

Chapter JMZO. Joint Municipal Zoning Ordinance

Article 8. General Regulations

§ 801. Frontage Onto Improved Streets; Number of Uses or Buildings; Minimum Size of Dwellings.

801.A. Frontage Required onto Improved Street. Each proposed new lot, each land development and each proposed principal building shall be on a lot which directly abuts a public street, a street proposed to be dedicated to the Municipality by the subdivision plan which created or creates such lot, or a private street which meets all of the requirements of the Municipal Subdivision and Land Development Ordinance. In the case of townhouses, manufactured/mobile home park, or apartments, each unit may have access onto a parking court which then has access onto a public or private street meeting Municipal standards.

1. In Colebrookdale Township, a new lot for a single family detached dwelling shall have a minimum lot frontage along a street right-of-way of 50 feet, unless stated otherwise in this Ordinance.

801.B. Number of Principal Uses and Principal Buildings Per Lot.

1. A lot in a commercial or industrial district may include more than one permitted principal use per lot and/or more than one permitted principal building per lot, provided that all of the requirements are met for each use and each building. If differing dimensional requirements apply for different uses on the lot, then the most restrictive requirement shall apply. Where two non-residential uses require differing lot sizes, the largest lot size requirement shall apply.
 - a. For example, if Use One requires a one acre lot area and Use Two on the same lot requires a two acre lot area, then the lot shall have a minimum lot area of two acres.
 - b. The applicant shall submit a site plan that demonstrates that each structure would meet the requirements of this Ordinance.
 - c. The uses and buildings shall be in common ownership. However, a condominium form of ownership of individual buildings, with a legally binding property-owners association, may be established if the applicant proves to the satisfaction of the Zoning Officer, based upon review by the Municipal Solicitor, that there will be appropriate legal mechanisms in place.
2. A lot within a residential district shall not include more than one principal use and shall not include more than one principal building unless specifically permitted by this Ordinance.
 - a. A manufactured/mobile home park, condominium residential development or apartment development may include more than one principal building per lot, provided all other requirements of this Ordinance are met. A condominium form of ownership of individual dwelling units, with a legally binding homeowners association, may be established if the applicant proves to the satisfaction of the Zoning Officer, based upon review by the Municipal Solicitor, that there will be appropriate legal mechanisms in place and compliance with applicable State law.

801.C. Minimum Size of Dwellings. Each dwelling unit shall include a minimum of 500 square feet of enclosed habitable, indoor, heated floor area, which shall be primarily above the ground level. This Section **801.C.** shall not apply within Pike Township.

801.D. Maximum Occupancy. No recreational vehicle shall be occupied on a lot for more than 30 days in a calendar year, except as may be approved within a campground with suitable central water and sewage service. No mobile/manufactured home shall be occupied on a lot as a dwelling unless it meets all of the requirements for a dwelling.

§ 802. Height Exceptions.

The maximum structure height specified for each district shall not apply to: antenna that meet the requirements of this Ordinance, water towers, clock or bell towers, steeples and religious symbols attached to places of worship, electrical transmission lines, elevator shafts, wind turbines meeting the requirements for such uses, skylights, solar energy collection devices, chimneys, heating/ventilation/air conditional equipment, industrial mechanical equipment areas that are not occupied by humans, or other appurtenances usually required to be and customarily placed above the roof level and not intended for human occupancy. See also definition of "Height" in Section **202** and provisions in Section **307.B.**

§ 803. Special Lot and Yard Requirements, Sight Distance and Buffer Yards.

803.A. In General.

1. No lot, structure or use shall be created or developed in such a way that it would result in another lot, building or use not being able to meet the requirements of this Ordinance. This includes, but is not limited to: setback areas, non-impervious areas and off-street parking areas.
2. Emergency Access. All uses and structures shall have adequate provisions for access by emergency vehicles and fire ladders. Such access shall be maintained in a passable condition by the owner of the lot, or where applicable by the property-owner association.

803.B. Exceptions to Minimum Lot Areas, Lot Widths and Yards.

1. Corner Lots. For a corner lot, each yard that abuts a public street shall be considered a front yard and meet the requirements for minimum depth of a front yard. See definition of "Lot, Corner" in Section **202**.
2. Projections Into Required Yards.
 - a. Cornices, footers, eaves, roof overhangs, sills or other similar architectural features, exterior stairways, unenclosed fire escapes or other required means of egress, rain leads, chimneys, "Bilco"-type doors for basement access, window awnings, chaise for heating pipes or other similar structures that do not include space usable by persons may extend or project into a required yard not more than three feet, except as may be required within a drainage or utility easement.
 - b. Steps, stoops, fire escapes, handicapped ramps, and landings necessary to provide entrance to a building may be located within a required setback area.
 - c. For decks and porches, see Section **307**.
3. Lot Widths Around Curves. Around the bulb of a cul-de-sac street or on the outside of the curve of a street with a radius of less than 150 feet, the minimum lot width at the minimum building setback line may be reduced to 60% of the width that would otherwise be required.
4. Front Setback. If structural walls of existing principal buildings on abutting lots on either side of the same side of the street on the same block each have an existing front yard setback that is smaller than is required under this Ordinance, then the lot in between such lots may have a front yard setback that is equal to the average of the two abutting existing principal buildings, instead of complying with the minimum front yard setback that would otherwise apply.

803.C. Sight Clearance at Intersections. This Section **803.C.** shall only apply where a provision that serves the same purpose does not apply under the Municipal Subdivision and Land Development Ordinance. At the intersection of two or more streets, and at the intersection of a commercial driveway and a street, a clear sight triangle shall be provided. Within this triangle, no visual obstructions shall be allowed between the height of 2.5 feet and 10 feet above the ground level, except for utility posts, single sign posts and the trunks of existing trimmed canopy trees. Trunks of existing trees shall be removed within this sight triangle within Colebrookdale Township. In Boyertown and Pike Township, the Municipality may, where deemed necessary, require the removal of existing trees within a clear sight triangle. The triangle shall be measured along the edge of the travel lane of the streets. Each leg of the triangle shall be measured 75 feet from the intersection of the street travel lanes, except such distance shall be 25 feet within the TC district. A third longer leg shall connect the two legs along the street cartways, to form the triangle.

1. However, in place of the above sight triangle, where a local street intersects an arterial or collector street with a stop sign only at the local street, the leg of the triangle along the arterial or collector street shall be increased to 300 feet and the leg along the local street shall be decreased to 15 feet beyond the travel lane of the arterial or collector street.
2. The clear sight triangle shall be kept free of such obstructions in perpetuity.

803.D. Buffer Yards. If a buffer yard is required by the Municipal Subdivision and Land Development Ordinance (SALDO) that serves the same purpose as this Section **803.D.**, then the SALDO provision shall apply instead of this Zoning provision. Buffer yards including plant screening complying with the following standards shall be required under the following situations, unless a more restrictive provision is established by another section of this Ordinance:

1. Unless otherwise stated, a minimum 50 feet wide buffer yard with plant screening shall be required along the rear and side lot lines of any lot used principally for non-residential purposes that is contiguous to a lot line of a residentially zoned lot or a lot occupied by an existing principal dwelling. Within the Borough of Boyertown, an eight feet width shall apply for the buffer yard instead of 50 feet.
 - a. If a principal business use will include areas used for manufacturing or will have a loading dock(s) that will be routinely serviced by two or more tractor-trailer trucks or refrigerated trucks, then the minimum buffer yard width along such manufacturing area and/or loading dock(s) shall be increased to 100 feet, and the minimum initial height of plantings shall be increased to six feet. However, where a 100 feet buffer yard is required by this Section, the landscaped buffer yard may be reduced to the initial 50 feet of width, provided the next 50 feet of width is not used for any activities other than parking of private vehicles of employees or customers. Such 100 feet width shall be reduced to 20 feet within Boyertown Borough.
 - b. If a dwelling will be on the same lot as a principal business use, then a buffer yard shall not be required by this Section to buffer that dwelling.
 - c. A 10 feet minimum buffer yard with landscaped screening shall be required where a subdivision or land development of new dwellings will have rear yards abutting a public street. See also Section **803.E.**
 - d. A Buffer Yard is also required to be provided by the following if they are abutting and visible from a public street:
 - (1) Along lot lines and street rights-of-way of any newly developed or expanded outdoor industrial storage or loading area, or
 - (2) Along lot lines and street rights-of-way of any newly developed or expanded area routinely used for the overnight parking of two or more tractor-trailer trucks or trailers of tractor-trailers.
2. A required yard may overlap a required buffer yard, provided the requirement for each is met. The buffer yard shall be measured from the district boundary line, street right-of-way line or lot line, whichever is applicable. Required plantings shall not be placed within the right-of-way, except that the Municipality may allow deciduous canopy trees.
3. The buffer yard shall be a landscaped area free of structures, dumpsters, commercial or industrial storage or display, signs, manufacturing or processing activity, materials, loading and unloading areas or vehicle parking or display.

4. Fence. The Municipality may require the installation of a mostly solid decorative fence in addition to the plantings. Any wall or fence in a buffer yard shall be placed on the inside (nonresidential side) of any required plant screening. If a fence in a buffer yard has one side that is more finished or smoother than the other side, the more finished or smoother side shall face the outside of the buffer yard.
5. Each planting screen shall meet the following requirements:
 - a. Plant materials needed to form the visual screen shall have a minimum height when planted of four feet. In addition, an average of one deciduous shade tree, with a minimum trunk diameter of two inches measured six inches above the finished ground level, shall be placed for each 50 feet of length of the buffer yard. The shade trees may be clustered or spaced unevenly.
 - b. Plants needed to form the visual screen shall be of such species, spacing and size as can reasonably be expected to produce within three years a mostly solid year-round visual screen at least six feet in height.
 - c. The plant screen shall be placed so that at maturity the plants will not obstruct a street or sidewalk or extend over a lot line.
 - d. The plant visual screen shall extend the full length of the lot line, except for: a) Municipally-approved points of approximately perpendicular vehicle or pedestrian ingress and egress to the lot, b) locations necessary to comply with safe sight distance requirements where the plantings cannot feasibly be moved further back, and c) locations needed to meet other specific State, Municipal and utility requirements, such as stormwater swales.
 - e. American Arborvitae and similar weak-stem plants shall not be used to meet the buffer yard requirements. A monotonous straight row of the same species is discouraged. A more naturalistic form of planting is encouraged with a mix of species. If more than 20 evergreen plants are proposed, no more than 50% shall be of one species.
 - f. Evergreen trees should be planted at diagonal off-sets so that there is room for future growth of the trees.
 - g. The plant screening shall primarily use evergreen trees.
 - h. The plants needed for screening shall be maintained permanently. See maintenance and replacement provisions in Section **804.F**.
 - i. The Zoning Officer may also modify the buffer yard requirements if necessary for fire safety reasons. The Zoning Hearing Board may by special exception reduce the width of the buffer yard if the required width is not feasible.
6. Buffer Yard Plans.
 - a. Prior to the issuance of a permit under this Ordinance where a buffer yard would be required, and on any required subdivision or land development plan, the applicant shall submit plans showing:
 - (1) The location and arrangement of each buffer yard,
 - (2) The placement, general selection of species and initial size of all plant materials, and
 - (3) The placement, size, materials and type of all fences to be placed in such buffer yard.

803.E. Rear Lotting. Within Colebrookdale Township new lots shall not be created that abut one street along the front lot line and another street along the rear lot line, except where required by PennDOT or the Township for access management purposes.

§ 804. Landscaping.

804.A. Any part of a commercial, industrial, institutional or apartment lot which is not used for structures, loading areas, parking spaces and aisles, sidewalks and designated storage areas shall be provided with an all-season, well-maintained vegetative groundcover, and shall be landscaped with trees and shrubs. Landscaped areas shall be kept free of debris, rubbish and noxious weeds.

804.B. See also the buffer yard provisions in Section **803**.

804.C. Street Trees. If street trees are required by the Municipal Subdivision and Land Development Ordinance (SALDO) that serve the same purpose as this Section **804.C.**, then the SALDO provision shall apply instead of this Zoning provision. As part of the creation of a new lot or the construction of a new principal non-residential building, or development of parking area for six or more parking spaces, deciduous shade street trees shall be planted between such lot lines, building and/or parking area and any adjacent public street(s). This requirement shall not apply along street segments where existing healthy trees will be preserved and protected during construction that will serve the same purpose.

1. Number. A minimum average of one such tree shall be planted for each 50 feet of length of street right-of-way around the lot. The spacing of the trees may vary as needed considering driveways, utility poles and other obstructions.
2. Location. Such trees may be placed immediately outside of the street right-of-way, or an alternative location acceptable to the Governing Body or their designee.
3. Such street trees shall be planted in a manner to avoid conflicts with sidewalks and utilities.
4. Buffer. Where shade trees may be required under the buffer yard provisions, the same tree may be used to count towards both requirements.
5. The street trees shall meet the requirements of Section **804.D**.

- 6. This requirement for street trees shall not apply for an agricultural or single family detached residential lot of more than three acres.
- 7. Trees may be required to be located to minimize sight obstructions and to reduce hazards to sidewalks.

804.D. Parking Lot Landscaping.

- 1. A minimum of one deciduous tree shall be required for every 10 new off-street parking spaces.
- 2. If a lot will include 30 or more new parking spaces, landscaped islands shall be provided within auto parking areas. Otherwise, the trees may be planted around the parking area.
- 3. Deciduous trees required by this section shall meet the following standards:
 - a. Type of Trees Permitted. Required trees shall be chosen from the following list of approved street trees, unless the applicant proves to the satisfaction of the Municipality that another type of tree would shade paved areas, be resistant to disease, road salt and air pollution and be attractive.

Types of Deciduous Trees Permitted to Meet Ordinance Requirements
Acer rubrum - Red Maple
Acer saccharum - Sugar Maple
Carpinus betulus - European Hornbeam
Celtis occidentalis - Common Hackberry
Fagus sylvatica - European Beech
Fraxinus americana - White Ash
Fraxinus pennsylvanica - Green Ash
Ginkgo biloba fastigiata - Maiden Hair Tree (male only; female has noxious odor)
Gleditsia triacanthos - Thornless Locust
Liriodendron tulipifera - Tulip Poplar
Ostrya virginiana - Hop Hornbeam
Quercus - All species of oaks
Sophora japonica - Scholar Tree/Pagoda Tree
Tilia americana - American Linden
Tilia cordata - Little Leaf Linden
Tilia euchlora - Crimean Linden
Tilia petiolaris - Silver Linden
Ulmus hybrids - Homestead or Sapporo Autumn Gold
Ulmus parviflora - Chinese or Lacebark Elm, not including Siberian Elm
Zelkova serrata - Zelkova

Note- This ordinance only regulates the species of trees that are used to meet requirements of this Ordinance. The species of trees that are not required by Municipal ordinances are not regulated.

- b. Quality of Trees. Required trees shall be of symmetrical growth and free of insect pests and disease.
- c. Minimum Size. The trunk diameter (measured at a height of six inches above the finished grade level) shall be a minimum of two inches or greater.
- d. Planting and Maintenance. Required trees shall be:
 - (i) Planted in conformance with good landscaping practices, with adequate unpaved surface around each for water and air, and
 - (ii) Properly protected by curbs, curb stops, distance or other devices from damage from vehicles.

804.E. Green Area Around Trees. A minimum vegetative area shall be provided that includes at least a three foot minimum radius around all sides of the trunk of each required deciduous tree that is within or adjacent to a parking lot. Where a tree is required to be planted abutting a street, a minimum vegetative area shall be provided that is not less than three feet wide and three feet long surrounding the tree. In each case, a minimum land area of 12 square feet of vegetative area shall be provided around each required tree.

804.F. Review and Approval. Where landscaping is required by this Ordinance, the applicant shall submit a landscaping plan, in addition to a site plan, showing proposed initial sizes, locations and species of plantings.

804.G. Landscape Maintenance. All shade tree, buffer yard and other landscaping required by this Ordinance shall be perpetually maintained by the property-owner. Any landscaping needed to meet an Ordinance requirement that dies, is removed, or is severely damaged shall be replaced by the current property-owner, on a one-to-one basis, as soon as is practical considering growing seasons, within a maximum of 180 days.

804.H. Stormwater Basin Landscaping. The following requirements shall apply to landscaping within and around all above ground stormwater management basins:

1. All areas of stormwater management basins, including basin floors, side slopes, berms, impoundment structures, or other earth structures, shall be planted with suitable vegetation, such as meadow plantings or grasses specifically suited for stormwater basins.
2. Trees and shrubs shall be planted around stormwater basins that cover more than 5,000 square feet of land and that are not designed to resemble natural ponds. However, trees and shrubs shall not be planted in locations that would interfere with the function of the basin. A minimum average of two trees and 10 shrubs shall be required to be planted around the basin for every 100 linear feet of basin perimeter. Trees shall have an initial trunk diameter of two inches, measured six inches above the ground. Shrubs shall have an initial height of four feet.
3. Natural ground cover plant species shall be planted in the floors and slopes of the basin. These ground covers may include wildflowers, meadows or non-aggressive grasses. Species shall be chosen that are suitable for the expected wetness of various portions of the basin. The plantings shall provide a continuous cover over all earth areas of the basin. The plantings shall not interfere with the proper functioning of the basin, in the determination of the Municipal Engineer.

§ 805. Nonconformities.

805.A. Proof and Registration of Nonconformities. It shall be the responsibility of, with the burden of proof upon, a party asserting a nonconformity to provide the evidence that it is lawful. A property owner may request a written statement of nonconformity from the Zoning Officer after providing sufficient evidence. The Zoning Officer may require that specific information be provided by the applicant.

805.B. Continuation of Nonconformities.

1. A lawful nonconforming use, structure or lot as defined by this Ordinance may be continued and may be sold and continued by new owners.
2. Any expansion of, construction upon or change in use of a nonconformity shall only occur in conformance with this section.
3. If an existing use was not lawfully established, it shall not have any right to continue as a nonconforming use.

805.C. Expansion of or Construction Upon Nonconformities. The following shall apply, unless the structure is approved under Section **805.D**.

1. Nonconforming Structure.

- a. The Zoning Officer shall permit a nonconforming structure to be reconstructed or expanded provided:
 - (1) That such action will not increase the severity or amount of the nonconformity (such as the area of the building extending into the required yard) or create any new nonconformity, or
 - (2) That any expanded area will comply with the applicable setbacks in that District and other requirements of this Ordinance, except as may be allowed under subsection **1.c.** or **1.d.** below.
- b. In the case of a nonconforming structure which is used by a nonconforming use, any expansion shall also meet the requirements of this Section regarding nonconforming uses.
- c. As a special exception, the Zoning Hearing Board may approve a reduction of up to 50% in a side or rear setback for an existing dwelling if the applicant proves such setback is necessary to allow an addition of up to 800 square feet of floor area onto such dwelling or a replacement of an existing undersized dwelling with a new dwelling. This subsection shall not allow a reduction in setback to increase the number of dwelling units on the lot, except for a Unit for Care of Relative.
- d. As a special exception, the Zoning Hearing Board may approve a reduction of a front, side or rear setback to allow a reasonable expansion of an existing historic building if the applicant proves such reduced setback will: a) maintain the historic character of the building, b) not create a conflict with an abutting existing dwelling, and c) will not result in an expanded portion of the building being closer to a public street than the existing building, if such setback will be nonconforming.

2. Nonconforming Lots.

- a. Permitted Construction on a Nonconforming Lot. A single permitted by right principal use and its customary accessory uses may be constructed, reconstructed or expanded on a nonconforming lot provided all of the following additional requirements are met:
 - (1) The lot must be a lawful nonconforming lot of record;
 - (2) Minimum setback requirements shall be met;
 - (3) State and Federal wetland regulations shall be met;

- (4) If a septic or well is used, the requirements for such shall be met.
- b. Lot Width. The fact that an existing lawful lot of record does not meet the minimum lot width requirements of this Ordinance shall not by itself cause such lot to be considered to be a nonconforming lot.
3. Expansion of a Nonconforming Non-Residential Use. A non-conforming use or a building used by a nonconforming use shall not be expanded, except in accordance with the following provisions:
- a. An expansion of more than 5% in total building floor area shall require special exception approval from the Zoning Hearing Board under Article 1.
 - b. Such reconstruction or expansion shall be only upon the same lot that the nonconforming use was located upon at the time the use became nonconforming.
 - c. The 1) total building floor area used by a nonconforming use or the 2) total land area covered by the nonconforming use, whichever is more restrictive, shall not be increased by greater than 50% beyond what existed in the nonconforming use at the time the use first became nonconforming.
 - (1) The above maximum increase shall be measured in aggregate over the entire life of the nonconformity. All expansions of the nonconforming use and/or building(s) that occurred since the use originally became nonconforming shall count towards the above maximum increase.
 - d. Any expansion of a nonconforming use shall meet the required setbacks and other requirements of this Ordinance, unless the Zoning Hearing Board grants a variance.
4. Expansion of a Nonconforming Residential Use. An existing non-conforming residential use may be expanded as a permitted by right use provided that: a) the number of dwelling units or rooming house units are not increased, b) the expansion meets all applicable setbacks, c) no new types of nonconformities are created and d) a nonconformity is not made more severe.
5. Nonconforming Sign. The provisions of this Ordinance shall not provide a right to expand or extend a nonconforming sign. Instead, any expansions or extensions of a nonconforming sign shall comply with this Ordinance.

805.D. Damaged or Destroyed Nonconformities. A nonconforming structure or nonconforming use that has been destroyed or damaged may be rebuilt in a nonconforming fashion only if: a) the application for a building permit is submitted within 18 months after the date of damage or destruction, b) work begins in earnest within 12 months following the date the building permit is issued and continues, c) no nonconformity may be newly created or increased by any reconstruction, and d) except where otherwise prohibited by this Ordinance or the municipal floodplain regulations. The property shall be properly secured during such time in such a way to keep out trespassers and to avoid harm to neighboring properties.

805.E. Abandonment of a Nonconformity.

1. If a nonconforming commercial or industrial use of a building or land is discontinued, razed, removed or abandoned for 12 or more months, subsequent use of such building or land shall conform with the regulations of the district in which it is located, except:
 - a. As provided for in the "Damaged or Destroyed Nonconformities" provisions of this section in Section **805.D**.
2. The applicant shall be responsible to provide clear and convincing evidence that the nonconformity was not abandoned.
3. An existing lawful separate dwelling unit may be unrented for any period of time without being considered "abandoned" under this Ordinance.

805.F. Changes from One Nonconforming Use to Another.

1. Once changed to a conforming use, a structure or land shall not revert to a nonconforming use.
2. A nonconforming use may be changed to a different nonconforming use only if approved as a Special Exception by the Zoning Hearing Board. However, Special Exception approval is not needed for a simple change within an existing building from one lawful nonconforming retail store use to another retail store use or from one lawful nonconforming personal service use to another personal service use provided that the new use complies with any Zoning Hearing Board conditions that applied to the previous use and is not more objectionable in external effects than the previous use.
3. Where special exception approval is required for a change of a nonconforming use, the Board shall determine whether the applicant has provided sufficient proof to show that the proposed new use will be equal or less objectionable in external effects than the pre-existing nonconforming use with regard to:
 - a. Traffic safety and generation (especially truck traffic),
 - b. Noise, dust, fumes, vapors, gases, odor, glare, vibration, fire, hazardous substances, and explosive hazards,
 - c. Amount and character of outdoor storage,
 - d. Hours of operation if the use would be close to dwellings and
 - e. Compatibility with the character of the surrounding area.
4. A nonconforming use shall not be changed to a nonconforming Adult Use.

805.G. District Changes. Any uses, structures or lots that become nonconforming because of a zoning district change shall be regulated under this Section on nonconformities.

§ 806. Dumpster Screening and Location.

806.A. Site plans submitted to the Municipality shall show the proposed location of any garbage dumpsters. The Municipality may require that such proposed location be modified to provide compatibility with adjacent uses.

806.B. Garbage dumpsters shall be surrounded on at least three of four sides by a solid fencing, wall or landscaping if the dumpster would be visible from a street or a residential lot. This section **806** is not intended to regulate temporary dumpsters for construction or renovation debris.

§ 807. Nuisances and Hazards to Public Safety.

807.A. No land owner, tenant nor lessee shall use or allow to be used any land or structures in a way that results or threatens to result in any of the following conditions:

1. Conditions that encourage the breeding of rats or insects in a manner that risks a public health hazard.
2. A physical hazard to the public, or a physical hazard that could be an attractive nuisance that would be accessible by children.
3. Pollution to groundwaters or surface waters, other than as authorized by a State or Federal permit.
4. Risks to public health and safety, such as but not limited to explosion, fire or biological hazards.

807.B. Additional Information. If the Zoning Officer has reason to believe that the proposed use may have difficulty complying with the standards of this Article, then the Zoning Officer may require an applicant to provide written descriptions of proposed machinery, hazardous substances, operations and safeguards.