments who may live in the facility.
- (2) The facility shall be designed so that all doors in the facility shall allow passage into and within such facility by persons in wheelchairs who may live in the facility.

- (3) The facility shall be designed with (i) an accessible route into and through the facility; (ii) light switches, electrical outlets, thermostats and other environmental controls shall be located in accessible locations for persons who may live there; and (iii) kitchens and bathrooms shall be usable for any person who may live in such facility and have need for a wheelchair.
- (4) The outside appearance of the facility and its lot shall not alter the essential character of the neighborhood nor substantially impair the appropriate use of adjacent property.
- (5) The facility shall comply with all licensure requirements of any federal, state, county or local law applicable to the facility including, without limitation, the regulations of the Pennsylvania Department of Public Welfare, 55 PA. Code § 2620, et.. seq., as amended from time to time.

M. Mobile / manufactured homes and mobile / manufactured home parks.

- (1) There shall be no more than five (5) dwellings per acre in a mobile home park.
- (2) Mobile / manufactured home parks shall have a minimum area of three (3) acres; a minimum public street frontage of three hundred (300) feet; a minimum distance from a public street of fifty (50) feet to the first row of mobile / manufactured homes; a minimum side yard of fifty (50) feet; a minimum distance from the rear lot line of the park to the nearest mobile / manufactured home of fifty (50) feet; a maximum height of thirty-five (35) feet; and two (2) means of vehicle ingress and egress.
- (3) Mobile / manufactured home lots located in mobile / manufactured home parks shall have a minimum area of eight thousand (8,000) square feet; a minimum public street frontage of fifty (50) feet; a minimum front yard setback of twenty-five (25) feet; a minimum side yard setback of twenty (20) feet, a minimum rear yard setback of twenty (20) feet; and a maximum height of thirty-five (35) feet.
- (4) Any mobile/manufactured home placed on an individual lot or in a mobile/manufactured home park after the effective date of this chapter shall meet the following additional requirements:
  - (a) The mobile/manufactured home shall have been constructed in accordance with 1976 or later safety and construction standards of the U.S. Department of Housing and Urban Development.
  - (b) Each site shall be graded to provide a stable and well-drained area.
  - (c) Each home shall have hitch and wheels removed.
  - (d) A mobile/manufactured home shall include a suitable system that secures the home to the ground to prevent shifting, overturning or uneven settling of the home, with a secure base for the tie-downs.

- (e) The space between the bottom of the home and the ground and/or home pad shall be enclosed using a durable material that has the appearance of a foundation of a site-built home, such as material with a concrete-type or stucco facing. However, units within a Mobile/ manufactured home park which may utilize metal skirting in place of this enclosure. Provisions shall be provided as necessary for access to utility connections.
  - (f) The front door of the home shall face onto a public street, except within a Mobile / manufactured home Park.
- (5) In addition to general regulations in Articles VI and VII of this chapter, the following shall apply to mobile / manufactured home parks:
- (a) Each site shall be served with underground electricity, water and sewers. The water supply and sewage disposal shall be acceptable to the State Department of Environmental Protection and in conformance with the ordinances and regulations of the Borough.
  - (b) In all parks accommodating or designed to accommodate twenty-five (25) or more mobile/ manufactured homes, there shall be one (1) or more recreation areas, which shall be easily accessible to all homes. The size of such areas shall equal at least two hundred (200) square feet for each mobile/ manufactured home and no recreation area shall be less than five thousand (5,000) square feet. Such recreational areas shall comply with all ordinances and regulations of the Borough.
  - (c) Pedestrian walks of concrete shall be provided between the individual mobile / manufactured homes, public and private streets and all community facilities provided for the residents. Such pedestrian walks shall meet all ordinances and regulations of the Borough, including, without limitation, Chapter 296, Article III, of the Code of Ordinances of the Borough of Macungie, as amended.
  - (d) Streets within mobile / manufactured home parks shall comply with all ordinances and regulations of the Borough, including, without limitation, Article VI of the Borough of Macungie Subdivision and Land Development Ordinance, as amended [Chapter 305].
- N. Adult use. (This is limited to the following: adult bookstore, adult motion picture theater, massage parlor or cabaret)
- (1) Purposes. The regulations on adult uses are intended to serve the following purposes, in addition to the overall objectives of this chapter:
    - (a) To recognize the adverse secondary impacts of adult uses that affect health, safety and general welfare concerns of the municipality. These secondary impacts have been documented in research conducted across the nation and include, but are not limited to: increases in criminal activity, increases in activities that increase the risk of transmission of sexually transmitted diseases,

increases in activities that increase the risk of transmission of other communicable diseases, increases in blight, decreases in the stability of residential neighborhoods, and decreases in property values for surrounding homes, and decreases in the marketability of nearby commercial business space.

- (b) To limit adult uses to locations where these secondary impacts can be minimized, particularly as they affect residential neighborhoods and downtown revitalization.
  - (c) To not attempt to suppress any activities protected by the free speech protections of the U.S. Constitution, but instead to control secondary effects.
- (2) No portion of a building occupied by an adult use shall be located within any of the following distances: (i) 400 lineal feet of any residential zoning district boundary or any existing residential use, (ii) 800 lineal feet from the lot line of any existing primary or secondary school, park, playground or athletic field open for public recreation, place of worship, day care center or child nursery school.
  - (3) A 50 feet buffer yard shall be provided, regardless of zoning district, along the side and rear lot lines in accordance with § 345-19, but with plantings of an initial minimum height of 6 feet.
  - (4) No pornographic material, displays or words shall be placed in view of persons who are not inside of the establishment. Definite precautions shall be made to prohibit minors from entering the premises.
  - (5) No such use shall be used for any purpose that violates any Federal, State or municipal law.
  - (6) See “Prohibited Signs” in § 345-24I.
  - (7) The use shall not include the sale or display of obscene materials, as defined by State law, as may be amended by applicable court decisions.
  - (8) Adult uses shall be distinct land uses that shall only be allowed where specifically listed as allowed in the zoning district regulations.
  - (9) A minimum lot area of 1 acre is required.
  - (10) For public health reasons, private or semi-private viewing booths of any kind are prohibited. This specifically includes, but is not limited to, booths for viewing adult movies or nude dancers.
  - (11) No use may include live actual or simulated sex acts nor any sexual contact between entertainers nor between entertainers and customers. This shall specifically prohibit, but not be limited to, entertainers dancing on the laps of customers.

- (12) Only "lawful" massages as defined by State court decisions shall be performed in a massage parlor.
- (13) All persons within any adult use shall wear non-transparent garments that cover their genitals and the female areola, except for entertainers within a permitted lawful "cabaret."
- (14) Any application for such use shall state the names and home addresses of: (i) all individuals intended to have more than a 5 percent ownership in such use or in a corporation owning such use and (ii) an on-site manager responsible to ensure compliance with this chapter on a daily basis. Such information shall be updated at the beginning of each year in writing to the Zoning Officer.
- (15) An adult use shall not operate between the hours of 12 midnight and 8 a.m. If another use must be allowed to operate on the property during later hours under state law, that use may occur, but the adult use must stop operating at midnight.
- (16) As specific conditions of approval under this chapter, the applicant shall establish compliance with the following State laws, as amended: the Pennsylvania Liquor Code, Act 219 of 1990 (which pertains to sale or consumption of alcohol between 2 a.m. and 8 a.m.), Act 207 of 1990 (which pertains to obscenity) and Act 120 of 1996 (which pertains to Adult-Oriented Establishments and which limits enclosed viewing booths among other matters).

O. Bed and breakfast establishments.

- (1) One (1) off-street parking space shall be provided for each guestroom in addition to requirements for the residence. The off-street parking spaces shall be located either to the rear of the main dwelling or screened from the roadway and adjoining properties by fencing or natural vegetation.
- (2) At least one (1) bathroom shall be provided for the exclusive use of the guests.
- (3) There shall be no use of show windows or any type of display or advertising visible from outside the premises, except for a single sign no larger than two (2) square feet in size constructed and placed in accordance with § 345-24.
- (4) No external alterations or changes to the exterior structure shall be permitted except as required by the Pennsylvania Department of Labor and Industry or for safety reasons as required by any other governmental agency.
- (5) The use shall be managed by at least one person who resides on the premises.
- (6) There shall be no separate kitchen or cooking facilities in any guestroom. Food served to guests on the premises shall be limited to breakfast only.
- (7) The maximum, uninterrupted length of stay at a bed and breakfast use shall be fourteen (14) days.

- (8) The use of any amenities provided by the bed and breakfast, such as swimming pool or tennis court, shall be restricted in use to the guests of the establishment and residents of the property.
- (9) A maximum of 6 guest rental units shall be allowed where the use is permitted in a residential district.

P. Communications antennae and towers.

- (1) Purposes. To establish standards for the siting of communications towers and antennae (where allowed by the zoning district regulations) to:
  - (a) Protect residential areas and land uses from potential adverse impacts of such towers and antennae.
  - (b) Minimize the total number of towers throughout the community.
  - (c) Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers.
  - (d) Encourage users of towers and antennae to locate them, to the extent possible, in areas where the adverse impact on the community is minimal.
  - (e) Encourage users of towers and antennae to configure them in a way that minimizes the adverse visual impact of the towers and antennae through careful design, siting, landscape screening, and innovative camouflaging techniques.
  - (f) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.
  - (g) Consider the public safety issues.
  - (h) Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the Borough shall give due consideration to the Borough's master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennae.

[1] All new towers or antennae in the Borough shall be subject to these regulations.

[2] Preexisting towers and preexisting antennae shall not be required to meet the requirements of this subsection, other than the requirements of Subsections P(2) below.

[3] For purposes of implementing this subsection, an AM array, consisting

of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

(2) General Requirements.

(a) Communications Towers shall only be allowed where listed as allowed in a specific zoning district. Antennas are considered to be accessory uses to existing structures and are permitted by right in the GC and LIC districts, provided they do not extend a total of more than 15 feet above the existing structure.

(1) For BPL antenna, see separate provisions in subsection 26.U.

(b) Each applicant for an antenna and/or tower shall provide to the Zoning Officer an inventory of its existing towers, antennae, or sites approved for towers or antennae, that are either within the jurisdiction of the Borough or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The Zoning Officer may share such information with other applicants applying for administrative approvals or special exception use permits under this section or other organizations seeking to locate antennae within the jurisdiction of the Borough, provided, however that the Zoning Officer is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

(c) Towers and antennae subject to this subsection shall meet the following requirements:

(1) Towers should be of a neutral color so as to reduce visual obtrusiveness.

(2) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

(d) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

(e) All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennae. If such standards and regulations are changed, then the owners of the towers and antennae governed hereby shall

bring such towers and antennae into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennae into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

- (f) To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Borough concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.
  - (g) For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the Borough irrespective of municipal jurisdictional boundaries.
  - (h) Towers and antennae shall be regulated and permitted pursuant to this Section and shall not be regulated or permitted as essential services, public utilities, or private utilities.
  - (i) For purposes of this section, any special exception use request, variance request, or appeal of an administratively approved use or special exception use shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in Table 2 of this section, in addition to any notice otherwise required by this chapter.
  - (j) No signs shall be allowed on an antenna or tower.
  - (k) Buildings and support equipment associated with antennae or towers shall comply with the requirements of subsection P(1) et seq.
- (3) Special exception approval. The following provisions shall govern the issuance of special exception use permits for towers or antennae (which may only be sited in the LIC Zoning District):
- (a) Applications for special exception approval shall be subject to the procedures and requirements of § 345-36.
  - (b) In granting a special exception use permit, the Zoning Hearing Board may impose conditions to the extent the Zoning Hearing Board concludes such

conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.

- (c) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
- (d) An applicant for a special exception use permit shall submit the information described herein and a non-refundable fee as established by resolution or ordinance of the Borough Council to reimburse the Borough for the costs of reviewing the application.
- (e) The Applicant shall supply to the Borough, at the time that the application for a special exception is filed, the following information:
  - [1] A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), comprehensive plan classification of the site and all properties within the applicable separation distances set forth in Tables 1 and 2, below, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Zoning Officer to be necessary to assess compliance with this section.
  - [2] Legal description of the parent tract and leased parcel (if applicable).
  - [3] The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
  - [4] The separation distance from other towers described in the inventory of existing sites submitted pursuant to Subsection P(2)(b) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
  - [5] A landscape plan showing specific landscape materials.
  - [6] Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
  - [7] A description of compliance with all applicable federal, state or local laws.
  - [8] A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennae for future users.

- [9] Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the Borough.
  - [10] A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
  - [11] A description of the feasible location(s) of future towers or antennae within the Borough based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
- (f) The Zoning Hearing Board shall consider the following factors in determining whether to issue a special exception use permit:
- [1] Height of the proposed tower.
  - [2] Proximity of the tower to residential structures and residential district boundaries.
  - [3] Nature of uses on adjacent and nearby properties.
  - [4] Surrounding topography.
  - [5] Surrounding tree coverage and foliage.
  - [6] Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
  - [7] Proposed ingress and egress.
  - [8] Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in Subsection P(3)(g) below.
- (g) No new tower shall be permitted unless the Applicant demonstrates to the reasonable satisfaction of the Zoning Hearing Board that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Zoning Hearing Board related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- [1] No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
  - [2] Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
  - [3] Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
  - [4] The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the Applicant's proposed antenna.
  - [5] The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
  - [6] The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
  - [7] The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be resumed to render the technology unsuitable.
- (h) The following setback requirements shall apply to all towers for which special exception use approval is required:
- [1] Towers shall be set back a distance equal to at least one hundred twenty five percent (125%) of the height of the tower from any adjoining lot line.
  - [2] Accessory buildings must satisfy the minimum zoning district setback requirements.
- (i) The following separation requirements shall apply; provided, however, that the Zoning Hearing Board may reduce the standard separation requirements if the goals of this section would be better served thereby.
- [1] Separation from off-site uses/designated areas.
    - [a] Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1 of this section, except as otherwise

provided in Table 1.

- [b] Separation requirements for towers shall comply with the minimum standards established in Table 1.

Table 1

Off-site Use/Designated Area

Separation Distance

Lot line of existing principal dwelling unit	200 feet or 300% height of tower whichever is greater
Vacant residentially zoned lands	100 feet or 125% height of tower whichever is greater
Non-residentially zoned lands or non-residential uses	None; only zoning district setbacks apply

- [2] Separation distances between towers.

- [a] Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 2.

Table 2

Minimum separation distances between towers

	Tower 75 Ft in Height or Greater	Tower Less Than 75 Ft in Height
Tower 75 Ft in Height or Greater	1,500	750
Tower Less Than 75 Ft in Height	750	750

- (j) Towers shall be enclosed by security fencing not less than six feet in height and shall also be designed to not be able to be climbed from the ground without the aid of a ladder.
- (k) The following requirements shall govern the landscaping surrounding towers for which a special exception use permit is required; provided, however, that the Zoning Hearing Board may waive such requirements if the goals of this ordinance would be better served thereby.

- [1] Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The buffer shall consist of a landscaped strip at least 4 feet wide outside the perimeter of the compound.
  - [2] Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.
- (l) For antennae mounted on roof, the equipment cabinet shall not extend more than 5 feet above the roof.
  - (m) For antennae mounted on utility poles or light poles, the equipment cabinet or structure used in association with such antennae shall be located less than 6 feet above ground. The cabinet or structure shall meet all required front, rear and side yard set backs for the Zoning District.
  - (n) For antennae located on towers, the related unmanned equipment structure shall not be more than 6 feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located.
- (4) Removal of abandoned antennae and towers. Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the Borough notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said 90 day shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.
- (5) Nonconforming towers.
- (a) Towers that are constructed, and antennae that are installed, in accordance with the provisions of this section shall not be deemed to constitute the expansion of a nonconforming use or structure.
  - (b) Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this chapter.
  - (c) Notwithstanding Subsection P(2) above, bona fide nonconforming towers or antennae that are damaged or destroyed may be rebuilt without having to first obtain a special exception use permit and without having to meet the separation requirements specified above. The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval. Construction permits to rebuild the facility shall comply with the then-

applicable construction codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in Subsection P(2).

- (6) Communications Towers shall meet the following additional requirements:
  - (a) Meet setback requirements for a principal use, but guy wires and anchors may be located within side and rear yard set back areas.
  - (b) Meet requirements of this Ordinance to show that alternatives have been considered beyond the construction of a new tower.
  - (c) Conform to all applicable federal, state and local codes and ordinances.
  - (d) Have a maximum total height of 150 feet, provided that all other provisions of this Subsection P are met.
  - (e) See Section 345-21.A. concerning other types of antenna.

Q. Junkyard.

- (1) Storage of garbage or biodegradable material is prohibited, other than what is customarily generated on-site and routinely awaiting pick-up.
- (2) Outdoor storage of junk shall be at least: (i) 100 feet from any residential lot line and (ii) 50 feet from any other lot line and the existing right-of-way of any public street.
- (3) The site shall contain a minimum of 2 exterior points of access, each of which is not less than 20 feet in width. One of these accesses may be limited to emergency vehicles. Cleared driveways shall be provided throughout the entire use to allow access by emergency vehicles. Adequate off-street parking areas shall be provided for customers.
- (4) Outdoor storage shall be completely enclosed (except at approved driveway entrances) by a 40 foot wide buffer yard which complies with § 345-19, unless such storage is not visible from an exterior lot line or street. The initial height of the evergreen planting shall be 6 feet. Secure fencing with a minimum height of 8 feet shall be provided and well maintained around all outdoor storage areas. Such fencing shall be provided inside of the evergreen screening.
- (5) Burning or incineration is prohibited.
- (6) All gasoline, antifreeze and oil shall be drained from all vehicles and properly disposed of. All batteries shall be removed from vehicles and properly stored in a suitable area on an impervious and properly drained surface.
- (7) Lot area - 2 acres minimum; 20 acres maximum.
- (8) Tires shall not be stored in a manner that would create fire or vector hazards.

R. Kennel.

- (1) Minimum lot area - 2 acres.
- (2) All buildings in which animals are housed and all runs shall be located at least 200 feet from all residentially used or zoned lots.
- (3) Buildings shall be adequately soundproofed so that sounds generated within the buildings cannot routinely be heard within any principal building on another lot.
- (4) No animal shall be permitted to use outdoor runs from 8 p.m. to 8 a.m. that are within 250 feet of residentially used or zoned properties. Runs for dogs shall be separated from each other by visual barriers a minimum of 4 feet in height.
- (5) The use shall also comply with § 118-13 of the Codified Ordinances of Macungie.
- (6) All animal wastes shall be removed and properly disposed of, at least once a day.
- (7) The operator of the kennel shall exercise all necessary control over the animals and shall not allow a nuisance condition to exist in terms of excessive noise, odor or health hazards.
- (8) The kennel shall be operated in full compliance with the State Animal Welfare Act and applicable State kennel regulations. The kennel shall be open to regular inspection by the Zoning Officer and any designated Health Inspector.

S. Treatment centers.

- (1) See definition in Article XI.
- (2) The applicant shall provide a written description of all types of persons intended to occupy the use during the life the permit. Any future additions to this list shall require an additional special exception approval.
- (3) The applicant shall prove to the satisfaction of the Zoning Hearing Board that the use will involve adequate on-site supervision and security measures to protect public safety.
- (4) The Zoning Hearing Board may place conditions upon the use to protect public safety, such as conditions on the types of residents and security measures.

T. Unit for care of relative.

- (1) The use shall meet the definition in § 345-43.
- (2) The accessory unit shall be occupied by a maximum of two persons, who shall be close "relatives" of the permanent residents of the principal dwelling unit. At least one resident of the accessory unit shall need such accommodations because of an illness, old age or disability.
- (3) The applicant shall prove to the Zoning Hearing Board that the accessory unit has been designed and constructed so that it can be easily reconvered into part of the principal

dwelling unit after the relative no longer resides within the unit. A written plan shall be submitted showing how the separate unit will be changed to no longer be a separate unit. The accessory unit may be converted into an additional bedroom(s), permitted home occupation area or similar use. A lawful detached garage may be converted into a unit for care of relative, and then be reconverted to a garage or permitted home occupation area.

- (4) The applicant shall establish a legally binding mechanism that will prohibit the use of the accessory unit as a separate dwelling unit after the relative no longer resides within the unit. Such mechanism shall also be binding upon future owners.
- (5) The owner of the property shall be required to annually renew the permit for the use. Such renewal shall be conditioned upon the owner proving that a relative of the occupants of the principal dwelling unit continues to reside within the accessory unit.
- (6) Such accessory unit shall not decrease the one family residential appearance of a one family dwelling, as viewed from exterior property lines.
- (7) Additional parking for the accessory unit may be waived by the Zoning Hearing Board as part of the special exception approval if the applicant proves that the resident(s) of the accessory unit will not routinely operate their own vehicle.
- (8) The unit shall be in the same building as the principal dwelling, or in an accessory building that existed prior to the adoption of this section. There shall be at least one interior door between the two units if they are within the same building.

U. Internet Devices installed on existing utility structures.

- (1) Devices installed in or on existing utility structures for the purpose of facilitating or otherwise delivering broadband internet service or power line communications (hereinafter referred to as “BPL Devices”) shall not exceed six (6) feet in length (nor may BPL Devices increase the overall length of existing utility structures by more than six feet), nor shall BPL Devices exceed two and one-half (2 1/2) inches in diameter.
- (2) BPL Devices shall be of a neutral color that is identical to or closely compatible with the color of the supporting utility structure so as to make the BPL Device as visually unobtrusive as possible.
- (3) Any associated cabinets or other equipment (including any and all external appendages) shall not exceed four (4) cubic feet in volume and shall be mounted directly upon the existing utility structure upon which the related BPL Device is located or within an existing utility structure with five-hundred feet of the existing structure and BPL Device.
- (4) BPL Devices shall comply with all applicable FCC and FAA laws and regulations, as well as all applicable building codes.
- (5) BPL Devices may be approved by the Zoning Officer as an accessory use to any existing utility structure provided that all of the foregoing provisions of this § 345-26U are fully satisfied.

V. Solar Energy Collectors.

- (1) Solar energy collectors may be placed on top of any building roof, without additional regulations.
- (2) In districts other than LIC, solar energy collectors that are not attached to a building roof may cover a maximum of 5 percent of the lot area, shall have a maximum total height of 15 feet and shall meet setback requirements for an accessory building.
- (3) In the LIC district, solar energy collectors that are not attached to the top of a building roof may cover a maximum of 50 percent of the lot area, shall have a maximum total height of 25 feet and shall meet setback requirements for an accessory building. If solar energy collectors cover more than 5 percent of a lot, they shall be separated from any abutting residential district by landscaping that has an initial planted height of 4 feet.

W. Wind Turbines.

- (1) Wind turbines shall only be allowed where authorized by the zoning district regulations. The wind turbine shall be setback from the nearest existing dwelling on another lot a distance not less than three times the maximum height to the top of the maximum height of the extended blade, unless a written waiver is provided by the owner of such building. All wind turbine setbacks shall be measured from the center of the base of the turbine. This provision shall apply to buildings that existed prior to the application for a zoning permit.
- (2) The audible sound from the wind turbine(s) shall not exceed 45 A-weighted decibels, as measured at the exterior of an existing dwelling on another lot, unless a written waiver is provided by the owner of such building.
- (3) The owner of the facility shall completely remove all above ground structures within 12 months after the wind turbine(s) are no longer used to generate electricity.
- (4) Wind turbines shall not be climbable for at least the first 12 feet above the ground level.
- (5) All wind turbines shall be set back from all public street rights-of-way a minimum distance equal to the maximum height to the top of the maximum height of the extended blade.
- (6) All wind turbines shall be set back from each lot line a minimum distance equal to the maximum height to the top of the maximum height of the extended blade, unless a written waiver is provided by the owner of such lot.
- (7) The turbine shall include automatic devices to address high speed winds.
- (8) Any building of more than 300 square feet shall meet setbacks for a principal building.
- (9) The site plan shall show proposed driveways, turbines and areas of woods proposed to be cleared.
- (10) Temporary towers designed to test possible locations for a wind turbine shall be permitted by right, provided they are removed within one year and have a setback from all street rights-of-ways and lot lines equal to the maximum total height.

- (11) The maximum total height of the turbine with the blades fully extended shall be 150 feet.
- (12) If any information is available from the wind turbine manufacturing concerning average noise levels of the proposed turbine, such information shall be provided to the Zoning Officer.

**ARTICLE VIII**  
**ADMINISTRATION AND ENFORCEMENT**

**§ 345-27. Zoning Officer.**

A Zoning Officer shall be appointed by the Borough Council to administer and enforce this chapter. The Zoning Officer shall meet any qualifications established by Borough Council and shall be able to demonstrate to the satisfaction of Borough Council a working knowledge of municipal zoning. The Zoning Officer shall not hold any elective office in the Borough, but may hold other appointed offices. Other staff-persons may serve as Assistant Zoning Officer(s), provided they operate under the direction of the Zoning Officer. The Zoning Officer's duties shall include, but not be limited to, the matters set forth in this article.

- A. Code compliance. If the Zoning Officer shall find that any of the provisions of this chapter are being violated, he/she shall send an enforcement notice in writing, as set forth in Subsection E below, indicating the nature of the violation and ordering the action necessary to correct it. Such action may include ordering the discontinuance of unlawful use of land or structures, the removal of unlawful structures or unlawful additions and alterations, the discontinuance of any unlawful work being done, or such other action as is deemed necessary to correct the violation.
- B. Complaints regarding violations. Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Officer. The Zoning Officer shall record the complaint, investigate immediately, and take action thereon as provided in this chapter. Nothing herein shall prevent an aggrieved owner or tenant of real property to take further legal action as set forth in Subsection F below.
- C. Interpretation of ordinance provisions. The Zoning Officer shall administer this chapter in accordance with its literal terms and as set forth in § 345-11. The Zoning Officer shall not have the power to permit any construction or any use or change of use, which does not conform to this chapter.
- D. Inspection of premises. Within the provisions and procedures of State law, the Zoning Officer shall have the right and authority at any reasonable hour, to inspect any building, structure, premises, lot or land, whether already erected or in use, or under construction, for the purpose of determining whether or not there is compliance with the provisions of this chapter.
- E. Notice of violation.
  - (1) If it appears to the Zoning Officer that a violation of this chapter has occurred, the Zoning Officer shall initiate enforcement proceedings by sending an enforcement notice as provided in this section. As a prior step, the Zoning Officer may at his/her option request compliance in a more informal manner.
  - (2) The enforcement notice shall be sent to the owner of record of the parcel in which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding the parcel, and to any other person requested in writing by the owner of record.

- (3) An enforcement notice shall state the following, at a minimum:
- (a) The name of the owner of record and any other person against whom the Borough, through the Zoning Officer, 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.
  - (e) The date before which the steps for compliance must be completed.
  - (f) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within thirty (30) days next following the date of the notice.
  - (g) 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.

- F. Causes of action. In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this chapter, as amended, Borough Council, or with the approval of Borough Council, the Zoning Officer, or any aggrieved person or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Borough Secretary at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on Borough Council. No such action may be maintained until such notice has been given.
- G. Civil enforcement proceedings. The Zoning Officer shall institute civil enforcement proceedings as a means of enforcement when acting within the scope of such Zoning Officer's employment, subject to the approval or direction of Borough Council in cases of equitable actions as set forth more particularly in Subsection F above.

### **§ 345-28. Zoning permits.**

A Zoning Permit shall be required prior to the construction or placement of a new or expand building, parking area, sign or other structure regulated by this Ordinance and/or the start or expansion of any use or other activity regulated by this Ordinance. No zoning permit shall be issued unless the application indicates that there will be compliance with all provisions of this chapter, unless appropriate relief has been granted by the Zoning Hearing Board.

- A. Application for Zoning Permit. All procedures with respect to applications for and issuance of building permits shall be in conformity with this Chapter. All such applications shall be accompanied by such other information as may be necessary to determine and provide for the enforcement of the chapter. The Zoning Officer may request such additional information as is reasonably necessary to exercise a proper judgment on the applicability of provisions of this chapter to the proposal submitted.
- B. Applications and plans. A zoning permit issued on the basis of applications and plans submitted to the Zoning Officer shall authorize only the use, arrangement and construction set forth in the applications and plans. Variations in use, arrangement and construction from the submitted

applications and plans shall be deemed a violation of this chapter. Where changes are desired to an approved zoning permit, the applicant shall apply for a new or revised permit.

- C. Relationship to Zoning Hearing Board functions. Before issuing a zoning permit, the Zoning Officer shall obtain a written order from the Zoning Hearing Board that an application for any special exception use has met the standards and criteria for that use, as provided in § 345-36 of this chapter. In all matters where it exercises an appeal function, as provided in this chapter, the decisions and findings of the Zoning Hearing Board shall direct the actions of the Zoning Officer.
- D. Completion of Structures and Uses for Which Permits Have Been Issued.
  - (1) See the provisions of the PA. Municipalities Planning Code regarding the applicability of zoning ordinance amendments to previously approved projects and any permit/approval extension state law that may be currently in effect.
  - (2) All zoning permits, variances or zoning approvals under this Ordinance shall become null and void if required Borough Construction Permits are not received within 2 years after the date of the final Borough zoning, subdivision or land development approval, and if the project is not diligently pursued to completion within the time limits provided in the Construction Code.
    - (a) If a Construction Permit is not required for a use, then the use shall be completed within a maximum of 3 years after the date of the zoning permit, variance or other zoning approval.
  - (3) This time limit shall not apply if a different time limit (such as through a phased completion schedule) was approved as part of subdivision, land development, conditional use or zoning hearing board decision.
    - (a) Extensions. This time limit may be extended for good cause by resolution of Borough Council, in response to a written request. A time limit may also be extended through appeal to the Zoning Hearing Board where it affects a previous Zoning Hearing Board decision.
  - (4) If a permit, variance or approval becomes null and void, the Zoning Officer should provide written notice to the applicant of record, and may require that work on the property be halted until new Borough approvals and/or permits are received.

#### **§ 345-29. Fees.**

Fees for zoning applications and related permit applications and for issuance of building permits shall be as provided by ordinance or resolution of Borough Council.

#### **§ 345-30. Nonconforming uses, buildings or structures.**

- A. Unlawful uses not to be construed as nonconforming. An unlawful structure, or unlawful use of a structure or land existing at the effective date of the chapter shall not be deemed to be a nonconforming building, structure or use.
- B. Continuation of nonconforming uses. Any lawful use which lawfully occupies any structure or land at the effective date of this chapter, or any amendment thereto, but does not comply with the use regulations of the district in which it is situated after the effective date of this chapter, or any amendment thereto, may be continued as a nonconforming use in the structure or upon the land so occupied.

C. Restoration.

- (1) If a structure used by a nonconforming use is damaged it may be restored, reconstructed or used as before, provided that the structure or use of land is not any more nonconforming in regards to Zoning requirements than existed prior to such damage, and that the reconstruction be completed within two (2) years of such damage, and provided the property is properly and safely secured prior to and during reconstruction.
- (2) A nonconforming structure that is occupied by a conforming use may be reconstructed, expanded or altered, provided that the change does not result in any new or increased nonconformity with this Ordinance.

D. Extension and expansion of nonconformities.

- (1) A structure that is occupied by an allowed use in the zoning district in which it is located, but does not conform with the setback, yard, building height or other dimensional requirement of the zoning district, may be extended provided that the extension does not increase the existing nonconformity or create any new nonconformities.
- (2) A building may be constructed on any lot which lawfully exists and which, prior to the effective date of this chapter, was in separate ownership and duly recorded by plan or deed, provided that all setbacks and other dimensional requirements are met, other than the dimensions (such as lot width and lot area) which render the lot a lawful prior nonconforming lot.
- (3) Nonconforming uses may be expanded by special exception pursuant to §345-36 of this chapter if the applicant proves that all of the following standards will be met:
  - (a) Such extension or enlargement shall be only upon the same lot or one contiguous lot.
  - (b) The nonconforming use shall not be increased by an aggregate total of more than twenty-five (25) percent larger than the size that lawfully existed on the date the use first became nonconforming; provided, however, that upon a showing that such expansion is essential to the survival of the use, such increase may be allowed to be a total of fifty (50) percent. This increase in size shall be measured based upon floor area occupied by the use and by land area occupied by the use, whichever is more restrictive. If a use is increased by ten (10) percent beyond the initial size, and then another fifteen (15) percent beyond the initial size, the twenty-five (25) percent maximum aggregate total shall be reached.
  - (c) Such extension or enlargement will be no more detrimental in its effects upon the neighborhood with respect to: truck and other motor vehicle traffic; noise, smoke, dust, fumes, vapors, gases, heat, odor, glare or vibration; outdoor storage and waste disposal; appearance; and late night hours of operation.
  - (d) A one-time expansion of a nonconforming use's floor area or land area by up to 5 percent shall be allowed by the Zoning Officer, without Zoning Hearing Board approval.

- (4) Extension along a nonconforming setback. If an existing building has a lawfully nonconforming building setback, additions may occur to increase the height above such setback or to extend other portions of the building out to the nonconforming side or rear setback line, provided that:
  - (a) The structure shall not be extended beyond the existing nonconforming setback line.
  - (b) No additional nonconformity shall be created.
  - (c) The new nonconforming extension shall not be greater than 25 percent of the existing floor area.
  - (d) All other requirements of this chapter shall be met.
  - (e) Such addition shall not be permitted for a non-residential principal building that abuts an existing primarily residential use.

E. Change of nonconforming use.

- (1) A nonconforming use may be changed to a different nonconforming use, only if permitted as a Special Exception by the Zoning Hearing Board.
  - (a) Special Exception approval is not needed for a simple change within an existing building within the same type of use, such as from one lawful nonconforming retail store use to another retail store use or one personal service use to another personal service use, provided that the new use complies with any Zoning Hearing Board conditions that applied to the previous use and is not more objectionable in external effects than the previous use.
  - (b) Where Special Exception approval is required for a change of a nonconforming use, the Board shall determine whether the applicant has provided sufficient proof to show that the proposed new use will be equal or less objectionable in external effects than the pre-existing nonconforming use with regard to:
    - [1] Traffic safety and generation (especially truck traffic).
    - [2] Noise, dust, fumes, vapors, gases, odor, glare, vibration, fire, hazardous substances and explosive hazards.
    - [3] Amount and character of outdoor storage.
    - [4] Late night and early morning hours of operation if the use would be close to dwellings.
    - [5] Compatibility with the character of the surrounding area.
- (2) Once changed to a conforming use, a structure or land shall not revert to a nonconforming use.

F. Termination. A nonconforming use shall be deemed to have been terminated and shall not

thereafter be reinstated as a nonconforming use if the use has been discontinued for a period of twelve (12) consecutive months. This 12 month period shall be extended while a property is actively under repair or rehabilitation under active Borough permits or for an additional 6 months if the property was damaged by fire or other disaster, provided the property is properly secure and stabilized.

- G. Repairs and maintenance. Normal maintenance and repairs of a structure containing a nonconforming use is permitted, provided it does not increase the type or amount of nonconformities.
- H. Registry of nonconformities. The Zoning Officer should identify nonconforming uses created as a result of the adoption of this ordinance or created as a result of amendments thereto, and with each such case, the Zoning Officer shall indicate the reasons it was identified as a nonconformity. The Zoning Officer shall issue a written certificate of nonconformity to an applicant upon written request if the applicant provides sufficient evidence to support such a request.
- I. Nonconforming lots. See Section 345-21.C.

**§ 345-31. Violations and penalties.**

- A. Enforcement remedies. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this chapter, as amended, shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than Five Hundred Dollars (\$500.00) plus all court costs, including reasonable attorney's fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the Pennsylvania 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 such violation until the fifth (5th) day following the date of the determination of a violation by the district justice, and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorneys' fees collected for the violation of this chapter shall be paid over to the Borough.
- B. Stay. The Court of Common Pleas of Lehigh County, Pennsylvania, 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. No enlargement. Nothing contained in this section shall be construed or interpreted to grant to any person or entity, other than the Borough, the right to commence any action for enforcement pursuant to this section.
- D. The Borough may also utilize all other methods of enforcement that are authorized by State law.

**§ 345-32. Public utility limited exemption.**

This chapter shall not apply to a structure or use that is necessary as part of public utility service, if upon petition of the utility, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that

the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.

**ARTICLE IX**  
**ZONING HEARING BOARD**

**§ 345-33. Organization.**

- A. General grant of power. The Zoning Hearing Board (hereinafter referred to as "Board") that was created and exists under pre-existing zoning ordinances of the Borough shall continue to serve and function in accordance with the provisions of this section. Matters pending before the Board at the time of enactment of this chapter shall continue and be completed under this chapter in effect at the time the board acquired jurisdiction of said matter. Members of the Board appointed prior to the adoption of this chapter shall, after enactment, complete the remainder of the term for which they were appointed.
- B. Appointment.
- (1) The membership of the Board shall consist of three (3) residents of the Borough appointed by the Borough Council for a normal term of office of three (3) years, starting at the date of appointment. The first appointments shall be one (1) for one (1) year, one (1) for two (2) years, and one (1) for three (3) years so that the term of office of one (1) member shall expire each year. The Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the Borough.
  - (2) Borough Council may appoint by resolution at least one (1) but no more than three (3) residents of the Borough to serve as alternate members of the Zoning Hearing Board. The term of office of an alternate member shall be three (3) years. When seated pursuant to the provisions of Subsection C(1), an alternate shall be entitled to participate in all proceedings and discussions of the Zoning Hearing Board to the same and full extent as provided by this chapter for members of the Zoning Hearing Board, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this chapter and as otherwise provided by law. Alternates shall hold no other office in the Borough, including membership on the Planning Commission and Zoning Officer. Any alternate may participate in any proceeding or discussion of the Zoning Hearing Board but shall not be entitled to vote as a member of the Zoning Hearing Board nor be compensated pursuant to § 345-33E(4) of this chapter unless designated as a voting alternate member pursuant to § 345-33C(1) of this chapter.
- C. Organization. The Board shall elect its Chairperson and Vice Chairperson from its membership, who shall serve annual terms as such and may succeed themselves. The Board may make, alter and rescind rules and forms for its procedure, consistent with the provisions of the Pennsylvania Municipalities Planning Code and this chapter.
- (1) For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board, but the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board as provided in § 345-34B. When authorized by State law (such as when a quorum is not possible), the Chairperson of the Board shall designate **as many** alternate members of the Zoning Hearing Board to sit on the Zoning Hearing Board as may be needed to provide a quorum or as otherwise provided by State law. Any

alternate member of the Zoning Hearing Board shall continue to serve on the Zoning Hearing Board in all proceedings involving the matter or case for which the alternate was initially appointed until the Zoning Hearing Board has made a final determination of the matter or case. Designation of an alternate pursuant to this section shall be made on a case-by-case basis in rotation according to declining seniority among all alternates.

- (2) The Board shall keep full public records of its business, which records shall be the property of the Borough of Macungie, and shall submit a report of activities to the Borough Council once a year. The Board may retain a Solicitor and utilize staff, within budgetary limits established by Borough Council.
- D. Removal of members. Any Board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the Borough Council. Such a vote may be taken only after the member has received at least fifteen (15) days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member requests it in writing.
- E. Compensation and expenditures.
- (1) Borough Council may appropriate funds to finance the preparation of zoning ordinances and amendments and shall appropriate funds for administration, for enforcement and for actions to support or oppose, upon appeal to the courts, decisions of the Zoning Hearing Board.
  - (2) Borough Council shall make provision in its budget and appropriate funds for the operation of the Zoning Hearing Board.
  - (3) The Board Solicitor shall be an attorney who does not also serve as the Solicitor for the Borough.
  - (4) Members of the Zoning Hearing Board may receive compensation for the performance of their duties, as may be fixed by resolution of Borough Council, but in no case shall it exceed the rate of compensation authorized to be paid to the members of Borough Council. Alternate members of the Zoning Hearing Board may receive compensation, as may be fixed by resolution of Borough Council, for the performance of their duties when designated as alternate members, but in no case shall such compensation exceed the rate of compensation authorized to be paid to members of Borough Council.
  - (5) 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 a transcript is ordered by the Zoning Hearing Board or Hearing Officer, or shall be paid by the person appealing from the decision of the Zoning Hearing 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, unless agreed upon otherwise.
- F. Meetings. Meetings of the Board shall be held at the call of the Chairperson, and at such other times as the Board may determine. Meetings shall be at sufficiently frequent intervals, at the discretion of the Board, for the efficient conduct of its business. All meetings shall be open to the public, except for portions allowed by State law to be private.

**§ 345-34. Procedure.**

- A. Rules of procedure. The Board shall adopt such rules of procedure, consistent with the provisions of the Pennsylvania Municipalities Planning Code and this chapter, as it may deem necessary to the proper performance of its duties and the proper exercise of its powers.
- B. Hearings. The Board shall hear each application at a legally advertised public hearing. It may appoint a hearing officer to conduct such hearings. The decision or, where no decision is called for, the findings shall be made by the Board, but the parties to the hearing may waive the decision or findings being made by the Board and accept the decision or findings of the hearing officer as final.
- C. Time limitations.
  - (1) The hearings shall be held within sixty (60) days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time.
  - (2) No person shall be allowed to file any proceeding with the Zoning Hearing Board later than thirty (30) days after an application for development, preliminary or final, has been approved by an appropriate municipal 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 had no notice, knowledge or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision by the Zoning Hearing Officer on a challenge to the validity of this chapter, the Official Zoning Map or other ordinance pursuant to § 916.2 of the Pennsylvania Municipalities Code, to the extent such decisions are permitted by this Ordinance, shall preclude an appeal from a final approval, except in the case where the final submission substantially deviates from the approved tentative approval.
  - (3) All appeals from determinations adverse to the landowners, including appeals from any preliminary opinion of the Zoning Officer, to the extent permitted by this Ordinance, which is adverse to the landowner, shall be filed by the landowner within thirty (30) days after notice of the determination is issued.
- D. Notice of Hearings. Public notice, as defined in the Pennsylvania Municipalities Planning Code, shall be given and written notice shall be given to the applicant, the Zoning Officer, at least one owner of record of each property adjoining the premises in question, and to any person who has made a written request for such notice. Such request shall be given at least fifteen (15) days before the date of hearing. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing. It shall be the duty of the applicant to supply the names and addresses of adjoining property owners with the application, and to make sure that the notice continues to be posted.
- E. Parties to the hearings. The parties to the hearing shall be the applicant, the Borough, any person affected by the application who has made timely appearance of record before the Board, and any other person, including civic or community organizations permitted to appear by the Board. The

Board shall have the power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.

- (1) In any matter which relates to a property which lies within five hundred (500) feet of the boundary of another municipality, the secretary or clerk shall transmit to the municipal clerk of such other municipality a copy of the official notice to the public hearing on such matter, not later than one (1) day after publication thereof. Such other municipality shall have the right to appear and to be heard at such public hearing.
- F. Minutes and records. The Board or hearing officer, as the case may be, shall keep a stenographic record of the Board's proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact. The secretary or clerk shall keep records of the Board's hearings and official actions, all of which shall be filed in the Borough Offices and shall be public record. Copies of graphic or written material received in evidence and kept by the Board shall be made available to any party at cost. The cost of the stenographer's appearance fee and the cost of the original transcript and copies shall be paid as set forth in § 345-33E(5) of this chapter.
- (1) A record of all variances and special exception uses granted pursuant to action of the Board under this chapter shall be maintained. This record shall be available for public inspection, pursuant to the Right to Know Statute, as amended.
- G. Witnesses and evidence. The Chairperson or acting Chairperson of the Board or the hearing officer presiding shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
- H. Communications with the parties. The Zoning Hearing Board or the hearing officer shall not communicate, directly or indirectly, with any party or his/her representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, and shall not take notice of any communication, reports, staff memoranda or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative, unless all parties are given an opportunity to be present.
- I. Decisions. The Board or the hearing officer 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 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 therefor. Conclusions based on any provisions of the Pennsylvania Municipalities Planning Code, of this chapter or other ordinance, rule or regulation, shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found.
- (1) If the hearing is conducted by a hearing officer, and there has been no stipulation that his/her decision or findings are final, the 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 Board prior to final decision or

entry of findings. The Board's final decision or findings shall be entered no later than thirty (30) days after the decision of the hearing officer.

- (2) Where the Board fails to render the decision within the time periods required, or fails to hold the required hearing within sixty (60) days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless he has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as required, the Board shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided in Subsections D and E(1) above. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this section shall prejudice the right of any party opposing the application to appeal the decision to the Court of Common Pleas of Lehigh County, Pennsylvania.
- (3) A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board no later than the last day of the hearing, the Board shall provide, by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

**§ 345-35. Appeals on interpretation of this chapter or map.**

The Zoning Hearing Board is hereby granted exclusive jurisdiction, upon an appeal by an affected landowner, any officer or agency of the Borough, or any person aggrieved, to hear and decide:

- A. Appeals from the determination of the Zoning Officer including, but not limited to, the granting or denial of any permit or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.
- B. Appeals from the determination by a municipal engineer or the Zoning Officer with reference to the administration of any flood plain or flood hazard ordinance or such provisions within a land use ordinance.
- C. Appeals from the determination of the Zoning Officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving applications under Articles V or VII of the Pennsylvania Municipalities Planning Code.
- D. Any other matter relating to this chapter, where an appellant seeks a review of any decision order or ruling made by the Zoning Officer.
- E. Any matter which the Zoning Officer appeals on grounds of doubt as to the meaning or intent of any provision of this chapter or as to the location of a district boundary line on the zoning map.

**§ 345-36. Special exception uses.**

Where a use requires a special exception review by the Board as noted in Article V, the applicant shall request a hearing by the Board.

- A. The Board shall hear and decide on the request in accordance with the standards and criteria for each special exception use set forth in Article VII. In determining that a use shall be permitted, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this chapter.
- B. The Board may require the submission or presentation of such plans and other materials as it deems necessary to make a proper determination. Any subsequent amendment or addition to plans for which a permit is sought shall be subject to review and public hearing by the Board.

**§ 345-37. Variances.**

The Board shall hear requests for variances where it is alleged that the provisions of this chapter inflict unnecessary hardship upon the applicant, such as appeal from a denial of a Building Permit by the Zoning Officer.

- A. The Board may grant a variance provided the following findings are made 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 property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of this chapter in the neighborhood or district in which the property is located.
  - (2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this chapter and that the authorization of a variance is, therefore, necessary to enable the reasonable use of the property.
  - (3) That such unnecessary hardship has not been created by the appellant.
  - (4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
  - (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. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this chapter. A use permitted as the result of the granting of a variance shall not be construed to be a non-conforming use.

**§ 345-38. Challenge to the validity of this chapter or Zoning Map.**

- A. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications on the following matters:
  - (1) Substantive challenges to the validity of any land use ordinance of the Borough, except

those brought before Borough Council as landowner curative amendments pursuant to §§ 609.1 and 916.1(a)(2) of the Pennsylvania Municipalities Planning Code.

- (2) Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption, which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said ordinance.
- B. In the case of a substantive challenge brought under Subsection A(1), the landowner or persons aggrieved shall submit a written request to the Board that it hold a hearing on the challenge. The request shall contain a short statement reasonably informing the Board of the matters that are at issue and the grounds for the challenge. A request submitted by a landowner shall be accompanied by plans and other materials describing the use or development proposed in lieu of the use or development permitted by this chapter. Such plans and other materials shall not be required to meet the drawing requirements prescribed in the Subdivision and Land Development Ordinance [Chapter 305] so long as they provide reasonable notice of the proposed use or development and a sufficient basis for evaluating this chapter in the light thereof.
- C. Public notice, as defined in § 345-43 of this chapter, shall be given for the hearing. Notice of such hearing shall include notice that the validity of this chapter is in question. Where the challenge is that of a landowner, the notice shall also give the place where and the times when a copy of the landowner's request, including the plans and other materials submitted, may be examined by the public. The Board shall commence its hearings within sixty (60) days after the request is filed unless the landowner requests or consents to an extension of time.
- (1) In addition to paying any other required Borough fees, the applicant shall compensate the Borough in advance for the actual costs of all legal advertisements required for the hearings on the application and for the rental of any needed meeting space that is not owned by the Borough.
- D. Based upon the testimony presented at the hearing or hearings, the Board shall determine whether the challenged ordinance or map is defective, as alleged by the landowner. If a challenge heard by the Board is found to have merit, the decision of the Board shall include recommended amendments to the challenged chapter, which will cure the defects found. In reaching its decision, the Board shall consider the amendments, plans and explanatory material submitted by the landowner and shall also consider:
- (1) The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities.
  - (2) If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the chapter or map.
  - (3) The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features.
  - (4) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, natural resources and natural features, the degree to which these are protected or

destroyed, the tolerance of the resources to development and any adverse environmental impacts.

- (5) The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.
- E. The Board shall decide on all contested questions and shall make findings on all relevant issues of fact.
- F. The challenge shall be deemed denied when:
- (1) The Board fails to commence the hearing within the time limits set forth in § 345-38C of this chapter.
  - (2) The Board fails to act on the request forty-five (45) days after the close of the last hearing on the request, unless the time is extended by mutual consent of the landowner and the Borough of Macungie.

**§ 345-39. Persons with disabilities.**

After the Zoning Officer receives a complete written application, the Zoning Hearing Board shall grant a special exception allowing modifications to specific requirements of this chapter that the applicant proves to the satisfaction of the Zoning Hearing Board are required under applicable Federal law to provide a "reasonable accommodation" to serve persons who the applicant proves have "disabilities" as defined in and protected by such laws.

- A. Such reasonable accommodations shall be requested in accordance with the U.S. Fair Housing Act Amendments and/or the Americans with Disabilities Act, as amended.
- B. If the applicant is requesting a reasonable accommodation under the United States Fair Housing Amendments Act of 1988 or the Americans with Disabilities Act, the applicant shall identify the disability which is protected by such statutes, the extent of the modification of the provisions of this chapter necessary for a reasonable accommodation, and the manner by which the reasonable accommodation requested may be removed when such person(s) with a protected disability no longer will be present on the property.
- C. Any modification approved under this section may be limited to the time period during which the persons with disabilities occupy or utilize the premises.
- D. If an application under this section is denied, the applicant may appeal to the County Court of Common Pleas under the same provisions and time limits as any other special exception denial.

**ARTICLE X**  
**PROCEDURE FOR AMENDMENT**

**§ 345-40. Power to amend.**

The regulations, restrictions, and boundaries set forth in this chapter and on the official zoning map may, from time to time, be amended, supplemented, changed or repealed through the amendment by the Borough Council.

A. Curative amendments.

- (1) A landowner who desires to challenge on substantive grounds the validity of this chapter or any provisions thereof, which prohibit or restrict the use or development of land in which he has an interest, may submit a Curative Amendment to the Borough Council with a written request that his challenge and proposed amendments be heard and decided, as provided in § 609.1 of the Pennsylvania Municipalities Planning Code.
- (2) If the Borough Council determines that this chapter, or any portion hereof, is invalid, it shall take action as provided in § 609.2 of the Pennsylvania Municipalities Planning Code.
- (3) In addition to paying any other required Borough fees, the applicant shall compensate the Borough in advance for the actual costs of all legal advertisements required for the hearings on the application and for the rental of any needed meeting space that is not owned by the Borough.

B. Who may initiate. Proposals for amendment or repeal of this Ordinance may be initiated by the Borough Council on its own motion, by the Planning Commission, or by petition of one or more residents or landowners in the Borough. Such petitions shall be signed and acknowledged and submitted in writing to the Borough Secretary.

C. New ordinance. The text and map of a proposed zoning ordinance shall be prepared as set forth in § 607 of the Pennsylvania Municipalities Planning Code.

D. Amendments. For the preparation of amendments to this chapter, the procedure set forth in § 607 of the Pennsylvania Municipalities Planning Code shall be optional.

**§ 345-41. Enactment of Zoning amendments.**

A. Public notice. Before voting on the enactment of an amendment, Borough Council shall hold a public hearing thereon, pursuant to public notice. In addition, if the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by the Borough at points deemed sufficient by the Borough along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one (1) week prior to the date of the hearing.

B. Planning Commission review.

- (1) In the case of an amendment other than that prepared by the Planning Commission, Borough Council shall submit each such amendment to the Planning Commission at least thirty (30) days prior to the hearing on such proposed amendment to provide the Planning

Commission an opportunity to submit recommendations.

- (2) If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, Borough Council shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.
- (3) At least thirty (30) days prior to the public hearing on the amendment by Borough Council, the Borough shall submit the proposed amendment to the Lehigh Valley Planning Commission for recommendations.

C. Publication, advertisement and availability of ordinances.

- (1) Unless otherwise allowed by State law, proposed zoning ordinances and amendments shall not be enacted unless notice of proposed enactment is given in the manner set forth in this subsection, and shall include the time and place of the meeting at which passage will be considered, a reference to the place within the Borough where copies of the proposed ordinance or amendment may be examined without charge or obtained for a charge not greater than the cost thereof. Borough Council shall publish the proposed ordinance or amendment once in a newspaper of general circulation in the Borough not more than sixty (60) days nor less than seven (7) days prior to passage. Publication of the proposed ordinance or amendment shall include either the full text thereof or the title and a brief summary, prepared by the Borough Solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:
  - (a) A copy thereof shall be supplied to a newspaper of general circulation in the Borough at the time the public notice is published.
  - (b) An attested copy of the proposed ordinance shall be filed in the County Law Department or other county office designated by the Lehigh County Commissioners.
- (2) In the event substantial amendments are made in the proposed ordinance or amendment, before voting upon enactment, Borough Council shall, at least ten (10) days prior to enactment, readvertise, in one newspaper of general circulation in the Borough, a brief summary setting forth all the provisions in reasonable detail together with a summary of the amendments.
- (3) Within thirty (30) days after enactment, a copy of the amendment to the ordinance shall be forwarded to the Lehigh Valley Planning Commission.

**ARTICLE XI**  
**DEFINITIONS**

**§ 345-42. Clarification of words and terms.**

Certain words and terms used in this chapter are defined and shall be used as follows:

- A. Words in the present tense shall include the future tense.
- B. The word "person" shall include a corporation, unincorporated association, partnership, or other legal entity, as well as an individual.
- C. The word "structure" includes building and shall be construed as if followed by the phrase "or part thereof".
- D. The words "should" and "may" are permissive; the words "shall" and "will" are mandatory and directive.

**§ 345-43. Definition of terms.**

As used in this chapter, the following terms shall have the meanings indicated:

**ACADEMIC SCHOOL** - Any school that maintains or conducts classes for the purpose of offering instruction, the purpose of which is to educate an individual generally or specifically or to prepare an individual for more advanced study, and shall include all schools engaged in such education, except trade schools, business schools, correspondence schools, or any other school which is non-academic in character. These schools may include, but are not limited to: nursery school and kindergarten, elementary and secondary, special education, tutoring and language schools, clinic and reading laboratories.

**ACCESSORY USE OR BUILDING** - A subordinate use or building customarily incidental to the main use or building and located on the same lot with the main use or building or on an immediately adjacent lot in the same ownership.

**ADULT BOOK STORE** - An establishment in which over 10 percent of the total floor area is occupied by books, films, periodicals and video tapes which are distinguished by a clear emphasis on displaying uncovered male or female genitals or "specified sexual activities" or by or paraphernalia or novelties related to specified sexual activities and which items are offered for sale, rent or receipt of coins or tokens. If such items are within a room(s) that is restricted to persons age 18 or older, then this definition shall apply to any establishment in which over 10 percent of the floor area is within such restricted room(s).

**ADULT MOTION PICTURE THEATER** - A use involving the presentation in a room to 3 or more persons at one time of motion pictures, video tapes or similarly reproduced images distinguished or characterized by an emphasis on depiction of "specified sexual activities" for observation by such persons and that involves some form of monetary compensation paid by the persons viewing such matter.

**ADULT USE** - This term shall include any of the following uses: adult bookstore, adult motion picture theater, massage parlor or cabaret.

**AFTER HOURS CLUB** - A use that permits the consumption of alcoholic beverages by 5 or more unrelated persons between the hours of 2 a.m. and 5 a.m. and that involves some form of monetary compensation paid by such persons for the alcohol or for the use of the premises.

**ALTERATION** - As applied to a building or structure, means a change or rearrangement in the structural parts or in the means of egress; or an enlargement, whether by extending on a side or by increasing the height; or the moving from one location or position to another.

**ANTENNA** - Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals. The term "Antenna" shall not mean those exterior transmitting or receiving devices mounted upon an existing utility structure for purposes of facilitating or otherwise delivering broadband internet service over power lines or power line communications through amperion technology or existing power lines, provided that such devices comply in all respects with § 345-26.U.

**BACKHAUL NETWORK** - The lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

**BASEMENT** - A story partly underground, but having at least one-half (1/2) of its height above the average curb level of the street abutting the front of the lot, or above the average finished grade level of the ground immediately adjacent to the building.

**BED AND BREAKFAST, INN** - A dwelling and/or its accessory structure which includes the rental of overnight sleeping accommodations and bathroom access for temporary overnight guests, and that meets the maximum number of overnight guests specified in this chapter, and which does not provide any cooking facilities for actual use by guests, and which only provides meals to overnight guests, employees and residents of the dwelling. Overnight stays shall be restricted to transient visitors to the area, employees and their family.

**BLOCK** - A tract of land or a lot or group of lots, bounded by streets, public parks, or parkways, railroad rights-of-way, water course or body of water, unsubdivided land, or a boundary line or lines of the Borough or any combination thereof.

**BLOCK FRONTAGE** - That portion of a block which abuts a single street.

**BOARD** - The Zoning Hearing Board of the Borough of Macungie, unless otherwise stated.

**BOARDING HOUSE (INCLUDES "ROOMING HOUSE")**. A residential use in which: (i) room(s) that do not meet the definition of a lawful dwelling unit are rented for habitation, or (ii) a dwelling unit includes greater than the permitted maximum number of unrelated persons. A boarding house shall not include a use that meets the definition of a hotel, dormitory, motel, life care center, personal care center, bed and breakfast inn, group home or nursing home. A college fraternity or sorority house used as a residence shall be considered a type of boarding house. A boarding house may either involve or not involve the providing of meals to residents, but shall not include a restaurant open to the public unless the use also meets the requirements for a restaurant. A boarding house shall primarily serve persons residing on-site for 5 or more consecutive days.

**BOROUGH** - The Borough of Macungie, Lehigh County, Pennsylvania,

**BOROUGH COUNCIL** - The Borough Council of the Borough of Macungie, Lehigh County, Pennsylvania.

**BOROUGH PLANNING COMMISSION** - The Planning Commission of the Borough of Macungie, Lehigh County, Pennsylvania.

**BUILDING** - A structure constructed or erected on the ground, with a roof supported by columns or walls. Structures divided by unpierced masonry division walls extending from the ground to the roof shall be deemed to be separate buildings.

**BUILDING, AREA OF** - The horizontal area measured around the outside of the foundation walls and of the floors or roofed porches and roofed terraces inclusive, and including the area of accessory buildings, if any. In the case of split-level dwellings, the "first floor area" shall be deemed to include floor areas on two (2) non-overlapping levels, separated by a half story, or less, or height.

**BUSINESS CENTER DEVELOPMENT** - A tract of land, buildings or structures planned as a whole and intended for one (1) or more establishments for a commercial purpose on a site, whether built at one time as a unit, or in two (2) or more construction stages.

**CABARET** - A use including live entertainment involving persons (which may include, but not be limited to, waiters, waitresses, dancers, clerks, bartenders, contractors or others) displaying uncovered male or female genitals or nude or almost nude female breasts or engaging in simulated or actual "specified sexual activities" related to some form of monetary compensation paid to a person, company or organization operating the use or to persons involved in such activity.

**CELLAR** - A space having more than one-half (1/2) its height below the average curb level of the street abutting the front of the lot, or below the average finished grade level of the ground immediately adjacent to the building. A cellar shall not be used for residential purposes.

**CHILD DAY CARE CENTER** –

- A. A facility in which care is provided for seven (7) or more children at any one time. The following types of child day care are permitted by right in all districts:
- (1) Care of children by their own “relatives”.
  - (2) Care of children within a place of worship during regularly scheduled religious services.
  - (3) Care of 1 to 3 children within any dwelling unit, in addition to children who are “relatives” of the care giver.
  - (4) After-school care at a primary or secondary school.
  - (5) On-site child care for employees of a business.
- B. The care of 4 to 6 children at one time in a dwelling unit (other than “relatives” of the caregiver) shall be allowed, provided that special exception approval is obtained if the property is in a residential district.

**CODE ENFORCEMENT OFFICER** - The individual appointed by the Borough Council to be in charge

of the office of code enforcement, which may include the duties of the Zoning Officer.

**COMPREHENSIVE PLAN** - The document that has been adopted by Borough Council as the latest Comprehensive Plan for the development and preservation of Borough of Macungie. This Plan may be a joint Comprehensive Plan that was also adopted by other municipalities.

**CRAFTS OR ARTISAN'S STUDIO** - A use involving the creation, display and sale of arts and crafts, such as paintings, sculpture and fabric crafts. The creation of arts and crafts may also be permitted within a home occupation, provided the requirements for such use are met.

**DEP** - The Commonwealth of Pennsylvania Department of Environmental Protection.

**DUMP** - A lot or land or part hereof used primarily disposal by abandonment, dumping, burial, burning, incineration, or any other means for whatever purpose, of garbage, offal, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

**DWELLING** - A building arranged, intended or designed to be occupied by one or more families living independently of each other upon the premises.

**DWELLING UNIT** - A single habitable living unit occupied by only one "family" (see definition). Each dwelling unit shall have: (i) its own toilet, bath or shower, sink, sleeping and cooking facilities and (ii) separate access to the outside or to a common hallway or balcony that connects to outside access at ground level. A dwelling unit shall not include two or more separate living areas that are completely separated by interior walls so as to prevent interior access from one living area to another, except as may be approved as a Unit for Care of Relative. A dwelling unit shall not include two separate and distinct sets of kitchen facilities.

**DWELLING UNIT, DETACHED** - A dwelling unit or manufactured/mobile home designed and occupied as a residence for one (1) family, which does not have a vertical wall in common with another building.

**DWELLING UNIT, SEMI-DETACHED** - A dwelling unit on a permanent foundation designed and occupied as a residence for one (1) family, which has one (1) vertical wall in common with the adjacent dwelling unit. These dwellings are commonly referred to as "twins" or "duplexes".

**ELECTRONIC SIGN** – A sign display area that is capable of being programmed for timed alteration of a message display and which is controlled electronically. See regulations in Section 345-24.M.

**EMPLOYEES** - The highest number of workers (including both part-time and full-time, both compensated and volunteer and both employees and contractors) present on a lot at any one time, other than clearly temporary and occasional persons working on physical improvements to the site.

**FAA** - The Federal Aviation Administration.

**FAMILY** - One or more individuals "related" by blood, marriage or adoption (including persons receiving formal foster care) or up to four unrelated individuals who maintain a common household and live within one dwelling unit. A dwelling unit shall be occupied by a maximum of one "family". A family shall also expressly include the number of unrelated persons approved to live within a group home.

**FCC** - The Federal Communications Commission.

FENCE - A man-made barrier intended to prevent intrusion or escape or to mark a boundary.

FLOOD PLAIN - The relatively flat or low land area adjoining a stream or watercourse which is subject to partial or complete inundation. For the purpose of this chapter, it is the one hundred (100) year flood plain as identified in the Flood Insurance Study of Macungie Borough prepared by the Federal Emergency Management Agency, dated November 7, 2001, or most recent version thereof. See additional floodplain definitions in Section 345-46 of this Ordinance.

GARAGE - A building or part thereof used for the storage or parking of one (1) or more vehicles.

GARAGE, PARKING - A garage for the convenience of the general public in which no servicing, repairs, washing or reconditioning of motor vehicles is carried on.

GARAGE, PRIVATE - An accessory garage maintained primarily for the convenience of the occupant or occupants of the main building and in which no business or other use is carried on and no service is rendered to the general public.

GARAGE, PUBLIC - Any garage other than a private garage or parking garage. A public garage may include servicing, repairs, washing or reconditioning of motor vehicles and filling station facilities.

GAS STATION - A building or lot or part thereof supplying and selling fuel for motor vehicles as a retail activity from storage tanks. A gas station may include accessory facilities for rendering services such as lubrication, washing and minor repairs with hand tools.

GLARE - A level of brightness which causes annoyance, discomfort or loss in visual performance, visibility and/or ability to focus.

GROUP HOME - A dwelling unit operated by a responsible individual, family or organization with a program to provide a supportive living arrangement for individuals where special care is needed by the individual served due to age, emotional, mental or physical handicap. This definition shall expressly include facilities for the supervised care of developmentally disabled persons and all persons subject to protection under the Federal Fair Housing Act, as amended. Group homes must be licensed where required by any appropriate government agencies, and a copy of any such license must be delivered to the Zoning Officer prior to the initiation of the use.

- A. Group homes shall be subject to the same limitations and regulations by the Borough as the type of dwelling unit they occupy.
- B. A group home shall not include a "Treatment Center".
- C. See standards in § 345-26.

HEIGHT OF A STRUCTURE - The vertical distance derived from the average finished grade at the front corners of the building or structure at the finished grade to the highest point of the building or structure, excluding a chimney or other similar unoccupied extension listed in § 345-21D(1).

HOME OCCUPATION - A customarily incidental accessory business conducted in the dwelling and/or in a maximum of one accessory building on the same lot by resident(s) of the dwelling provided: a) that no more than one person is employed who is not a resident of the dwelling (unless provided otherwise by

another section); b) that no display of products made or services rendered shall be visible from the street; and c) that no machinery or equipment that would produce noise, odor, vibration, light or electrical interference beyond the bounds of the immediate property shall be permitted. See additional restrictions in Section 345-22.K.

- (1) **LOW IMPACT HOME OCCUPATION** - A type of home occupation which does not routinely involve daily vehicle traffic to the property by customers, clients, patients or deliveries, and which meets the requirements for such use in Section 345-22.K.

**HOSPITAL** - A building used for the diagnosis, treatment or other care of human ailments that is licensed as a "Hospital" by the State Department of Health. The term hospital shall not include a use that primarily exists to serve persons with mental illness that are prone to violence against others, the criminally insane, or persons undergoing treatment for current addiction to illegal controlled substances.

**HOTEL** - A building or part thereof which has a common entrance, common heating system and general dining room, and which contains seven (7) or more living and sleeping rooms designed to be occupied by individuals or groups of individuals for compensation.

**IMPERVIOUS COVERAGE** - The percentage of the lot area covered by man-made surfaces that have a coefficient of runoff of 0.85 or greater. For the purposes of determining compliance with this chapter, any stone surfaces that may be allowed to be used for vehicle parking and movement shall be considered to be impervious. If doubt exists as to whether a surface is to be considered impervious, the Zoning Officer may request a determination from the Borough Engineer.

**INDUSTRIAL PARK** - A group of non-nuisance industrial plants on a single parcel of land, or on separate parcels contiguously arranged, so as to form a planned development of industrial sites, building or buildings.

**INDUSTRY, NON-NUISANCE** - Any industry which is not detrimental to the environment in which it is located by reason of the emission of smoke, noise, odor, dust, vibration or excessive light, beyond the limits of its lot, or by reason of generating excessive traffic with attendant hazards, and which does not include any open storage yards or outdoor processing of materials.

**JUNK** - any discarded, scrap or abandoned manmade or man-processed material or articles, such as the following types: metal, furniture, appliances, motor vehicles, aircraft, glass, plastics, industrial waste, machinery, equipment, containers, structures, used building materials and building materials left on a site after completion of the portion of construction to which those building materials relate. Junk shall not include: (A) solid waste that is temporarily stored as is customary in an appropriate container that is routinely awaiting collection and disposed of in a manner consistent with State regulations; (B) toxic wastes; (C) grass clippings, leaves or tree limbs; or, (D) items clearly awaiting imminent recycling at an approved recycling use.

**JUNKYARD** -

- A. Land or a structure used for the collection, salvage, storage, resale, dismantling, processing and/or sale of material for more than ten consecutive days of one or more of the following types:
  - (1) Three or more unlicensed and inoperable motor vehicles that are visible from an exterior lot line, dwelling and/or public street.

- (2) One or more mobile/manufactured homes that are not in a habitable condition.
- B. Junk stored within a completely enclosed building for business purposes shall be considered a warehouse, and not a junkyard.

**KENNEL** - The keeping of 7 or more dogs over the age of 6 months, other than within a retail indoor pet shop.

**LIVESTOCK** - Domestic animals such as cattle, horses, sheep, hogs and goats, etc. raised for home use or profit.

**LOT** - A designated lot, parcel or tract of land established by a plat or otherwise as permitted by law and to be used, developed or built upon unless otherwise expressly set forth herein.

**LOT, CORNER** - A lot at the junction of and fronting on two (2) or more intersecting streets. See provisions for "Lot Line, Front" below.

**LOT COVERAGE** - The percentage of the lot area that is occupied by the area of building. (See "Building")

**LOT, DEPTH OF** - The mean distance between the front lot line and the rear lot line. The greater frontage of a corner lot is its depth and the lesser frontage is its width.

**LOT, INTERIOR** - Any lot other than a corner lot.

**LOT LINE** - Any boundary of a lot. Any lot line not a rear lot line nor a front lot line shall be deemed a side lot line.

**LOT LINE, FRONT** - The street line at the front of a lot. On a corner lot, if the Zoning Officer determines that a predominant pattern exists along a block, that predominant pattern shall be followed in determining which yard adjacent to a street is required to be a front yard. In other cases on a corner lot, the applicant may choose which yard adjacent to a street will be the front yard.

**LOT LINE, REAR** - The lot line opposite to the front lot line.

**LOT, THROUGH** - A lot extending from one (1) street to another.

**LOT, WIDTH OF** - The mean dimension measured at substantially right angles to the depth of lot.

**MAIN USE OR BUILDING** - The principal or most important use or building on a lot.

**MANUFACTURED OR MOBILE HOME** - A transportable, single family dwelling intended for permanent occupancy, contained in one (1) unit, or in two (2) or more units designed to be joined into one (1) integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

**MANUFACTURED/MOBILE HOME LOT** - A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home.

MANUFACTURED/MOBILE HOME PARK - A parcel or contiguous parcels of land which has been so designed and improved that it contains two (2) or more mobile home lots for the placement thereon of mobile homes.

MASSAGE PARLOR - An establishment that meets all of the following criteria:

- A. Manipulative exercises are conducted using the hands and/or a mechanical device on a person's skin other than the face or neck by another person that is related to certain monetary compensation, and which does not involve persons who are related to each other by blood, adoption, marriage or official guardianship.
- B. The massages are not conducted by a person who has been certified by a recognized professional organization as having completed at least 50 hours of professional training or by a person licensed as a health care professional by the State.
- C. The massages are not conducted within a licensed hospital or nursing home or an office of a medical doctor or chiropractor.
- D. The massages are conducted within private or semi-private rooms.

MEDICAL OFFICE BUILDING - A building used exclusively by physicians and dentists for treatment and examination of patients, provided that no overnight patients shall be kept on the premises.

MEMBERSHIP CLUB - A building structure, lot or land area used as a private club or social organization not conducted for profit or gain. Membership clubs shall not include activities or organizations, which are public or quasi-public in nature.

MOTEL or HOTEL - A building, or group of buildings, whether detached or in connected units, used as individual sleeping or dwelling units, designed primarily for transient automobile travelers, and provided with accessory off-street parking facilities. The term Motel or Hotel shall not include use of recreational vehicles or residential trailers.

MOTOR VEHICLE MECHANIC – a worker skilled in using tools or in making, operating, or repair machines.

MULTIPLE DWELLING - A building arranged, intended or designed to be occupied by two (2) or more families living independently of each other as separate housekeeping units, but not including a townhouse or semi-detached dwelling unit.

MULTIPLE DWELLING DEVELOPMENT - One (1) or more multiple dwelling buildings planned as a single complex.

MULTIPLE DWELLING FOR THE ELDERLY - A building containing 3 or more dwelling units in which every dwelling unit is limited by deed and by lease to occupancy by one or more adults with physical disabilities or who are age 55 years or older. The dwelling may also house spouses of these persons, regardless of the spouses age. In no case shall such dwelling units be occupied by persons age 18 years or younger for periods of 30 days or more in a calendar year. Such deed and lease limitations shall be separately enforceable by the owner of the development and by the Zoning Officer. This term shall not include "Townhouses".

**NONCONFORMING LOT** - A lot lawfully existing at the effective date of this chapter or any amendment thereto affecting such lot, which does not conform to the regulations of this chapter for the district in which it is situated.

**NONCONFORMING STRUCTURE** - A structure or part thereof that would not meet current exterior zoning dimensional requirements if it would be newly constructed (such as building setbacks) , and which lawfully existed prior to the enactment of this chapter or amendments thereto. Such non-conforming structures include, but are not limited to, non-conforming signs.

**NONCONFORMING USE** - A use, which may involve land and/or a structure, which does not comply with the applicable use provisions in this chapter or amendment thereto, where such use was lawfully in existence prior to the adoption or amendment thereto.

**OPEN SPACE, COMMON OR PRESERVED** – Areas of land meet all of the following requirements:

- A. It is designed, intended and suitable for active or passive recreation by residents of a development or the general public or is part of a golf course.
- B. It is managed through by an approved system for perpetual maintenance.
- C. It is protected by a conservation easement that is enforceable by the Borough to permanently prevent the use of land for uses other than approved types of preserved or common open space.
- D. It does not include any of the following: street rights-of-way, driveways that serve other uses, buildings, off-street parking (other than that clearly intended and necessary to only serve non-commercial recreation), any area needed to meet a requirement for any other individual lot, any area deeded over to an individual property owner for their own use, or land under or within 25 feet of each side of overhead electrical transmission lines of 35 kilovolts or greater capacity.
- E. It does not include stormwater detention or retention basins, unless the applicant proves to the satisfaction of the Borough that such area has been designed and will be maintained in a manner that it will be suitable for recreational uses during most times of the year, and/or will serve as a scenic and ecological asset, such as having the appearance of a natural pond.

**PA.** - The Commonwealth of Pennsylvania.

**PARKING AREA** - A lot or part thereof used for the storage or parking of motor vehicles, with or without the payment of rent or charges in money or other consideration.

**PARKING SPACE** - A stall or berth which is arranged and intended for parking of one (1) motor vehicle in a garage or parking area.

**PAVED AREA** – all areas covered by stone and/or impervious surfaces, other than buildings and concrete public sidewalks and other than stoned or concrete areas required for stormwater management.

**PENNDOT** – The Pennsylvania Department of Transportation, or its successor.

**PERSONAL CARE FACILITY** - A residential facility that is licensed as a Personal Care Home or Assisted Living Facility by the Commonwealth of Pennsylvania. Such use is intended to provide food, shelter and personal assistance or supervision for a period exceeding twenty-four (24) hours for four (4) more adults who are not relatives of the operator, who do not require the services of a nursing home, but who do require assistance or supervision in matters as dressing, bathing, diet, financial management, evacuation of a residence in the event of an emergency or medication prescribed for self-administration. If a use meets the definition of both a Personal Care Facility and a Group Home, the applicant may apply for either use.

**PERSONAL SERVICES** - A commercial establishment that provides services oriented to the general public, such as but not limited to, barber or beauty shops, massage therapy by certified therapists, photography studios, shoe repair shops and similar establishments. This term shall not include any adult use.

**PLACES OF WORSHIP** - Buildings, synagogues, churches, religious retreats, monasteries, seminaries and shrines used primarily for religious and/or spiritual worship and that are operated for nonprofit and noncommercial purposes. A Place of Worship shall only include a maximum of one dwelling unit.

**PLANNING COMMISSION** - The Planning Commission of the Borough of Macungie.

**POULTRY** - Domestic fowl such as chickens, turkeys, ducks and geese, etc. raised for home use or profit.

**PRE-EXISTING TOWERS AND PRE-EXISTING ANTENNAE** - Any tower or antenna for which a building permit or special exception use permit has been properly issued prior to the effective date of this chapter, including permitted towers or antennae that have not yet been constructed so long as such approval is current and not expired.

**PUBLIC NOTICE** - Notice published once each week for two (2) successive weeks in a newspaper of general circulation in the Borough. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall be not more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.

**RELATED OR RELATIVE** - Persons who are related by blood, marriage, adoption or formal foster relationship to result in one of the following relationships: spouse, brother, sister, parent, child, grandparent, great-grandparent, grandchild, great-grandchild, uncle, aunt, niece, nephew, sister-in-law, brother-in-law, step-parent, step-child, parent-in-law or first cousin. This term specifically shall not include relationships such as second, third or more distant cousins. See definition of "Dwelling Unit."

**RESTAURANT** - A business that sells ready-to-eat food and drink, primarily for on-site consumption and which does not meet the definition of a "Tavern" in this section.

**SAND OR GRAVEL PIT** - A lot or land, or part thereof, used for the purpose of extracting sand, gravel, soil or sod for sale, as an industrial operation; and exclusive of the process of legitimate excavation of a lot preparatory to the construction of a building.

**SATELLITE DISH ANTENNA** - A device incorporating a reflective surface that is solid, open mesh or bar configured, is in the shape of a shallow dish cone, horn or cornucopia and is used to transmit or receive radio or other electro-magnetic waves between terrestrially and orbitally based systems. The definition

"Satellite Dish Antenna" shall include, but shall not be limited to, satellite earth stations, television receivers only (TVROS) and satellite microwave antennas.

**SETBACK LINE -**

- A. The line within a lot defining the required minimum "yard" distance between any structure to be erected or use to be developed and the adjacent street right-of-way or exterior lot line (when the property is not abutted by a right-of-way). Such line shall be measured at right angles from and parallel to the front lot line. See definitions of "yards".
- B. Any building setbacks shall be measured from the foundation, exterior wall or other component of a structure that is closest to the right-of-way line or lot line from which the setback is being measured.
- C. Unless otherwise stated, setback distances are for both accessory and principal structures.
- D. Private Streets - For a building setback measured from a private street, the setback shall be measured from the existing right-of-way of such a street, if a right-of-way exists. If a private street does not have a right-of-way, the setback shall be measured from the edge of the cartway.

**SIGN -** Any device or method which visually imparts a message through the use of texts, pictures, or models, to individuals using public rights-of-way.

**SIGN, ANNOUNCEMENT OR PROFESSIONAL -** A sign on a residential building which directs attention to a home professional office, home occupation or professional office in such residential building.

**SIGN, BUSINESS -** A sign which directs attention to a business or profession conducted upon the property where the sign is displayed.

**SIGN, OFF-PREMISES -** A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the property and only incidentally upon the property if at all.

**SOLID WASTE TRANSFER FACILITY -** Land or structures where solid waste is received and temporarily stored, at a location other than the site where it was generated, and which facilitates the bulk transfer of accumulated solid waste to a facility for further processing or disposal. Such facility may or may not involve the separation of recyclables from solid waste.

**SPECIAL EXCEPTION USE -** A use in one or more districts, for which the Zoning Hearing Board may grant a permit, pursuant to the provisions of § 345-26.

**SPECIFIED ANATOMICAL AREAS -**

- A. Less than completely and opaquely covered human genitals, pubic region, buttocks, or female breasts below a point immediately above the tope of the areola.
- B. Human male genitals in a discernibly turgid state; even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES -** One or more of the following:

- A. Human male genitals in a visible state of sexual stimulation.
- B. Acts of human masturbation, sexual intercourse, oral sex or sodomy.
- C. Fondling or other erotic touching of human genitals. See definition of "Adult Use."

**STORY** - That portion of a building included between the upper surface of any floor other than a cellar floor and the upper surface of the floor next above, except that of the topmost floor and the roof above.

**STORY, HALF** - A space under a sloping roof, which has the line of intersection of the interior faces of the roof structure and main building wall not more than three (3) feet above the top floor level, and in which space the floor area with a head room of five (5) feet or more occupied at least sixty percent (60%) of the total area of the story directly beneath.

**STREET** - Includes street, avenue, boulevard, road, highway, freeway, parkways, lane, viaduct and any other ways used or intended to be used by vehicular traffic or pedestrians, whether public or private. The term "street" shall not include any alley, which shall be defined as a vehicle thoroughfare with a right-of-way width of 20 feet or less. However, Cotton Street shall be considered a street, regardless of its right-way-width.

**STREET CLASSIFICATION** - The Street Classifications may be modified by Resolution of Borough Council. The following streets shall be considered to be arterial streets: Main Street and N. Chestnut St. The following streets shall be considered to be collector streets: S. Chestnut St, S. Church St., Race St. from Main St. to Cedar St., Lehigh St., Cotton St., and Willow Ln. All other streets shall be considered to be local streets.

**STREET LINE** - The dividing line between a lot and the outside boundary of a public street or street right-of way, or between a lot and a private street which serves two (2) or more separately-owned homes or buildings.

**STRUCTURE** - Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed, to the land.

**SUBDIVISION ORDINANCE OR SUBDIVISION AND LAND DEVELOPMENT ORDINANCE** - The Borough of Macungie Subdivision and Land Development Ordinance, amended [Chapter 305].

**SWIMMING POOL, NONCOMMERCIAL** - Any constructed body of water or structure to contain water, pursuant to the provisions of § 345-22C, and any accessory equipment pertaining thereto, used or intended to be used for swimming or bathing by any family or persons residing on the premises and their guests. Such non-commercial swimming pool shall not be operated for gain; and shall be located on a lot only as an accessory use to the dwelling or dwellings, hotel, motel or membership club thereon.

**TAVERN** - A business with a liquor license for on-site consumption of alcoholic beverages and that is open to the public after 11 P.M.

**TOWER, COMMUNICATIONS** - Any structure that is designed and constructed primarily for the purpose of supporting one or more antennae for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and

television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

**TOWNHOUSES** - A dwelling unit on a permanent foundation designed and occupied as a residence for one (1) family with direct outside access, which is part of a group of three (3) or more dwellings with one (1) or two (2) vertical walls in common with adjacent dwelling units. These dwelling units are commonly referred to as "attached dwelling units" or "row homes".

**TREATMENT CENTER** - A use (other than a prison or a hospital) providing housing for 3 or more unrelated persons who need specialized housing, treatment and/or counseling because of:

- A. Criminal rehabilitation, such as a criminal halfway house.
- B. Current addiction to alcohol or a controlled substance that was used in an illegal manner.
- C. A type of mental illness or other behavior that causes a person to be a threat to the physical safety of others.

**TRUCK STOP** - A commercial use that primarily involves providing fuel to tractor-trailer trucks owned by numerous different companies. Such use may also include related retail sales and repair services.

**UNIT FOR CARE OF RELATIVE** - A dwelling unit that: (i) is especially created for and limited to occupancy by a close "relative" of the permanent residents of the principal dwelling unit, (ii) is necessary to provide needed care and supervision to such relative, and c) meets the requirements for such use in § 345-26T.

**UTILITY SHED** - A building or structure having dimensions no greater than eight (8) feet by ten (10) feet, and no higher than ten (10) feet, used primarily for storage of garden and lawn equipment and tools.

**VARIANCE** - A relief from the exact enforcement from the terms of this chapter granted by the Zoning Hearing Board pursuant to the provisions of §345-37 of this chapter on grounds of unique circumstances and hardship.

**YARD, FRONT** - An open unoccupied space on the same lot with a building situated between the nearest roofed portion of the building and the front lot line and extending from side lot line to side lot line.

**YARD, REAR** - A space on the same lot with a building situated between the nearest roofed portion of the building and the rear lot line of the lot, and extending from side lot line to side lot line. Every lot shall include a rear yard, but a triangular lot may only include one side yard.

**YARD, SIDE** – an area required to be open to the sky and not occupied by buildings between each side lot line and a line drawn parallel to such side lot line at a distance specified by a specific section of this chapter. Such yard shall extend the full width of the lot from front lot line to rear lot line. A principal structure shall not extend into the required ~~rear~~ side yard for a principal structure and an accessory structure shall not extend into the required ~~rear~~ side yard for an accessory structure, except as provided in this chapter.

**ZONING HEARING BOARD** - The Macungie Borough Zoning Hearing Board.

ZONING MAP - The Zoning Map of the Borough of Macungie, as officially adopted as part of this chapter, as may be amended.

ZONING OFFICER - The duly constituted Borough Official designated to administer and enforce the provisions of this chapter.

**ARTICLE XII**  
**FLOODPLAIN MANAGEMENT REGULATIONS**

**§ 345-44. Floodplain Management Purposes**

- (1) The purpose of these provisions is to prevent the loss of property and life, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:
- (2) Regulating uses, activities and land development which, acting alone or in combination with other existing or future uses, activities and land development, will cause unacceptable increases in flood heights, velocities and frequencies;
- (3) Restricting or prohibiting certain uses, activities and land development from locating within areas subject to flooding;
- (4) Requiring all uses, activities and land development that do occur in flood-prone areas to be protected and/or flood-proofed against flooding and flood damage;
- (5) Minimizing the financial burden imposed on the community, its governmental bodies and individuals by floods;
- (6) Maintaining, to the maximum extent possible, the floodplain in its natural state and minimizing the removal of vegetation and compaction of soil to maximize its flood carrying capacity and water filtering capabilities; and
- (7) Complying with the provisions of the National Flood Insurance Program and the Pennsylvania Flood Plain Management Act (Act 1978-166).

**§ 345-45. Floodplain Applicability**

- A. These provisions shall apply to all lands within the jurisdiction of the Borough of Macungie and shown as being located within the boundaries of any identified Flood Hazard District which are considered as a part of the official Zoning Map.
- B. The Flood Hazard District shall be an overlay to the existing zoning districts as shown on the Borough of Macungie Zoning Map and, as such, the provisions of the Flood Hazard District shall be imposed in addition to the requirements of the underlying zoning districts. In the event that a conflict exists between the overlay and the underlying districts, the more restrictive provisions shall apply.
- C. No development shall be undertaken, no structure or land shall hereafter be used; no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered; and no area shall be developed, graded, filled or excavated in any Flood Hazard District except in full compliance with the terms and provisions of this Ordinance and any other applicable ordinances and regulations.

- D. Failure to comply with the provisions of this Ordinance is a violation of the Borough of Macungie Zoning Ordinance and the Borough of Macungie may proceed with Court Action and/or issue a declaration of violation, under Section 1316 of the National Flood Insurance Act of 1968 to the Federal Emergency Management Agency to deny flood insurance on the property in violation. The effects of having a Section 1316 violation are non-availability of flood insurance for any buildings, possible reduction of market value, risk of damage without compensation, possible mortgage foreclosure, and denial of disaster assistance for repair of structural damage.
- E. Warning and Disclaimer of Liability
- (1) The degree of flood protection sought by the provisions of this Ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside the identified Flood Hazard District or that land uses permitted within such a district will be free from flooding or flood damages.
  - (2) This Ordinance shall not create liability on the part of the Borough of Macungie or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

**§345-46. Identification and Establishment of Flood Hazard Districts**

- A. The identified floodplain area shall be those areas of the Borough of Macungie which are subject to the one hundred (100) year flood as identified in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRM) prepared for the Borough of Macungie by the Federal Emergency Management Agency (FEMA) or other sources and studies found acceptable by the Borough of Macungie. The referenced Flood Insurance Study is declared to be part of this Ordinance and shall be kept at the Borough of Macungie offices.
- B. The Flood Hazard District shall consist of the following specific areas:
- (1) The Floodway Area (FW) - The areas identified as “Floodway” in the AE Zone in the Flood Insurance Study prepared by FEMA. The term shall also include floodway areas which have been identified in other available studies or sources of information for those floodplain areas where no floodway has been identified in the Flood Insurance Study. Such studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Borough of Macungie.
  - (2) The Flood-Fringe Area (FF) - The portion of the AE Zone not included in the Floodway. The basis for the outermost boundary of this area shall be the base flood elevations shown in the flood profiles contained in the Flood Insurance Study.
  - (3) The General Floodplain Area (FA) - The areas identified as A Zone in the Flood Insurance Study for which no base flood elevations have been provided or areas subject to flooding defined by one of the following methods:
    - (a) Soils identified with potential for flooding, as described and mapped by the United States Department of Agriculture;

- (b) Hydrologic and hydraulic analyses undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods reflect accepted technical concepts. Such studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Borough of Macungie.
- (4) An initial determination shall be made by the Zoning Officer should a dispute concerning any district boundary arise. Any party aggrieved by this decision may appeal to the Zoning Hearing Board under the provisions of this Ordinance. The burden of proof is on the appellant.
- (5) The delineation of the Flood Hazard District may be revised by the Borough of Macungie where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by FEMA, U. S. Army Corps of Engineers or other qualified agency, or an individual. However, prior to any such change, approval must be obtained from FEMA.
- (6) The Borough of Macungie reserves the right to require that studies be performed in areas that have no base flood elevations by a licensed professional land surveyor and or engineer. Calculations should be submitted to the Borough Engineer and FEMA for their review and approval.

**§345-47. Nonconforming Uses and Structures in the Flood Hazard District**

- A. A structure or use of a structure or premises which lawfully existed before the enactment of the Flood Hazard District provisions, but which is not in conformity with those provisions, shall be subject to the requirements of this Article.

**§345-48. Floodplain General Provisions**

- A. No encroachment, land development, improvement or reconstruction of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the Borough of Macungie, and until all required permits or approvals have been first obtained from the PA. DEP Regional Office. In addition, the Federal Emergency Management Agency and the PA. Department of Community and Economic Development (DCED) shall be notified prior to any alteration or relocation of any watercourse.
- B. Any new construction, uses, activities or land development occurring within the Flood Hazard District shall be undertaken only in strict compliance with the provisions of this Ordinance and with all other applicable codes, ordinances and regulations including the Uniform Construction Code, as adopted and amended by the Borough of Macungie, and the Borough Subdivision and Land Development Ordinance.
- C. Under no circumstances shall any new construction, uses, activity and/or land development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch or any other drainage facility or system.
- D. Any new construction and/or land development, with the exception of redevelopment projects, that would cause any increase in the base flood elevation shall be prohibited.

E. New construction, development or redevelopment in the FW area is prohibited.

**§345-49. Permitted Uses and Development in the Flood Hazard District**

- A. In the Flood Hazard District, the following uses and activities are permitted in the FF or FA areas provided they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance:
- (1) Agriculture, horticulture, and forestry that:
    - (a) Do not include any structures;
    - (b) Do not require grading which would cause any increase in flood heights or frequency;
    - (c) Are conducted in accord with recognized soil conservation and water quality practices;
  - (2) Public and private recreational uses and activities, limited to parks, day camps, picnic grounds, boat launching and swimming areas, hiking and horseback riding trails, wildlife and nature preserves, game farms, fish hatcheries, and hunting and fishing areas;
  - (3) Uses accessory to those permitted in the underlying zoning district, including yard areas, gardens, play areas and parking areas, provided that no structures are erected, and no impervious surfaces are created;
  - (4) Redevelopment projects that:
    - (a) Do not include residential structures or critical facilities;
    - (b) Do not include prohibited uses listed in §345-50;
    - (c) Are consistent with the goals and objectives of the Southwestern Lehigh Intergovernmental Comprehensive Plan;
    - (d) Are permitted in the applicable underlying zoning district;
    - (e) Are elevated to Flood Protection Elevation (FPE) and in full compliance with the floodproofing requirements in the Uniform Construction Code as adopted and amended by the Borough of Macungie;
  - (5) The repair or expansion of riparian buffers;
  - (6) Floodproofing to protect only lawfully existing non-conforming structures and lawfully existing non-conforming uses within structures;
  - (7) Fences and temporary protective fencing that do not impede floodwaters;
  - (8) Dams, culverts, bridges, and altered or relocated watercourses with permits and/or approvals from the PA DEP, PA Public Utility Commission, and/or US Army Corps of Engineers. Furthermore, notification of such actions shall be provided to all affected adjoining municipalities, FEMA and the Pennsylvania DCED. The approval of a permit

by any of the preceding State or Federal agencies for one of the uses allowed in the Flood Hazard District shall in no way affect or conflict with the requirements imposed upon the use under the regulations of the Flood Hazard District;

- (9) Public utility facilities under the exclusive jurisdiction of the Pennsylvania Public Utility Commission.

### **§345-50. Prohibited Uses and Development in the Flood Hazard District**

A. The following uses are prohibited from locating within the Flood Hazard District.

- (1) All uses prohibited in the underlying zoning district;
- (2) New construction, development or redevelopment in the FW area;
- (3) All structures, with the exception of those specifically allowed in §345-49;
- (4) The production, storage, or use of any amount of radioactive substances;
- (5) The production, storage or use of a substance or material, underground or aboveground, that is buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life including but not limited to the following:
  - (a) Acetone
  - (b) Ammonia
  - (c) Benzene
  - (d) Calcium carbide
  - (e) Carbon disulfide
  - (f) Celluloid
  - (g) Chlorine
  - (h) Hydrochloric acid
  - (i) Hydrocyanic acid
  - (j) Magnesium
  - (k) Nitric acid and oxides of nitrogen
  - (l) Petroleum products (gasoline, fuel oil, etc.)
  - (m) Phosphorus
  - (n) Potassium
  - (o) Sodium
  - (p) Sulphur and sulphur products
  - (q) Pesticides (including insecticides, fungicides, and rodenticides)
  - (r) Radioactive substances, insofar as such substances are not otherwise regulated;
- (6) The production, storage or use of explosives;
- (7) The storage or disposal of materials used for snow and ice control including sand, salt and other deicing chemicals;
- (8) Sanitary landfills, dumps, junk and salvage yards, and outdoor storage of vehicles and/or materials;

- (9) The storage or disposal of any soil, loam, peat, sand, gravel, rock, or other mineral substance, refuse, trash, rubbish, debris, or dredged/excavated spoil;
- (10) Draining, excavation, or dredging, or removal or relocation of loam, peat, sand, gravel, soil, rock, or other mineral substance, except as accessory to work permitted as of right or by special permit;
- (11) Manure storage facilities and manure stockpiles;
- (12) Improvements to existing manufactured home parks and subdivisions;
- (13) Sewage disposal facilities;
- (14) Other than required to meet the requirements of §345-49.A(8) and 345-49.A(9), fill is prohibited in the Flood Hazard District.

**§345-51. Existing Structures in Flood Hazard Districts**

- A. No improvement or reconstruction of an existing structure shall be allowed within any FW area as identified by the Flood Insurance Study prepared by FEMA or other available studies or sources of information found acceptable by the Borough of Macungie and approved by FEMA.
- B. No improvement of an existing structure shall be allowed within any FF or FA area that would, together with all other existing and anticipated development, increase the base flood elevation more than one (1) foot at any point.
- C. The improvement or reconstruction of existing structures that store materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be prohibited in the Flood Hazard District.
- D. Existing structures in the FF and FA areas are defined and regulated as follows:
  - (1) **INTACT STRUCTURES**  
Any improvement to an existing intact structure, to an extent ten (10) percent or more of its market value, shall be undertaken only in full compliance with the floodproofing requirements in the Uniform Construction Code as adopted and amended by the Borough of Macungie.
  - (2) **PARTIALLY DAMAGED STRUCTURES**  
Any improvement or reconstruction to an existing partially damaged structure shall be undertaken only in full compliance with the floodproofing requirements in the Uniform Construction Code as adopted and amended by the Borough of Macungie.
  - (3) **SUBSTANTIALLY DAMAGED STRUCTURES**  
Any improvement or reconstruction to a substantially damaged structure shall be in full compliance with the floodproofing requirements in the Uniform Construction Code, as adopted and amended by the Borough of Macungie, and shall have the lowest floor, including basement, elevated to Flood Protection Elevation.
  - (4) **REPETITIVE LOSS STRUCTURES**

An improvement to a repetitive loss structure to an extent ten (10) percent or more of its market value of the intact structure shall be prohibited. Any permitted improvement to a repetitive loss structure shall be in full compliance with the floodproofing requirements of the Uniform Construction Code, as adopted and amended by the Borough of Macungie, and shall have the lowest floor, including basement, elevated to Flood Protection Elevation. The reconstruction of a repetitive loss structure shall be in full compliance with the Uniform Construction Code, as adopted and amended by the Borough of Macungie, as amended, and shall have the lowest floor, including basement, elevated to Flood Protection Elevation.

(5) SEVERE REPETITIVE LOSS STRUCTURES

An improvement to a severe repetitive loss structure to an extent five (5) percent or more of its market value as an intact structure shall be prohibited. Any permitted improvement to a severe repetitive loss structure shall be in full compliance with the floodproofing requirements of the Uniform Construction Code, as adopted and amended by the Borough of Macungie, and shall have the lowest floor, including basement, elevated to Flood Protection Elevation. The reconstruction of a severe repetitive loss structure shall be a) in full compliance with the Uniform Construction Code, as adopted and amended by the Borough of Macungie; shall b) have the lowest floor, including basement, elevated to Flood Protection Elevation and c) the applicant shall provide documentation from the Borough of Macungie, the State of Pennsylvania and the Federal Emergency Management Agency that states the Borough of Macungie, the State of Pennsylvania or FEMA will not acquire the property for the purposes of flood mitigation prior to the reconstruction of the structure.

- E. The cost of improvements or reconstruction commenced since the adoption of this ordinance must be calculated at today's current cost.
- F. It is the responsibility of the applicant to supply the information necessary (e.g. appraisals, construction costs, estimates, etc. to make the determination that the market value is reasonably accurate and that the cost estimate reasonably reflects the actual costs of the improvements to the structure.
- G. Acceptable estimates of market value shall be determined from one of the following methods:
  - (1) Independent appraisals by a state licensed real estate appraiser.
  - (2) The value of the building taken from NFIP claims data.
- H. Acceptable estimates of cost of improvement shall be determined from one of the following methods:
  - (1) Itemized estimates made by contractors licensed to work in the Borough of Macungie.
  - (2) Building code valuation tables.
- I. The Zoning Hearing Board shall have the right to waive, as a special exception, any of the requirements of this Section for any structure listed on a National, State or Local Register of Historic Places; provided, however, that the provisions of §345-53 shall be applied in such a case.

**§345-52. Building and Zoning Permits**

- A. Building and zoning permits shall be required for all proposed development, construction, reconstruction, placement, improvement of uses or structures, regardless of value and activities such as mining, dredging, grading, logging, paving, excavation or drilling operations.
- B. The requirements of the Uniform Construction Code, as adopted and amended by the Borough of Macungie, shall apply to this Article.

**§345-53. Variances Within Flood Hazard Districts**

- A. General. If compliance with any of the requirements of this Ordinance would result in an exceptional hardship for a prospective builder, developer or landowner, the Zoning Hearing Board and Joint Building Code of Appeals Board may, upon request, grant relief from the strict application of the requirements.
- B. Variance Procedures and Requirements. Requests for variances shall be considered by the Boards in accordance with this Ordinance and with the following:
  - (1) No variance shall be granted for any construction, development, use or activity within any floodplain or floodway area that would cause any increase in the base flood elevation.
  - (2) No variance shall be granted for any of the prohibited uses or activities in §345-50 to locate in the Flood Hazard District.
  - (3) If granted, a variance shall involve only the least modification necessary to provide relief.
  - (4) In granting any variance, the Boards shall attach whatever reasonable conditions and safeguards they consider necessary in order to protect the public health, safety and welfare and to achieve the objectives of this Ordinance.
  - (5) Whenever a variance is granted, the Boards shall notify the applicant in writing that:
    - (a) The granting of the variance may result in increased premium rates for flood insurance.
    - (b) Such variances may increase the risks to life and property.
  - (6) In reviewing any request for a variance, the Boards shall consider, but not be limited to the following:
    - (a) There is good and sufficient cause for the variance.
    - (b) Failure to grant the variance would result in exceptional hardship to the applicant.
    - (c) The granting of the variance will not result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with any other applicable state or local ordinance regulations.
    - (d) The review factors listed in §345-53.C, below.

- (7) A complete record of all variance requests and related actions shall be maintained by the Boards. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Emergency Management Agency.
- C. Review Factors. In reviewing applications for a variance, the Boards shall consider all relevant factors and procedures specified in other Articles of this Ordinance and:
- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments.
  - (2) The danger that materials may be swept on to other lands or downstream to the injury of others.
  - (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
  - (4) The susceptibility of the proposed use and its contents to flood damage and the effect of such damage on the individual owners.
  - (5) The importance of the services provided by the proposed use to the community.
  - (6) The requirements of the use for a waterfront location.
  - (7) The availability of alternative locations not subject to flooding for the proposed use.
  - (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - (9) The relationship of the proposed use to the Southwestern Lehigh Intergovernmental Comprehensive Plan and the Borough of Macungie stormwater management objectives and regulations.
  - (10) The safety of access to the property in times of flood of ordinary and emergency vehicles.
  - (11) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
  - (12) The requirements of the National Flood Insurance Program Regulations, Part 59: General Provisions, and Part 60: Criteria for Land Management and Use.
  - (13) Such other factors which are relevant to the purposes of this Ordinance.
- D. Supplemental Technical Review. The Boards may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for:
- (1) Technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for protection and other related matters.

- (2) All hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Borough Engineer, and may also be required to be provided to the Pennsylvania Department of Community and Economic Development.

#### **§345-54. Floodplain Definitions**

**A Zone.** The flood insurance rate zone that corresponds to the 100 year floodplain where base flood elevations are not shown.

**AE Zone.** The flood insurance rate zone that corresponds to the 100 year floodplain where base flood elevations are shown at selected intervals.

**Base Flood.** The flood having a 1% chance of being equaled or exceeded in any given year, also known as the “100-year” flood.

**Base Flood Elevation.** The elevation shown on the Flood Insurance Rate Map (FIRM) that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

**Cost of Improvement.** Cost that includes both the structural and finish or labor and materials, minus those required to meet floodproofing and flood elevation regulations and the cost of permits. This includes lighting fixtures, built-in appliances, interior moldings, paneling, tiling, wall-to-wall carpet over sub-flooring, built-in cabinets, etc. The cost to demolish undamaged building components must be established and included.

**Cost of Reconstruction.** Cost that includes both the structural and finish or labor and materials minus those required to meet floodproofing and flood elevation regulations and the cost of permits, to reproduce by new construction the exact form and detail of a structure or a part thereof, as it appeared at a specific period of time.

**Critical Facilities.** Those facilities that are vital to the community in the event of a hazard event or disaster, that provide essential services to the general public, are necessary to preserve the welfare and quality of life in the region, that fulfill important public safety, emergency response or disaster recovery functions, or contain at-risk or special needs populations such as the elderly or children. Examples include emergency shelters, emergency services, hospitals, public utilities, government buildings, schools, day cares and elderly housing.

**Current Cost.** A basis of valuation, which values an asset at the amount which it would currently cost to obtain.

**Encroachment.** Construction, placement of fill or similar alteration of topography in the floodplain that reduces the area available to convey floodwaters.

**Fill.** Any clean soil or rock materials (sand or clay) used to raise the ground elevation.

**Flood.** A temporary inundation of normally dry land area.

**Flood, One Hundred Year.** A flood that has a 1% chance of being equaled or exceeded in any given year. Over a long period, it is a flood that is likely to occur, on average, once for every 100 years of record.

**Floodplain Area.** A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source. For the purpose of this Ordinance, the floodplain area shall include the area within the Flood Hazard District as defined by §345-46.

**Floodproofing.** Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents as specified in the Uniform Construction Code, as adopted and amended by the Borough of Macungie.

**Floodway.** The channel of a river, stream, or other watercourse, plus the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**Flood Protection Elevation.** The base flood elevation plus 1.5 feet of freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations or base flood elevations determined and/or approved by the Borough of Macungie plus 1.5 feet of freeboard.

**Freeboard.** An additional amount of height above a flood elevation used as a factor of safety (e.g., 1.5 feet above the base flood elevation) in determining the level at which a structure's lowest floor, including basement, must be elevated or floodproofed.

**Historic Structure.** Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a State of Pennsylvania inventory of historic places;
- (4) Individually listed on a local inventory of historic places in the Borough of Macungie that has been approved by the Pennsylvania Historic and Museum Commission (PHMC).

**Identified Floodplain Area.** The floodplain area specifically identified in this Ordinance as being inundated by the one hundred (100) year flood.

**Improvement.** The creation or addition of structural or functional capacity of a structure that adds to its value and useful life. The term does not include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code

enforcement official and which are the minimum necessary to assure safe living conditions, or

- (2) Any improvement of a “historic structure,” provided that the improvement will not preclude the structure’s continued designation as a “historic structure.”

**Intact Structure.** A structure that is undamaged in any way; whole.

**Land Development.** The definition in the Subdivision and Land Development Ordinance shall apply.

**Manure.** The animal excrement, including poultry litter, which is produced at an agricultural operation. It includes materials such as bedding and raw materials which are commingled with that excrement.

**Manure stockpile.** A storage pile of manure accumulated for future use that is not confined within a manure storage facility.

**Manure storage facility.** A permanent structure or pond, a portion of a structure or pond, or a group of structures or ponds at one agricultural operation, utilized for the purpose of containing manure or agricultural process wastewater. This includes concrete, metal or other fabricated tanks and underground structures, as well as earthen and synthetically-lined manure storage ponds.

**Market Value.** The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale; the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus.

**Minimize.** To reduce to the smallest amount or extent possible. "Minimize" shall not mean complete elimination but shall require that the most substantial efforts possible under the circumstances have been taken to reduce the adverse effect(s) of the action required to be minimized. "Minimize" shall include but not be limited to the requirement that the placement of dwellings and other structures and the locations of roads, stormwater management facilities, and other land disturbance shall be planned and designed to reduce the adverse effect(s) of the activity in question to the smallest amount possible under the circumstances consistent with otherwise permitted development.

**New Construction.** Any structure that was not constructed on the effective date of this ordinance. The first placement of permanent features of the structure such as pouring of slabs or footings constitute beginning of construction but land preparation, grading and filling do not.

**Non-conforming structure.** A structure or part thereof which does not conform to the applicable provisions or requirements of the district in which it is located, either at the time of enactment of an Ordinance, or as a result of subsequent amendments thereto, where such structure lawfully existed prior to the enactment of such Ordinance or amendment.

**Non-conforming use.** Use of land or structure, which use does not conform to the applicable regulations of the district in which it is located, either at the time of the enactment of an Ordinance or as a result of subsequent amendment of an Ordinance or as a result of subsequent amendments thereto, but which did not violate such regulations prior to the enactment of Ordinance or amendments.

**Partially Damaged Structure.** A structure that has sustained damage from any cause whereby the cost of restoring the structure to its before-damaged condition is less than fifty (50) percent of the market value of the structure before the damage occurred.

**Reconstruction.** The act or process of reproducing by new construction the exact form and detail of a structure or a part thereof, as it appeared at a specific period of time.

**Redevelopment.** The removal and replacement, rehabilitation, or adaptive reuse of an existing structure or structures, or of vacant but formerly developed land.

**Repetitive Loss Structure.** As determined by FEMA, structures for which two or more claims of more than \$1,000 were paid by the National Flood Insurance Program (NFIP) within any rolling ten-year period, since 1978. At least two of the claims must be more than 10-days apart but, within ten-years of each other.

**Residential structure.** A structure regularly used by its occupants as a permanent place of abode, which is made one's home as opposed to one's place of business.

**Severe Repetitive Loss Structure.** As determined by FEMA, a residential structure that is covered under flood insurance by the NFIP and has incurred flood-related damage for which four or more separate claim payments have been paid since 1978 under flood insurance coverage with the amount of each claim payment exceeding \$5,000 and with cumulative amount of such claim payments exceeding \$20,000; or for which at least two separate claim payments have been made since 1978 with the cumulative amount of such claims exceeding the reported value of the property.

**Structure.** Any man-made object having an ascertainable stationary location on or in land or water whether or not affixed to land.

**Substantially Damaged Structure.** A structure that has sustained damage from any cause whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent or more of the market value of the structure before the damage occurred.

**Vacant but formerly developed land.** Land from which previous improvements have been removed.

**Watercourse.** A watercourse is a channel or conveyance of surface water having defined bed and banks, whether natural or artificial, with perennial or intermittent flow. Manmade swales, constructed specifically for stormwater management purposes, are excluded from this definition.

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This index is not officially part of the Zoning Ordinance, and is not intended to be all-inclusive.

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