

BOROUGH OF NEW WILMINGTON
LAWRENCE COUNTY, PENNSYLVANIA
ORDINANCE NO. 537

AN ORDINANCE OF THE BOROUGH OF NEW WILMINGTON, LAWRENCE COUNTY, COMMONWEALTH OF PENNSYLVANIA, AMENDING THE BOROUGH OF NEW WILMINGTON ZONING ORDINANCE OF 1983 AS PREVIOUSLY AMENDED, TO PROHIBIT RESIDENTIAL USES IN THE C-COMMERCIAL DISTRICT EXCEPT AS A SPECIAL EXCEPTION ON THE SECOND OR HIGHER FLOOR OF A BUILDING WHERE THE FIRST FLOOR IS USED AS A COMMERCIAL BUSINESS; REPEALING PRIOR INCONSISTENT ORDINANCES OR PARTS OF ORDINANCES; CONTAINING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Borough Council of the Borough of New Wilmington is duly empowered by the Borough Code, 8 Pa.C.S. § 101, *et seq.*, to enact regulations relating to the public health, safety and welfare of the citizens of the community of the Borough of New Wilmington; and

WHEREAS, the Borough Council of the Borough of New Wilmington has adopted a comprehensive Borough zoning ordinance, in accordance with the provisions of Article VI of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10101, *et seq.*, to provide for the orderly development and redevelopment of the Borough; and

WHEREAS, the Borough has invested public funds, and many businesses are investing in improvements in the C-Commercial Business District to make it a more vibrant and active commercial area, for the benefit of the citizens of the Borough of New Wilmington; and

WHEREAS, the Borough Council seeks to ensure that the C-Commercial District is preserved for business and economic activities, in furtherance of the Borough's long-term planning goals; and

WHEREAS, the Borough Council has determined that the best interests of the Borough would be served by amending the provisions of the Borough's zoning ordinance to prohibit residential uses on the first floor of structures located in the C-Commercial District except as a special exception and subject to rules and regulations.

NOW THEREFORE, be it **RESOLVED**, and it is hereby **ENACTED** and **ORDAINED** by the Council of the Borough of New Wilmington that the Borough of New Wilmington Zoning Ordinance of 1983 as amended, codified at Chapter 275 *Zoning* of the Borough's Code of Ordinances, is hereby amended as follows:

SECTION 1.

Amend and replace Section 275-8. Zoning districts subsection B with the following:

B. C-Commercial District: This district is designed to accommodate a wide variety of commercial uses within the Borough commercial core. Residential uses are prohibited in the C-Commercial District, except that dwelling units as a secondary use may be permitted as a Special Exception on the second or higher floor of a building where the first floor is used as a commercial business, in accordance with Section 275-11 B(9).

SECTION 2.

Amend and replace Section 275-11(B)(9) with the following:

(9) Residence as a secondary use. Although residential uses are generally prohibited in the C-Commercial District, Residential Dwelling units may be located on the second or higher floor of buildings whose main function is commercial, subject to the following conditions:

(a) Any use of a commercial structure for secondary residential shall adhere to the following criteria:

[1] The residential use must be only on the second or higher floor of the building, and the first floor must have a commercial business that is open and operating or available for commercial use.

[2] The commercial use shall meet the minimum lot area required for the district and the intended use.

[3] Each secondary residential Dwelling Unit shall require a minimum of an additional 1,500 square feet of lot space.

[4] Each Dwelling Unit must have a minimum of 800 square feet, and include separate cooking, sanitary, bedroom, and living room areas.

[5] At least two on-lot parking spaces per dwelling unit is required in addition to the parking required for the commercial use.

(b) To increase the number of secondary dwelling units within a commercial structure, the owner must show the lot to meet the square footage and parking requirements as set above (i.e., at least 10,000 square feet, plus 1,500 square feet for each dwelling unit) and provide two parking spaces per dwelling unit.

SECTION 3.

Repeal Attachment 1, Table A in its entirety and replace it with the following table:

275 Attachment 1

Borough of New Wilmington

Table A

Permitted Uses, Conditional Uses and Special Exceptions
[Amended 2-5-1996 by Ord. No. 420; 2-2-1998 by Ord. No. 429;
4-3-2000 by Ord. No. 444; 5-7-2001 by Ord. No. 453; 10-4-2004 by Ord. No. 4761

A- Residence District

Permitted Uses:

1. Single-family dwellings
2. Churches and places Worship
3. Public libraries
4. Municipal buildings
5. Public parks and recreation
6. Accessory uses
7. No-impact home based business

Conditional Uses:

None

Special Exceptions:

1. Public utility buildings [§ 275-11B(2)]
2. Public and private schools [§ 275-11B(6)]

B-Residence District

Permitted Uses:

1. Single-family dwellings
2. Churches and places Worship
3. Public libraries
4. Municipal buildings
5. Public parks and recreation
6. Accessory uses
7. Two-family dwellings
8. No-impact home based business
9. Boarding/rooming house

Conditional Uses:

None

Special Exceptions:

1. Multifamily dwellings [§ 275-11B(5)]
2. Public and private schools [§ 275-11B(6)]
3. Home Occupation [§ 275-11B(1)]
4. Funeral parlors [§ 275-11B(17)]
5. Public utility buildings [§ 275-11B(2)]

B-1 Residence District¹

Permitted Uses:

1. Single-family dwellings
2. Churches and places of worship
3. Public libraries
4. Public parks and recreation
5. Municipal buildings
6. Accessory uses
7. Two-family dwellings
8. No-impact home based business
9. Boarding/Rooming Home

Conditional Uses:

1. Fraternity or Sorority houses [§ 275-11B(3)]
2. Hospitals [§ 275-11B(4)]
3. Bed-and-breakfast establishments [§ 275-11B(11)]
4. Juvenile boarding homes [§ 275-11B(12)]
5. Personal care boarding homes [§ 275-11B(13)]

Special Exceptions:

1. Multifamily dwellings [§ 275-11B(5)]
2. Public and private schools [§ 275-11B(6)]
3. Home Occupation [§ 275-11B(1)]
4. Nursing homes [§ 275-11B(4)]
5. Public utility buildings [§ 275-11B(2)]
6. Professional offices [§ 275-11B(10)]
7. Family day-care homes [§ 275-11B(14)]
8. Group day-care homes [§ 275-11B(14)]
9. Elderly day-care [§ 275-11B(15)]
10. Funeral parlors [§ 275-11B(17)]

C-Commercial District

Permitted Uses:

1. Hotels
2. Restaurants
3. Banks
4. Offices
5. Retail Stores

6. Personal Services
7. Professional offices
8. Accessory uses
9. Essential services

Conditional Uses:

1. Adult Use Business [§ 275-11B(16)]

Special Exceptions:

1. Service Stations [§ 275-11B(7)]
2. Service Garages [§ 275-11B(8)]
3. Residence as a Secondary Use [§ 275-11B(9)]
4. Public utility buildings [§ 275-11B(2)]
5. Bed-and-breakfast establishments [§ 275-11B(11)]
6. Nursing Homes [§ 275-11B(4)]

Parking Overlay District²

D-Industrial Districts

Permitted Uses:

1. Light Industrial
2. Contractor yards
3. Offices
4. Warehouses
5. Communications antennas
6. Self-Storage Facilities

Conditional Uses:

None

Special Exceptions:

1. Public utility buildings [§ 275-11B(2)]
2. Communications towers [§ 275-11B(25)]

I-Institutional District

1. Classroom facilities
2. Administrative offices
3. Maintenance facilities
4. Recreational facilities

NOTES:

- 1 The B-1 Residence boundaries are as follows: Beginning at the northwest corner thereof at the intersection of the south line of Jackson Street with the east line of New Castle Street; thence eastward along the south line of Jackson Street from New Castle Street to Haw Street; thence south along Haw Street to Cherry Street; thence east along Cherry Street to Market Street and across Market Street on the north line of lands of the New Wilmington Presbyterian Church to Chestnut Street to Cherry Street; thence east along Cherry Street to Mercer Street and thence continuing in

an easterly direction 180 feet north of the north line of lands of Westminster College to Westminster Drive; thence southerly by Westminster Drive to Maple Street; thence westerly along Maple Street to Market Street; thence south along Market Street to Beechwood Road; thence westerly along Beechwood Road to the intersection of the entrance of Hillside Dormitory with Beechwood Road; thence southerly 180 feet; thence westerly 180 feet south of Beechwood Road to New Castle Street at a point 180 feet south of Beechwood Road; thence northwardly along New Castle Street to the south line of Jackson Street, the place of beginning. Beginning at the intersection of Prospect Street and South Market Street; thence northward along South Market Street to the south line of the Parking lot of Eichenhauer Dormitory parking lot to College Drive; thence southwardly along College Drive to its intersection with Prospect Street; thence westwardly along Prospect Street to South Market Street, the place of beginning.

- 2 The Parking Overlay District is not a separate zoning district but is used only as an overlay zone for parking in areas of the Borough's commercial business district.

SECTION 4. REPEALER.

Any and all other Ordinances or parts of Ordinances in conflict with the terms, conditions and provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION 5. SEVERABILITY CLAUSE.

The terms, conditions and provisions of this Ordinance are hereby declared to be severable, and, should any portion, part or provision of this Ordinance be found by a court of competent jurisdiction to be invalid, non-enforceable or unconstitutional, the Council hereby declares its intent that the remaining portions remain effective for all purposes as if the Ordinance had been adopted and enacted without the inclusion of the invalid section or sections, sentence of phrase.

SECTION 6. RATIFICATION

Except as specifically amended by the terms of this Ordinance, the New Wilmington Borough Zoning Ordinance is hereby ratified and confirmed.

SECTION 7. EFFECTIVE DATE.

This ordinance shall become effective at the earliest time permitted by Pennsylvania Law.

ORDAINED and ENACTED as an Ordinance of the Borough of New Wilmington this 1st day of July, 2024.

John Geidner, Council President

ATTEST:

Borough Secretary

Approved this 1 day of July, 2024

Sherie Babb, Mayor