

§ 27-1216. **Zoning Hearing Board.**

§ 27-1217. **Conditional Uses.**

**PART 13
ENACTMENT**

§ 27-1301. **When Effective.
Zoning Map
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**PART 1
GENERAL AND LEGAL PROVISIONS**

§ 27-101. Authority. [Ord. No. 497, 1/8/2013]

This chapter is enacted and ordained under the grant of powers contained in the Pennsylvania Municipalities Planning Code (MPC).¹

§ 27-102. Title. [Ord. No. 497, 1/8/2013]

This chapter shall be known as and may be cited as the "Borough of Wormleysburg Zoning Ordinance," "Wormleysburg Zoning Ordinance," or "Zoning Ordinance."

§ 27-103. Purpose of Enactment. [Ord. No. 497, 1/8/2013]

The purpose of this chapter is to:

1. Promote, protect, and facilitate one or more of the following: the public health, safety, morals, or general welfare; the provision of adequate light and air; and other public requirements.
2. Prevent one or more of the following: overcrowding; blight; or loss of health, life or property from fire, flood, or other dangers.
3. Establish a Zoning Map dividing Wormleysburg Borough into zoning districts with varying regulations.
4. Permit, prohibit, regulate and determine the uses of land, watercourses, and other bodies of water; the size, height, bulk, location, erection, construction, repair, expansion, razing, removal, and use of buildings and structures, as well as yards and other open areas to be left unoccupied.
5. Establish the requirements for density and intensity of uses.

1. Editor's Note: See 53 P.S. § 10101 et seq.

6. Promote innovative design to preserve and enhance the established and important sense of community, neighborhoods, and character areas.
7. Provide diverse housing opportunities, including housing that is affordable.
8. Encourage and accommodate appropriate and compatible adaptive reuse, replacement, infill development, and redevelopment.
9. Serve as a tool that is part of an overall plan for the orderly, appropriate and compatible growth and development in Wormleysburg Borough, by incorporating the overall objectives and principles of, as well as seeking to implement the most recent version of, the Wormleysburg Borough Comprehensive Plan, and/or other applicable plans adopted by the Borough of Wormleysburg.
10. Affect any additional purposes provided for in Articles I, VI, VII-A, and elsewhere in the Pennsylvania Municipalities Planning Code (MPC).²

§ 27-104. Interpretation and Uses Otherwise Not Provided For. [Ord. No. 497, 1/8/2013]

1. Interpretation. In interpreting and applying this chapter, its provisions shall be held to be the minimum requirements for promotion of health, safety, morals and general welfare of Wormleysburg. Any use permitted subject to the regulations prescribed by the provisions of this chapter shall conform with all regulations of the zoning district(s) in which it is located and elsewhere in this chapter, as well as with all other applicable regulations of this and other related chapters, ordinances, standards, and/or rules. This chapter is not intended to interfere with, abrogate, annul, supersede, or cancel any easements, covenants, restrictions or reservations contained in deeds or other agreements, but if this chapter imposes more stringent restrictions upon the use of buildings, structures, land (which also includes water bodies/courses) than are elsewhere established, the provisions of this chapter shall prevail. Unless otherwise specified elsewhere in this chapter, wherever and whenever the requirements of this chapter are not consistent with the requirements of any other legally adopted laws, rules, regulations, chapters, or ordinances, the most restrictive, or that imposing the higher standards shall govern. In interpreting the language of this chapter to determine the extent of the restriction upon the use of property, the language shall be interpreted, where doubt exists as to the intended meaning of the adopted language, in favor of the property owner and against any implied extension of the restriction.
2. Uses Not Otherwise Provided For. Any use which clearly is not permitted by right, by special exception use, nor by conditional use by this chapter within any zoning district, or a use which is not defined by this chapter, then such use shall be prohibited, except that the Wormleysburg Borough Council may

2. Editor's Note: See 53 P.S. §§ 10101 et seq., 10601 et seq. and 10701-A et seq., respectively.

permit such use by conditional use if the applicant proves to the satisfaction of the Wormleysburg Borough Council that all of the terms and conditions set forth below:

- A. The proposed use is in general conformity with the most recent version of the Wormleysburg Borough comprehensive plan, and/or other applicable plans adopted by the Borough of Wormleysburg, and in harmony with the zoning district, area, and neighborhood in which it is proposed.
- B. The proposed use is:
 - (1) Similar to and compatible with the permitted uses in the zoning district in which the subject property is located;
 - (2) Not permitted in any other zoning district under the terms of this chapter; and
 - (3) In no way conflicting with the general purposes and intent of this chapter or the zoning district in which the subject property is located.
- C. The external impacts associated with the proposed use would be equal to or less intensive than external impacts associated with other uses that are permitted in the zoning district in which the subject property is located.
- D. The location of the proposed use would not endanger the public health and safety, and the use will not deteriorate the environment or generate nuisance conditions such as traffic congestion, noise, dust, smoke, glare or vibration.
- E. The proposed use must comply with Borough building, health, housing, rental, safety, property and other applicable local, county, state, and federal code and licensing requirements. All such licenses, certificates, and permits shall have been obtained and presented to the Borough, or shall be a condition of approval.
- F. The proposed use would meet the standards that apply under Part 12 of this chapter relating to Conditional Uses.
- G. The applicant shall provide:
 - (1) A detailed description of the proposed use addressing each of the following topics as applicable:
 - (a) The nature of the on-site activities and operations; the type of products, materials, equipment and/or processes involved in the proposed use;
 - (b) Advertising associated with the proposed use;

- (c) Estimated number of employees and/or occupants and number of employees and/or occupants on each shift;
 - (d) The floor area of the building or gross area of the lot devoted to the proposed use;
 - (e) Estimated amount of sales from the proposed use;
 - (f) The customer and/or patron type of each proposed use and magnitude of walk-in trade;
 - (g) Vehicles associated with the proposed use;
 - (h) The hours of operation;
 - (i) The disposal of materials will be accomplished in a manner that complies with Borough, state, and federal regulations, including but not limited to those listed in Part 7 of this chapter relating to performance standards for all uses;
 - (j) The environmental impacts that are likely to be generated (e.g., odor, noise, smoke, dust, litter, glare, vibration, electrical disturbance, wastewater, stormwater, solid waste, etc.) and specific measures employed to mitigate or eliminate any negative impacts. The applicant shall furnish evidence that the impacts generated by the proposed use will be within acceptable levels, as regulated by applicable laws and ordinance, including but not limited to those listed in Part 7 of this chapter relating to performance standards for all uses;
 - (k) The extent of pervious and impervious surfaces in relationship to that currently present on adjacent lots and the overall zoning district, area, and neighborhoods in which the use and development is proposed.
 - (l) How the proposed use and development complies with Subsection 2A through F above.
- (2) A plot/site plans required in Part 12 of this chapter relating to Applications for Zoning Permits.
 - (3) A schematic architectural drawing of the principal building's front facade.

§ 27-105. Applicability. [Ord. No. 497, 1/8/2013]

1. Within Wormleysburg Borough, Cumberland County, PA, no land, body of water, or structure shall hereafter be used or occupied and no structure or

part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all regulations and procedures specified for in the zoning district in which such land, body of water, or structure is located, as well as with all other applicable provisions of this chapter and other applicable chapters of the Codified Ordinances of the Borough of Wormleysburg.

2. This chapter shall not apply to an existing or proposed building or structure or extensions thereof that is used or to be used by a public utility corporation, if, upon petition of the corporation, the Pennsylvania Public Utility Commission (PUC) 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. It shall be the responsibility of the PUC to ensure that both the corporation and the Borough of Wormleysburg have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties, and otherwise exercise the rights of a party to the proceedings. The exemptions and procedures shall be in accordance with the MPC.³
3. Notwithstanding the foregoing, the requirements of this chapter shall not apply to municipal-owned uses, land, facilities, or structures owned by the Borough of Wormleysburg, nor to uses, land, facilities, or structures owned by a municipal authority created by the Borough of Wormleysburg, or an agent thereof that is authorized or created by the Borough of Wormleysburg or municipal authority to provide governmental or public health and safety services. Further, the requirements of this chapter shall not apply to private uses permitted by the Borough of Wormleysburg, its municipal authorities, or their authorized agents, to be conducted upon and or in land or structures owned and/or operated by the Borough, municipal authorities, or authorized agents. In any instance in which applicable zoning provisions would be affected by noncompliance if not for the exemption provided herein, the Wormleysburg Borough Council shall take public comment on the specific zoning provisions and related issue(s) at an advertised public meeting of the Wormleysburg Borough Council. Notice of the public meeting shall be mailed by the Borough of Wormleysburg at least 30 days prior to the date of the meeting by first-class mail to the addresses to which real estate tax bills are sent for all real property located within 200 feet of the exempt tract, as evidenced by tax records within the possession of the Borough of Wormleysburg. Additionally, notice shall be provided to the Wormleysburg Planning Commission at least 30 days prior to the date of the public meeting of the Wormleysburg Borough Council. Such notices shall include the location, date, and time of the public meeting; and shall include the location of said exempt tract, a description of the proposed use/development of the exempt tract, and the specific zoning provisions for which strict compliance cannot be met by the proposed use/development of the exempt tract.

3. Editor's Note: See 53 P.S. § 10101 et seq.

§ 27-106. Zoning Districts and Map. [Ord. No. 497, 1/8/2013]

1. For the purpose of this chapter, Wormleysburg Borough is hereby divided into specific zoning districts (underlying or base) and overlay zoning districts which shall be designated as follows in Table 1-1, Zoning Districts:

| Table 1-1 Zoning Districts | |
|-------------------------------------------------------|-------------------------------------------|
| Zoning District Name | Specific Part or Section Reference |
| A. Residential Zoning Districts | |
| Restricted Residential-1 Zoning District (RR-1) | Part 3 |
| Restricted Residential-2 Zoning District (RR-2) | Part 3 |
| Multifamily Residential District (MFR) | Part 3 |
| B. Mixed-Use Zoning Districts | |
| Village Mixed-Use-1 Zoning District (VMU-1) | Part 4 |
| Village Mixed-Use-2 Zoning District (VMU-2) | Part 4 |
| The Waterfront Zoning District (WF) | Part 4 |
| C. General Business and Other Zoning Districts | |
| Office Zoning District (O) | Part 5 |
| General Commercial Zoning District (GC) | Part 5 |
| D. Overlay Zoning Districts | |
| Floodplain Management Overlay Zoning District (FPO) | § 27-602 |
| Airport Overlay Zoning District (APO) | § 27-603 |
| Edgewater Compatibility Overlay Zoning District (ECO) | § 27-604 |
| Heritage Conservation Overlay Zoning District (HCO) | § 27-605 |
| Natural Resources Overlay Zoning District (NRO) | § 27-606 |

2. **Zoning Map.** Unless otherwise noted, the locations and boundaries of the specific zoning districts and overlay zoning districts are shown upon the map(s) that are attached to and made a part of this chapter. The map(s) and all notations, references and other data shown thereon are hereby incorporated by reference into this chapter as if all were fully described herein. The map(s) shall be designated:
 - A. "Borough of Wormleysburg, Cumberland County, PA: Zoning Map" herein referred to as the, "Wormleysburg Borough Zoning Map," "Wormleysburg Zoning Map," and/or "Zoning Map"; and
 - B. "Borough of Wormleysburg, Cumberland County, PA: Overlay Zoning Districts Map."

3. **Zoning District Boundaries.** The boundaries between zoning districts are shown by zoning district boundary lines on the zoning map(s). Where uncertainty exists as to the location of boundaries of any zoning districts shown on the zoning map(s), the following rules shall apply:
 - A. Where zoning district boundaries are so indicated as approximately coinciding with the center lines of streets, highways, railroad lines,

other rights-of-way lines, streams, or ridge lines, such center lines shall be construed to be the zoning district boundaries.

- B. Where zoning district boundaries are so indicated as approximately coinciding with lot lines, such lot lines shall be construed to be the zoning district boundaries.
- C. Where zoning district boundaries are so indicated that as approximately parallel to center lines of streets, highways, railroad lines, and other rights-of-way, the zoning district boundaries shall be construed as parallel thereto and at such distances from the center line as indicated on the zoning map(s).
- D. For unsubdivided land or where a zoning district boundary divides a lot, the location of the zoning district boundary, unless dimensions are indicated, shall be determined by the scale appearing on the zoning map(s).
- E. Where a municipal boundary divides a lot, the minimum lot area shall be regulated by the municipality in which the principal use(s) are located, unless otherwise provided by applicable case law. The land area within each municipality shall be regulated by the use regulations and other applicable regulations of each municipality.
- F. In the case of any uncertainty as to zoning district boundaries on the zoning map(s), the Zoning Officer shall determine the zoning district boundaries; however, the Zoning Officer's determination may be appealed to the Zoning Hearing Board in accordance with Part 12 of this chapter relating to Zoning Hearing Board.

§ 27-107. Municipality Liability. [Ord. No. 497, 1/8/2013]

The granting of a zoning permit for the erection or use of a structure, building, or lot shall not constitute a representation, guarantee or warranty of any kind or nature by the Borough of Wormleysburg, or an official or employee, thereof, of the safety of any structure, building, use, or other proposed plan from cause whatsoever, and shall create no liability upon or a course of action against the Borough of Wormleysburg or such public official or employee for any damage that may be pursuant thereto.

§ 27-108. Disclaimer. [Ord. No. 497, 1/8/2013]

It is recognized that the:

1. Act of June 22, 1937 (P.L. 1987, No. 394), known as the "Clean Streams Law";⁴

4. Editor's Note: See 35 P.S. § 691.1 et seq.

2. Act of May 31, 1945 (P.L. 1198, No 418), known as the "Surface Mining Conservation and Reclamation Act";⁵
3. Act of April 27, 1966 (first Special Session, P.L. 31, No. 1), known as the "Bituminous Mine Subsidence and Land Conservation Act";⁶
4. Act of September 24, 1968 (P.L. 1040, No. 318), known as the "Coal Refuse Disposal Control Act";⁷
5. Act of December 19, 1984 (P.L. 1093, No. 219) known as the "Noncoal Surface Mining Conservation and Reclamation Act";⁸
6. Act of December 19, 1984 (P.L. 1140, No. 223), known as the "Oil and Gas Act";⁹
7. Act of June 30, 1981 (P.L. 128, No. 43), known as the "Agricultural Area Security Law";¹⁰
8. Act of June 10, 1982 (P.L. 454, No. 133), entitled "An act protecting agricultural operations from nuisance suits and ordinances under certain circumstances";¹¹ and
9. Act of May 20, 1993 (P.L. 12, No 6), known as the "Nutrient Management Act";¹² preempt zoning ordinances. Therefore, suggestions, recommendations, options or directives contained herein are intended to be implemented only to the extent that they are consistent with and do not exceed the requirements of these acts. Nothing contrary to these acts shall be mandated by this chapter.

§ 27-109. Severability. [Ord. No. 497, 1/8/2013]

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.

5. Editor's Note: See 52 P.S. § 1396.1 et seq.

6. Editor's Note: See 52 P.S. § 1406.1 et seq.

7. Editor's Note: See 52 P.S. § 30.51 et seq.

8. Editor's Note: See 52 P.S. § 3301 et seq.

9. Editor's Note: The Oil and Gas Act was repealed by P.L. 87, No. 13, 2-14, 2012. See now 58 Pa.C.S.A.

10. Editor's Note: See 3 P.S. § 901 et seq.

11. Editor's Note: See 3 P.S. § 951 et seq.

12. Editor's Note: The Nutrient Management Act was repealed by P.L. 112, No. 38, 7-6-2005. See now 3 Pa.C.S.A. § 501 et seq.

§ 27-110. Repealer. [Ord. No. 497, 1/8/2013]

The preexisting chapter or ordinance relating to zoning in Wormleysburg Borough, as amended, is hereby expressly repealed; provided, further that nothing in this chapter shall be construed to affect any suit or proceeding pending in any court, or any rights acquired or liability incurred, or any permit issued or approval granted or any cause or causes of action arising prior to the enactment of this chapter. All chapters and ordinances or parts of chapters and ordinances and all resolutions or parts of resolutions which are inconsistent herewith by virtue of references or incorporation of requirements contained in the preexisting chapter or ordinance relating to zoning in Wormleysburg Borough, as amended, shall, as nearly as possible, be construed to reference this chapter.

§ 27-111. Effective Date. [Ord. No. 497, 1/8/2013]

This chapter shall take effect 2012 as enacted and ordained by the Wormleysburg Borough Council.