

PART 1

**AUTHORITY, TITLE, PURPOSE OF ENACTMENT, INTERPRETATION, APPLICABILITY,
MUNICIPALITY LIABILITY, DISCLAIMER, SEVERABILITY, & REPEALER**

Section 100. Authority. This Chapter is enacted and ordained under the grant of powers contained in the Pennsylvania Municipalities Planning Code (MPC).

Section 101. Title. This Chapter shall be known as and may be cited as “The Borough of Highspire Zoning Ordinance”.

Section 102. Purpose of Enactment. This Chapter is enacted for the following purposes:

- A. To promote , protect, and facilitate one or more of the following: the public health, safety, morals, general welfare, the provision of adequate light and air, and other public requirements.
- B. To prevent one or more of the following: overcrowding, blight, loss of health, life or property from fire, flood, or other dangers.
- C. To adopt a Zoning Map dividing the Borough of Highspire into zoning districts with varying regulations.
- D. To 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.
- E. To establish the requirements for density and intensity of uses.
- F. To protect existing neighborhoods.
- G. To promote innovative design and encourage the creation of a sense of community.
- H. To provide diverse housing opportunities, including housing that is affordable.
- I. To encourage adaptive reuse, replacement, and infill development.
- J. To serve as a tool as part of an overall plan for the orderly growth and development of the Borough of Highspire and as such seek to implement the most recent version of the Highspire Borough Comprehensive Plan.
- K. To effect any additional purposes provided for in Article I, VI, and VII-A of the Pennsylvania Municipalities Planning Code.

Section 103. Interpretation.

- A. 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 the Borough of Highspire. Any use permitted subject to the regulations prescribed by the provisions of this Chapter shall conform with all the regulations of the zoning district in which it is located and with all other pertinent 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, and land than are elsewhere established, the provisions of this Chapter shall prevail. Wherever and whenever the requirements of this Chapter are at variance with the requirements of any other lawfully 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.

Section 104. Applicability.

- A. Any of the following activities or any other activity regulated by this Chapter shall only be carried out in conformity with this Chapter:
1. Use, occupation, erection, construction, reconstruction, movement, alteration, razing, demolition, removal, placement, of or extension (vertical or horizontal) of a structure, building or sign.
 2. Change of the type of use or expansion of the use of a structure, building or area of land.
 3. Creation of a lot or alteration of lot lines.
 4. Creation of a new use.
 5. Other activities required to have a permit by this Chapter.
 6. The alteration or development of any improvement or unimproved real estate, including, but not limited to, mining, dredging, filling, grading, paving, excavation or drilling operations for underground utilities provided the final grade is not altered.
 7. The construction or installation of lakes, ponds, dams, or other water retention basins;
 8. No zoning permit shall be required for repairs or routine maintenance of any structure, building, or land provided such repairs or maintenance do not change the use or the exterior dimensions of the structure, building, or otherwise violate the provisions of this Chapter;
- B. This Chapter shall not apply to an existing or proposed building or extension thereof, 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 Highspire have notice of the hearing and are granted as opportunity to appear, present witnesses, cross-examine witnesses presented by other parties, and otherwise exercise the rights of a party to the proceedings.
- C. Notwithstanding the foregoing, the requirements of this Chapter shall not apply to municipal owned uses, land, facilities or structures owned by the Borough of Highspire, nor to land, uses or structures owned by those municipal authorities or agent authorized or created by it to provide governmental or public health and safety services. Further, the requirements of this Chapter do not apply to private uses permitted by the Borough of Highspire, or its authorized municipal authorities or agents, to be conducted on, upon, or in Borough/Authority land or structures. In any instance in which applicable zoning provisions would be violated but for the exemption provided herein, the Borough Council shall provide at least twenty-one (21) days prior written notice to the owners of property within two hundred (200) feet of the exempt tract.

Section 105. Municipality Liability.

- A. The granting of a Zoning Permit for the erection and/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 Highspire, 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 such public official or employee for any damage that may be pursuant thereto.

Section 106. Disclaimer.

A. It is recognized that:

- the Act of June 22, 1937 (P.L. 1987, NO. 394) known as “The Clean Streams Law”;
- the Act of May 31, 1945 (P.L. 1198, No 418) known as the “Surface Mining Conservation and Reclamation Act”;
- the Act of April 27, 1966 (1st Special Session, P.L. 31, No. 1) known as “The Bituminous Mine Subsidence and Land Conservation Act”;
- the Act of September 24, 1968 (P.L. 1040, No. 318) known as the “Coal Refuse Disposal Control Act”;
- the Act of December 19, 1984 (P.L. 1140, No. 223) known as the “Noncoal Surface Mining Conservation and Reclamation Act”;
- the Act of June 30, 1981 (P.L. 128, No. 43) known as the “Agricultural Area Security Law”; the Act of June 10, 1982 (P.L. 454, No. 133) entitled “An act protecting agricultural operations from nuisance suits and ordinances under certain circumstances”: and
- the Act of May 20, 1993 (P.L. 12, No 6) known as the “Nutrient Management Act”

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 those Acts. Nothing contrary to those Acts shall be mandated by this Chapter.

Section 107. Severability.

A. 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.

Section 108. Repealer.

A. The pre-existing Chapter 27 of the Codified Ordinances of the Borough of Highspire, relating to zoning also known as the Borough of Highspire Zoning Ordinance, 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 pre-existing Chapter 27 of the Codified Ordinances of the Borough of Highspire, relating to zoning, as amended shall, as nearly as possible, be construed to reference this Chapter.

Section 109. Effective Date.

A. This Chapter shall take effect on the 4th day of November, 2009 as enacted and ordained by the Borough Council of the Borough of Highspire on the 15th day of December, 2009.