

**ARTICLE XXVIII**  
**General Use Regulations**

**§180.90. Other than residential uses in residence districts. [Amended 5-1-85 by Ord. No. 694; 8-21-02 by Ord. No. 949]**

In order to preserve the characteristic use of land as a desirable residential community, no industry, business or commercial enterprise shall be conducted in any residential district within the BOROUGH, except in accordance with an approved Home Occupancy Permit issued pursuant to this Article.

180.90.1. HOME OCCUPATION

180.91.1.1. Permitted Uses

A permitted HOME OCCUPATION may include, but is not limited to, the following:

180.90.1.1.1. Administrative or professional activities, such as accounting, architecture, brokerage, clergy, counseling or engineering services.

180.90.1.1.2. Support services conducted on the premises, such as computer programming, data processing, drafting, graphics, illustration, secretarial, telemarketing, or writing.

180.90.1.1.3. Services coordinated on the premises, but conducted elsewhere, such as caterer, claims adjuster, contractor, custodial, interior design, locksmith, material supplier, photographer, or sales representative.

180.90.1.1.4. Services coordinated and conducted on the premises, such as art studio, daycare/tutoring (limited to three (3) individuals), home crafts, tailoring, or travel agent.

180.90.1.1.5. Services involving incidental assembly/repair of items, such as jewelry or small electrical appliances/tools.

180.90.1.2. STANDARDS

Approval of the HOME OCCUPATION as a Permitted Use shall be determined in accordance with the following standards and provisions:

180.90.1.2.1. The occupation or activity, including the storage of materials, shall be conducted wholly within the principal building and shall not occupy more than 25% of the habitable floor area.

180.90.1.2.2. There shall be no display, sign or other indication of

HOME OCCUPATION viewable from the exterior of the DWELLING, or any variation from the residential character of the LOT or the surrounding neighborhood.

180.90.1.2.3. The HOME OCCUPATION shall produce no noise, vibration, smoke, odor, dust, heat, glare, electrical disruption, and/or electromagnetic interference which may create any public or private disturbance.

180.90.1.2.4. The HOME OCCUPATION shall not create any additional waste, other than normally resulting from residential use.

180.90.1.2.5. There shall be no more than one (1) nonresident occupation participant at the DWELLING at any time where the HOME OCCUPATION is located. Other persons affiliated with the HOME OCCUPATION shall not physically report to or meet at the DWELLING where the HOME OCCUPATION is located.

180.90.1.2.6. The HOME OCCUPATION shall limit vehicular and/or pedestrian traffic, including pick-up and deliveries, to the hours between 7:00 a.m. and 9:00 p.m.

180.90.1.2.7. Parking generated by the HOME OCCUPATION shall be limited to off-street parking on the LOT upon which the HOME OCCUPATION is located.

180.90.1.2.8. The HOME OCCUPATION shall not generate traffic, other than incidental traffic restricted to PennDOT Class 4, single-axle vehicles or smaller.

180.90.1.2.9. The HOME OCCUPATION shall be operated strictly in accordance with this chapter and all other applicable law.

180.90.1.3. HOME OCCUPANCY PERMIT - The HOME OCCUPATION shall be registered with the BOROUGH by obtaining a Home Occupancy Permit. A new permit shall be obtained any time the ownership, activity or type of business is changed, modified or expanded. A separate permit shall be required for each different activity or use.

**§ 180.91. Structures or vegetation obstructing vision. [Amended 9-15-99 by Ord. No. 903]**

On any LOT, no wall, fence or other STRUCTURE shall be erected or altered and no hedge, tree, shrub or other growth shall be maintained which may cause danger to traffic on a STREET by obscuring the view of PERSONS using such STREET. A clear sight distance triangle shall be maintained at all driveways and street corners. This triangular space shall be measured from a point ten feet (10') back from the roadway and having an unobstructed view to all points located within seventy feet (70') in either direction along the roadway as viewed from

all heights between three feet (3') and five feet (5').

**§ 180.92. Fences. [Amended 4-21-71 by Ord. No. 481; 6-15-83 by Ord. No. 668; 7-19-89 by Ord. No. 743; 3-20-96 by Ord. No. 848]**

No fence, other than shrubbery, shall be installed without approval of the Code Enforcement Officer. Any application for a fence, other than shrubbery, shall be accompanied by drawings showing a detailed section and the proposed location on the property. For the purposes of this section, the following definitions shall apply:

**Functional Fence** - A barrier constructed of material other than shrubbery erected for the purpose of protection, containment or enclosure.

**Ornamental Fence** - A barrier constructed of split rail or other wooden material solely for decorative purposes.

180.92.1. All fences shall have equally spaced open sections of the same dimension. No opening shall be less than three inches (3"), except for standard chain link fence, and at least fifty percent (50%) of the fence shall be open when viewed perpendicularly to the fence. Fences shall be permitted as follows:

180.92.1.1. **Ornamental Fencing** - Two (2) sections, L-shaped, of ornamental fence shall be permitted as part of the landscaping at the front corners of the property or at driveway entrances, provided that they are within the property line and do not exceed four feet (4'), measured from the common grade to the top of the fence, in height or eight feet (8') in length on each side. A trellis or arbor, as part of landscaping plans, may be installed at any location behind the front building line. If located in the front yard area, approval must be obtained from the Planning Commission after submission of landscape plan. No trellis or arbor shall exceed seven feet (7') in height, measured from the common grade to the top of the trellis or arbor, or ten feet (10') in length with a minimum of eight feet (8') between units when viewed perpendicular to the length of the trellis or arbor.

180.92.1.2. **Functional Fencing** - Functional fencing shall be permitted on the rear and side lot lines of any lot, provided that such fence is not more than four feet (4') high as measured from the common grade to the top of the fence, however all fences shall be located within established building lines of all abutting streets, and shall not exceed the address front face of the building.

180.92.1.3. **Refuse Container Screening** - Refuse container screening shall be required for a refuse container which must be installed in the rear of any commercial building or may be installed in any multi-family and/or townhouse residential district. Such screening shall not be over six feet (6') high as measured from the common grade to the top of the screen and must meet rear and side yard requirements. Where access to the container is difficult because of the location of driveways or similar structures, or because the rear yard is too small to meet the requirements, a plan showing the proposed location, together

with all other structures on the property, shall be submitted to the Planning Commission for approval.

180.92.1.4. Closed or solid wood, brick or stone fences shall be permitted on the rear dividing line between townhouses, provided that they are straight, not over six feet (6') high as measured from the common grade to the top of the fence and do not extend more than eight feet (8') from the rear of the adjacent townhouse extending furthest into the rear area. The same structure, design and style of fence may be used for all townhouses in any unit.

180.92.2. Fences as required by any State or Federal regulation or statute dealing with the possession or storage of potentially hazardous material, including but not limited to liquefied petroleum and propane gas, and fencing as required by Chapter 160 of this Code shall be permitted in style and dimension not to exceed the minimum Federal or State regulation or statute or by Chapter 160, **§ 160.5.3.** of this Code.

**§ 180.93. Noncommercial parking LOTS.**

In any district a noncommercial parking LOT may be used as an ACCESSORY USE incident to the operation of a CHURCH, a public or parochial school, a library or any BOROUGH or PUBLIC BUILDING, provided that such LOT shall have free access to a public STREET; provided further that such LOT may not be larger than thirty thousand (30,000) square feet; provided further that no more than two (2) such LOTS, whether contiguous or noncontiguous to such BUILDING, may be used for such purpose by any one (1) such BUILDING; and provided further that in the event there is any change in the use or ownership of any such BUILDING, resulting in a use other than permitted under this section, such permitted ACCESSORY USE shall be terminated forthwith.

**§ 180.94. Uses requiring site plan approval. [Amended 4-6-77 by Ord. No. 558; 2-3-82 by Ord. No.639; 3-16-83 by Ord. No. 659]**

180.94.1. Uses, except SIGNS, of all property in an R1-S, R2-S, R2-AS, R2-BS, R-5, R5-S or R-6 District, all planned residential DEVELOPMENTS and all commercial districts shall, in addition to conforming to any and all regulations pertaining thereto that are specifically set forth in this chapter, be in accordance with site plan or plans approved by COUNCIL upon recommendation by the COMMISSION. The site plan shall show, as proposed, the location of main and ACCESSORY STRUCTURES on the site and in relation to one another, including existing and proposed elevations; traffic circulation features within the site; the location of vehicular access into the site; the height and bulk of STRUCTURES; the provision of automobile parking space; the provision of other open space on the site; the landscaping; all proposed DRAINAGE, paving, fences and walls on the site; and the display of SIGNS. The site plan shall show the location of poles for lighting, which shall be of the indirect type, for commercial PARKING AREAS and for outdoor PARKING AREAS for apartment BUILDINGS. **[Amended 10-2-85 by Ord. No. 700]**

180.94.2. In considering any site plan hereunder, the COMMISSION and COUNCIL shall endeavor to assure safety and convenience of traffic movement both

within the site covered and in relation to access STREETS and harmonious and beneficial relationship of STRUCTURES and uses on the site as well as contiguous properties. In so doing, vehicular access points shall be limited, where possible, to intervals of not less than three hundred (300) feet when on a MAJOR TRAFFIC THOROUGHFARE.

**§ 180.95. Commencement or discontinuance of work under site plan. *[Added 3-16-83 by Ord. No. 659]***

If the operations authorized or approved under a site plan are not commenced within one (1) year after approval, or if after the commencement of operations the work is discontinued for a period of one (1) year, such site plan approval shall be void and work may not be commenced until a new site plan is submitted and approved.

**§ 180.96. Appeals.**

Any PERSON aggrieved by a decision of the COMMISSION on the application for site plan approval shall have the right to appeal to COUNCIL. Such appeal shall be effected by filing a written notice of appeal with the COMMISSION and with the BOROUGH SECRETARY, together with a copy of the proposed site plan. COUNCIL will conduct a hearing on said appeal within a reasonable time after the filing of the notice of appeal.

**§ 180.97. Posting of security. *[Added 2-17-71 by Ord. No. 479]***

Before approval of the site plan shall be granted by the COMMISSION, the APPLICANT shall post security with the BOROUGH SECRETARY in the form of cash or a certified check in the amount of ten percent (10%) of the estimated cost of the site plan. The cost estimate of the site improvements shall be made by the BOROUGH ENGINEER. The posted security shall be remitted to the APPLICANT after the site improvements have been completed in accordance with the approved site plan.

180.97.1. Parabolic dish antennas. ***[Added 8-3-83 by Ord. No. 669; amended 2-19-97 by Ord. No. 863]***

180.97.2. Parabolic Dish and other antenna devices, the purpose of which is to receive television, broadcast signals, radio, microwave or other electrical signals or direct broadcast satellite services or multi-channel, multi-point distribution services shall be considered structures as defined in Article II, **§180.4** of this Code and shall be governed by every front yard, rear yard and side yard set back requirement as set out in each individual zoning district in the Borough of Whitehall.

180.97.3. Installation of any such antenna shall require a building permit and shall require such planting or other screening as is deemed necessary to protect the health and welfare of adjoining property owners. Reasonable exception may be made so as to not obstruct the antenna reception window.

180.97.4. In the event that relief from the provisions of this Article is claimed as a result of Part 1 of Title 47 of the Code of Federal Regulations passed pursuant to

Section 207 of the Telecommunications Act of 1996, the property owner will provide certified technical data in support of the claim that the controls set out in this Article impair reception of the television broadcast signals, direct broadcast satellite service or multi-channel, multi-point distribution service.

**180.98.A. Outdoor Residential Lighting [Added 1-21-98 by Ord. No. 878]**

180.98.A.1. Directional outdoor residential lighting shall not be directed more than three-quarters (3/4) the distance from the light source to any property line. For purposes of this Section, directional lighting is defined as any lighting where the light beam is focused, including but not limited to spot lights, flood lights and sodium lamps.

180.98.A.2. All outdoor residential lighting shall not exceed 150 watts.

180.98.A.3. For pole mounted lighting, the light source shall not be higher than ten feet (10') above normal grade.

**§180.98.B Green Space [Amended 9-20-00 by Ord. No. 917]**

180.98.B.1. Green space is required for one-family and two-family dwellings in residential zones in accordance with the following:

180.98.B.2. Green space shall comprise a minimum of 35 percent of the total lot area, except in R-4 zones where green space shall comprise 25 percent of the total lot area.

180.98.B.3. Green space shall occupy a minimum of 50 percent of the required front yard for all residential zones.