

**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.

180.92.3 Netting and support structures to protect the public and nearby properties from errant shots from a golf course use may be erected subject to the following conditions: **[Added 2-7-18 by Ord. No. 1103]**

180.92.3.1 The netting and support structures for the netting shall be located no closer than 30 feet from the property line.

180.92.3.2 The maximum height of netting and support structures shall not exceed 60 feet.

180.92.3.3 An evergreen screen shall be provided to obscure netting and support structures from public view.

180.92.3.4 A building permit shall be required for the erection of netting and support structures.

### **§ 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; Deleted & Replaced 5-16-18 by Ord. No. 1108]**

180.94.1. Uses, except SIGNS, of a property in any commercial district or in

the R1-S, R2-S, R2-AS, R2-BS, R-5, R5-S, R-6 or R-7 districts and all PLANNED RESIDENTIAL DEVELOPMENTS shall, in addition to conforming to any and all regulations pertaining thereto that are specifically set forth in this Chapter, comply with the SITE PLAN 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 spaces; 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; Amended 5-16-18 by Ord. No. 1108]**

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.

180.94.3 Traffic Study – The BOROUGH may require a transportation impact study for developments or changes in uses generating greater than 75 new or additional trips during a single peak hour. A traffic study may also be required in cases where known traffic deficiencies exist in the area of the proposed development or a change in use was incorporated as part of a previous traffic study. The additional trips criterion is applicable if a change in use is proposed and the current use is generating trips. If access is requested onto a state highway, the traffic study shall be coordinated and reviewed jointly with PennDOT in accordance with PennDOT's current policies. A transportation impact assessment may be performed in accordance with the current PennDOT policy if approved by PennDOT and the BOROUGH. **[Added 2-7-18 by Ord. No. 1103]**

180.94.3.1 Traffic Study Scope – Prior to preparing a transportation impact study, the applicant shall submit a proposed scope of services to the BOROUGH for review and approval. This scope shall be submitted in accordance with the current scoping form utilized by PennDOT. It shall also be reviewed and approved by PennDOT concurrently with the BOROUGH if access is being requested onto a state highway. The traffic study shall include the following, in addition to the information required in the scoping form, if appropriate as determined by the BOROUGH.

180.94.3.1.1 A brief description of the proposed project in terms of land use and magnitude.

180.94.3.1.2 An inventory and analysis of existing roadway and traffic conditions in the site environs including:

## 180.94.3.1.2.1 Roadway network and existing traffic control

180.94.3.1.2.2 Existing traffic volumes in terms of peak hours and average daily traffic (“ADT”). If previously collected data is used, it shall have been collected within the last two years of the date of the traffic study submission. The submission shall also include crash data for the last 5 years at all study intersections and shall be submitted in a separately bound report.

180.94.3.1.2.3 Planned roadway improvements and developments by others. These may only be assumed in the traffic study under future conditions if the improvements are funded and the development has an issued highway occupancy permit from PennDOT or a final land development approval from the BOROUGH or adjacent municipality.

180.94.3.1.2.4 Intersection levels of services reported by approach, movement and overall.

180.94.3.1.2.5 Other measures of roadway adequacy, including but not limited to: lane widths, traffic signal warrants, vehicle delay studies, and queues.

## 180.94.3.1.3 Projected site-generated traffic volumes in terms of:

180.94.3.1.3.1 Peak hours and ADT (by development phase if required). If alternative mode enhancement are proposed, such as pedestrian, bicycle or transit improvements, a reduction in project trips may be considered in accordance with the current PennDOT policy. These reductions require approval by the BOROUGH and PennDOT if access is on a state highway.

180.94.3.1.3.2 Approach/departure distribution including method of determination.

## 180.94.3.1.3.3 Site traffic volumes on roadway.

## 180.94.3.1.4 An analysis of future traffic conditions including:

180.94.3.1.4.1 Opening year, which shall be the year in which the full buildout and occupancy of the development is expected to occur. Analysis to include without development and with development conditions.

180.94.3.1.4.2 Future design year, which shall be 5 years beyond the anticipated opening year of the development, or years with phasing, combined traffic volumes (site traffic plus future roadway traffic) and as agreed upon in the scoping form.

180.94.3.1.4.3 Intersection levels of service reported by approach movement and overall. For signalized intersections all level of service analysis scenarios shall be based upon optimized traffic signal timings.

180.94.3.1.4.4 A pavement analysis of roadways, which are projected to experience significant increases in ADT volumes onsite.

180.94.3.1.4.5 Other measures of roadway adequacy, including but not limited to: lane width, traffic signal warrants, vehicle delay studies, and queues.

180.94.3.1.4.6 When access is onto a state road, the analysis of future conditions shall be consistent with PennDOT current policy requirements.

180.94.3.1.5 A description of future levels of service and their compliance with standards for traffic capacity of streets, intersections and driveway. New streets shall be designed for adequate traffic capacity defined as follows: All reference to levels of service ("LOS") shall be defined by the current edition of the Highway Capacity Manual, Special Report 209, published by the Transportation Research Board or other methods as required by the BOROUGH TRAFFIC ENGINEER.

180.94.3.1.5.1 Traffic capacity LOS shall be based upon a future design year, which coincides with completion of the development.

180.94.3.1.5.2 Driveways which intersect streets shall be designs for LOS D or better for each traffic movement unless otherwise specified by the BOROUGH.

180.94.3.1.5.3 New signalized or unsignalized intersections shall be designed for LOS D or better. Existing signalized or unsignalized intersections impacted by development traffic shall maintain the same level of service as is currently reported, however, an overall intersection increase in delay of 10 seconds or less is acceptable. If this cannot be met, mitigation measures shall be identified. If mitigation is not feasible then the following applies:

180.94.3.1.5.3.1 The BOROUGH will allow a marginal LOS degradation from A to D urban with municipal concurrence, if recommended by the BOROUGH TRAFFIC ENGINEER and, if access is onto a state highway, by PennDOT.

180.94.3.1.5.3.2 The BOROUGH may approve an alternative transportation plan (ATP). In accordance with the PennDOT current policy, if mitigation for a drop in LOS is not feasible. The ATP shall

be subject to approval by the BOROUGH.

180.94.3.1.5.3.3 Apply for a design waiver for the LOS per the current PennDOT policy, if access is onto a state highway. If access is onto a BOROUGH roadway, the LOS waiver does not apply.

180.94.3.1.5.4 Streets shall be designed for a minimum LOS D.

180.94.3.1.6 A description and analysis of the proposed access plan and site plan including:

180.94.3.1.6.1 Access plan including analysis of required sight distances, as required by current PennDOT regulations, using geometric conditions and traffic control.

180.94.3.1.6.2 On-site circulation plan showing parking locations and dimension, loading access, circulation, roadway and traffic control.

180.94.3.1.7 If required, Traffic Circulation Mitigating Action Plan shall include:

180.94.3.1.7.1 Project features relative to site access and on-site circulation, which could be modified to maximize positive impact or minimize negative impact.

180.94.3.1.7.2 Off-site improvement plan, depicting required roadway and signal installation and signing improvements to meet the minimum level of service requirements. This shall include construction cost estimates and conceptual engineering plans.

#### 180.94.4. Tree Inventory and Removal Plan

180.94.4.1. A tree inventory and removal plan shall be submitted for a Subdivision and/or SITE PLAN application of three (3) acres or greater. The plan shall include the following information:

180.94.4.1.1. The tree line of existing trees shall be shown.

180.94.4.1.2. Species of trees located within the existing tree line shall be identified. All TREES OF SIGNIFICANCE shall be located.

180.94.4.1.3. A summary table of the TREES OF SIGNIFICANCE to be removed shall be provided on the plan. The table shall list DBH and species.

180.94.4.1.4. A summary table of the trees proposed to replace



the TREES OF SIGNIFICANCE removed shall be provided on the plan. The table shall list DBH and species.

180.94.4.1.5. Any TREE OF SIGNIFICANCE which is believed to be diseased, dead or a hazard shall be designated on the plan.

180.94.4.1.6. The plan shall clearly indicate which trees are to be removed, as well as the location of the replacement trees.

180.94.4.2. Any TREE OF SIGNIFICANCE to be removed for new development or grading operations/project shall be replaced inch for inch. No tree shall be smaller than 2" caliper at time of planting and no larger than 4" caliper (unless irrigation is provided).

180.94.4.3. Replacement trees shall be of native species. In addition, if evergreen trees are removed, they shall be replaced by new evergreen trees and deciduous trees shall be replaced by new deciduous trees.

180.94.4.4. Trees shall be placed in groves whenever possible.

180.94.4.5. A scaled landscape plan sealed by a landscape architect shall be provided. The plan shall summarize all landscape features and requirements for the site.

180.94.4.6. Developer/owner shall be responsible for replacing all dead or damaged trees installed pursuant to these requirements for a period of two (2) years after the installation of the vegetation. Three (3) months prior to the two (2)-year deadline, the developer/owner shall schedule a field meeting with the Borough to review the condition of the trees.

180.94.4.7. All trees which are identified to remain on the development site shall be protected during construction by the placement of a physical barrier outside of the drip area of such trees.

**§ 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]**

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ZONING

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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.