



# Urban Research & Development Corporation

81 Highland Avenue, Suite 120, Bethlehem, Pennsylvania 18017 • 610-865-0701 • [www.urdc.com](http://www.urdc.com)

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TO: Borough of Coopersburg Officials

FROM: URDC, Charlie Schmehl ([cschmehl@urdc.com](mailto:cschmehl@urdc.com))

SUBJECT: **Summary of Draft Zoning Ordinance**

This memo summarizes the major policy issues regarding the new draft Zoning Ordinance.

This discussion is not intended to provide legal advice. It will be essential to have the Borough Solicitor review the proposed ordinance changes.

The Zoning Ordinance works together with the Subdivision and Land Development Ordinance (SALDO). The Zoning Ordinance is much more policy oriented than the SALDO, which is more a technical document used by engineers and surveyors on larger developments to design streets and other improvements.

## Overview of Zoning

The zoning ordinance primarily regulates: a) the uses of land and buildings, and b) the densities of development. Different types of land uses and different densities are allowed in various zoning districts. A zoning ordinance also regulates: the distance buildings can be placed from streets and lot lines, the heights and sizes of signs, and the amount of parking that must be provided by new development.

Zoning is primarily intended to protect existing residential neighborhoods from incompatible development. However, it also can be used to avoid traffic problems, improve the appearance of new development, preserve historic buildings, and protect important natural features.

The Pennsylvania Municipalities Planning Code (the “MPC”) provides municipalities with the authority to regulate development. The MPC establishes limits on the ways zoning can be used and requires that certain procedures be followed.

## Ways to Address Different Uses

In each zoning district, different uses are allowed or prohibited. There are three different ways that a use can be allowed:

- as a permitted by right use, with the zoning approved by the Zoning Officer,
- as a special exception use, with the zoning approved by the Zoning Hearing Board, and
- as a conditional use, with the zoning approved by the Council.

Intense and potentially controversial uses should only be permitted as special exception or conditional uses. This results in a public meeting that allows public comment. Under these processes, the Zoning Hearing Board or Borough Council can carefully review the application to make sure that it meets

Borough ordinances. Also, conditions can be placed upon these types of approvals, such as to protect public safety.

- However, a special exception or conditional use is still an “allowed” use. Therefore, under the law, it is difficult to reject a special exception or conditional use if the applicant proves they meet all of the specific requirements of the zoning ordinance. Generally, in such case, the application could only be rejected if an opponent or the Borough was able to prove that the application violated a “general” requirement of the Ordinance. For example, it might be possible to prove that a certain type of industrial use would generate a major public safety hazard.
- Coopersburg currently uses the special exception process for complex or controversial uses, which is proposed to continue. (Note - With a special exception, the Council can provide testimony before the Zoning Hearing Board, and Council can appeal the Board’s decisions.)
- Also, the number of conditional/special exception uses should be held to a reasonable minimum. If the process is overused, it becomes a burden in time and expense to both the Borough and applicants. Moreover, if an applicant fears that the process may be time-consuming, it can make it harder to attract desirable types of businesses.

### **Nonconformities**

Zoning primarily regulates **new** development, expansions of uses and changes in uses. Under State law, an existing use that was legal when it was first established can continue to operate, regardless of zoning regulations that are later enacted. An existing legal use that would not be permitted to be newly established under current zoning regulations is known as a “nonconforming use.” Generally, nonconforming uses can: a) be sold to a new operator, b) be expanded within certain limits, and c) be changed to a different nonconforming use, as long as the new use is not more intense than the old use.

For example, an auto repair garage may have existed before the Borough adopted zoning. It is located in a residential district. It may be changed to a store, which would be less intense. However, it could not be changed to an asphalt plant, which would be more intense.

Likewise, in most cases, existing vacant lots that were legally established may be built upon – even if they do not meet the minimum size requirements of a zoning ordinance. However, any building would still need to meet setback, wetland and floodplain regulations.

However, if a use was not legal when it first started, it has no right to continue. For example, if a house was illegally converted into apartments twenty years ago, it is still illegal, and can be required to be de-converted.

### **Lot Sizes**

Please keep the following lot sizes in mind:

One acre = 43,560 square feet (such as 150 by 290 feet)

One-half acre = approximately 22,000 square feet (such as 125 by 175 feet)

One-quarter acre = approximately 11,000 square feet (such as 80 by 135 feet)

### **Major Goals and Objectives**

The following major goals and objectives are based upon the Borough’s Comprehensive Plan and Streetscape Plan.

- Provide for compatible land uses, including mixes of uses where appropriate, while protecting the livability of residential neighborhoods.
- Promote the appropriate reuse and rehabilitation of older buildings.
- Work to preserve historic architecture and enhance the character of historic areas of the Borough.
- Promote a pedestrian-friendly environment.
- Provide for a variety of housing opportunities, while seeking to attract additional owner-occupied housing.
- Promote additional business activity, to provide increased tax revenues and expanded employment opportunities, especially in the Downtown.
- Carefully control uses that threaten significant nuisances or hazards, and maintain the livability of residential neighborhoods.
- Conserve natural resources.

### **Zoning Map**

The Zoning Map is being updated as part of this project, particularly to better relate to the features of each part of the Town.

### **Avoiding Over-Regulation of Routine Changes**

There is a goal of avoiding over-regulation of routine changes. For example, setback and coverage requirements were updated to make sure that it is not too difficult to expand a one family house, add a deck or shed or a porch, or make a modest addition onto a church or business.

Excessive regulations upon routine changes can create great aggravation to residents and a large workload for the Borough staff and the Zoning Hearing Board.

### **User-Friendliness of the Zoning Ordinance**

The proposed new Zoning Ordinance is intended to make greater use of tables to make it easier to use. Use of tables listing land uses allowed in each district minimize the wordiness of an ordinance, and makes it easier to compare provisions while reviewing the ordinance in draft form. It will be posted on the Borough's website, which will allow word searches. There also is a detailed table of contents and an index. The goal is also to have a zoning ordinance that is very clear and predictable for developers and builders, and that does not result in unnecessary delays for desirable types of development in appropriate locations.

### **Apartment Conversions**

Most cities and boroughs are becoming more restrictive in apartment conversions of one family homes. The goal is to maintain some owner-occupied units, reduce transiency, avoid maintenance problems from absentee landlords and avoid parking shortages.

The draft ordinance specifically states that an existing one family dwelling (including a rowhouse or townhouse) in a residential district cannot be converted into two or more apartments. An exception

could apply to unusually large existing houses (3,000 square feet of pre-existing heated building floor area).

Currently, in the R-3 district, a single family can be converted into two units if there is a 10,000 square foot minimum lot.

## **Summary of the Zoning Districts**

The following summarizes the existing zoning districts in the Borough.

### R-1 Low Density Residential District

The R-1 District is the lowest density residential district and includes the largest land areas. The district would continue to include neighborhoods: a) generally west of 4<sup>th</sup> Street in the southwestern part of Coopersburg, and b) generally west of Saucon Creek in the northwestern part of the Borough, including along South Main Street south of Locust Street. R-1 mainly allows single family detached dwellings. A minimum of 12,000 square feet of lot area would continue to be required, with a 100 feet minimum lot width.

Smaller lot sizes (8,000 sq. ft.) would be allowed for a development limited to persons age 55 and older, but 15 percent of the tract would need to be preserved as open space with trails.

A place of worship is currently allowed on a 12,000 square feet lot. This is proposed to be increased to 25,000 sq.ft., so that a standard residential lot on a residential street is not converted into a church.

The draft would slightly reduce side yard setbacks for one family homes to make it easier to expand them without needing a variance. The total of the two side yards would be reduced from 20 to 16 feet.

### R-1/O Low Density Residential/Office District

This district would be the same as R-1, except it would also allow offices. It would include most lots along Main Street that are not within a commercial district.

### R-2 Medium Residential District

The R-2 district would continue to include areas that are: a) east of Springfield Street along Hickory Street, b) east of the commercial uses on Route 309 north of Station Avenue, and c) east of Main Street and west of the Route 309 commercial uses, around 5<sup>th</sup> and Fairview Streets.

This district would continue to allow single family detached on 8,000 sq.ft. lots. Side-by-side semi-detached houses would be allowed at 6,000 sq.ft. per unit, and townhouses would be allowed at up to 6 homes per acre.

This district would continue to allow a higher density for housing for persons over age 55.

A new set of standards would be added for rowhouses/townhouses. Standards would ensure that the entire front yard of townhouses cannot be covered with vehicle parking and the entire facades cannot be covered with garage doors. That type of pattern is not only unattractive, but also leaves no room for on-street parking. In fact, front driveways can actually cause a net reduction of the amount of parking available in a neighborhood.

In R-2, for new housing, vehicle access from an alley would have to be used wherever it is practical. The alley could connect to a parking pad, a rear parking court, a garage door at the back of the home (possibly with a deck above it) or a detached garage.

Parking lots as the primary use of the property would need special exception approval in these areas. There are cases in which a new parking lot could be desirable, such as to serve a church on a nearby lot, or where this district is near a business in a business district. However, parking lots in a residential district would not be able to be used for commercial trucks.

### R-3 High Density Residential District

The R-3 district would apply to existing apartments at Route 309 and State Street, and at Charles and 4<sup>th</sup> Streets. This district would continue to allow singles, twins, townhouses and multi-family/apartments.

This district allows various types of housing at an average of 5,000 square feet per housing unit. This averages 8 homes per acre. A 25 feet minimum front yard is currently required, which is proposed to be reduced to 20 feet.

### TC Town Center District (current C-1 Neighborhood Commercial District)

This district would apply to the Downtown, with a emphasis upon Main Street. Historic preservation is discussed later in this memo.

The TC district would mainly allow for commercial uses, plus various types of housing. This district would continue to allow retail stores, personal services, funeral homes, day care, and similar uses. A minimum of 6,000 square feet would be required, plus 3,000 square feet per dwelling unit. Any new apartments would have to be in combination with a street level commercial use.

“Live Work Units” can allow flexible use of business and residential space, provided that the operator of the business lives within the same building area. A Live Work Unit functions like a home-based business, but without limits on the percentage of the floor area used for the business. They would be allowed in the downtown.

Restaurants would no longer need Zoning Hearing Board approval, but they could not include drive-through service. Auto sales and auto repair would continue to not be allowed. In any case, existing lawful uses can continue to operate.

New buildings would be required to be placed close to the street, with parking located to the side or rear of the building.

The current downtown district has a maximum height of 35 feet, which is proposed to be increased to 4 stories or 55 feet, whichever is more restrictive.

### GC General Commercial District (Includes the current Highway Commercial and Shopping Center Districts)

The GC district would include various commercial areas along Route 309, particularly including lots that have included gas stations or similar intensive uses. It also includes the Giant Shopping Center. The GC district would continue to allow a very wide range of commercial uses.

For commercial uses, the current maximum height is only 35 feet. This is proposed to be increased to allow 5 story buildings in locations that are not near homes. The height could help to attract uses such

as hotels, and additional health care uses. Health care uses have a taller average height per story than most other uses.

An area east of Route 309 generally south of Station Avenue would be changed from the Industrial to the General Commercial district. Most of this area is occupied by commercial uses, and some redevelopment of the area is being discussed. A transitional area south of Station Avenue would be Neighborhood Commercial to protect adjacent residential areas.

#### New CN Neighborhood Commercial District

The CN district would be intended to be more restrictive than the Highway Commercial district, because it mainly is intended for areas surrounded by housing.

The goal of this district is to only allow types of commercial uses that would be good neighbors for nearby residents. Many lower intensity businesses can be compatible with homes, such as banks, many types of retail sales, offices, personal service uses, day care, and bed and breakfast inns. In some areas, it may be appropriate to limit late night hours of operation for uses that are not already open during late night hours. In CN, uses that would newly operate between 11 PM and 6 AM would need Zoning Hearing Board approval.

The CN district would also allow housing under the R-3 standards.

An area of undeveloped land west of Route 309 north of Valley Manor Nursing Home would no longer allow industrial uses, and instead would be zoned CN.

#### LIC Light Industrial Commercial District (current LI-1 and LI-2 Light Industrial and Office Research Districts)

It is logical to have two industrial districts—a light and a general. The Light Industrial Commercial district would allow for most industrial uses and selected complementary commercial uses. The General Industrial district should allow all of the uses of the light district, plus uses that need special controls because of potential nuisances or hazards. Under State court decisions, each municipality is supposed to have buildable locations that allow for every legitimate land use. Therefore, there needs to be at least one district that allows uses such as a trash transfer station or a chemical plant which should be the general district.

The LIC district would include the OEM manufacturing plant south of Cherry Street west of 4<sup>th</sup> Street, and land to the immediate south.

The uses that are less likely to cause nuisances and hazards would be permitted by right, while the more intensive and potentially hazardous uses would need Zoning Hearing Board approval.

#### GI General Industrial District

This district includes lands east of the planned Rail-to-Trail south of Station Avenue. This land already includes a concrete plant and other industrial uses along Springfield Street, and is next to an asphalt plant in Upper Saucon.

The draft would make less intense industrial uses by right, but more intense uses would need special exception approval.

Under Federal law, every municipality must allow locations for strip clubs and other adult uses. This would be the GI district. The Borough can continue to use large setbacks from churches, parks and

residential districts, which is the standard way to address these uses. An additional set of requirements could be added for these uses, such as wider buffers and limits on hours of operation.

The Borough needs a district where it can meet its legal obligations to allow for mobile/ manufactured home parks. These types of developments would be limited to a maximum of 5 homes per acre. They are proposed in the GI district.

### **Historic Building Demolition**

The creation of a Historic District with a Historic Architectural Review Board is not being proposed. That type of ordinance would have required approval of routine changes to existing buildings, such as replacement of doors, windows and roofing materials.

Instead, the Borough is proposing to use the Zoning Ordinance to establish an approval process before important older buildings could be demolished or before architectural features are removed. State law provides the Borough with the authority to decide which buildings are significant.

This provision would require approval by the Zoning Hearing Board if the main building on the lot was proposed to be demolished. The applicant would need to show that there was a valid reason for the demolition, such as the building being in such poor condition that it cannot be rehabilitated. A partial demolition should also be regulated, such as a removal of an older front porch or an architectural cornice.

A map of important historic buildings has been prepared, with the assistance of historic preservation specialists.

The Zoning Ordinance would also allow incentives for historic rehabilitation. For instance, a restored historic building might be allowed to be converted into an office or bed and breakfast inn within a residential district that would not normally allow those uses.

### **Controversial Uses**

The revised Zoning Ordinance would very carefully regulate uses that are most likely to cause nuisances and hazards. These include chemical plants, asphalt plants, trash transfer facilities, salvage/scrap yards, after hours clubs, BYOB clubs, large nightclubs, and drug and alcohol treatment centers. The general rule under State law is that it is more legally defensible to allow a use in one district with very strict regulations than to try to completely prohibit it.

### **Flood-prone Areas**

The 100-year floodplain includes land areas expected to be flooded during the worst storm in an average 100-year period. The floodplain mainly exists along the Saucon Creek.

The Borough of Coopersburg has a separate Floodplain ordinance that meet the minimum federal and state regulations on development in the 100-year floodplain. The “floodway” is the main channel that carries the deepest flood waters. The rest of the floodplain is known as the flood-fringe and may be covered by less deep flood waters. These areas function as “overlays” to the regular zoning districts, which means they apply more restrictive provisions for certain matters.

### **Control of Nuisances**

Provisions have been updated to control excessive lighting, noxious odors or noise. For example, noise levels from commercial or industrial uses would be regulated, with more restrictive regulations if the

noise is being heard within a residential district, particularly at night. Additional controls are proposed to limit excessive lighting and to make sure that lighting is properly directed so that it does not cause glare for neighbors and motorists.

### **Parking and Loading**

The Zoning Ordinance requires certain amounts of off-street parking to be provided for new, expanding or intensified uses. These standards are proposed to be updated, based upon nationwide research.

Please contact us if there are any questions or comments.