

66

CITY OF BETHLEHEM

Department of Community and Economic Development

Interoffice Memo

TO: Adam Waldron, City Council President

FROM: Darlene L. Heller, Director of Planning and Zoning

RE: Zoning Text and Map Amendment – Create a Student Overlay District and Provisions to Address Student Housing, along with minor revisions to certain dimensional requirements and accessory structure regulations

DATE: December 10, 2020

At their December 10, 2020 meeting the Planning Commission voted by a 4 to 1 vote to recommend that City Council support the proposed Zoning Ordinance amendment to create provisions for student housing and a student housing overlay district, along with dimensional amendments in RT and RG zoning districts.

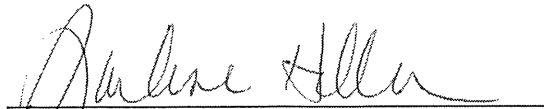
This was the second review of the proposed ordinance amendments by the Planning Commission. At their August meeting they approved the draft amendment with minor revisions. At the December 10 meeting they reviewed the document with the minor revisions included along with the added revision to allow maximum occupancy of 3 college students in the IR-R zoning district in keeping with what is proposed in the CB and CL zoning districts.

This zoning ordinance amendment was also reviewed at Council's Committee of the Whole meeting in late October. A 2-week comment period was held open before the amendment would be further processed for final review and adoption, but no additional comments were received.

Therefore, we request that you please schedule the zoning amendment for a public hearing and further review. Feel free to contact our office if you need additional information.

Attachments

CC: City Council Member J. Spirk Mayor Donchez A. Karner
T. Samuelson C. Peiffer W. Leeson



Darlene L. Heller, AICP
Director of Planning and Zoning

BILL NO. _____

ORDINANCE NO. 2020 - _____

AN ORDINANCE OF THE CITY OF BETHLEHEM,
PENNSYLVANIA, AMENDING THE ZONING ORDINANCE IN
SECTIONS 1302, 1303, 1306, AND 1327 TO HEREBY ESTABLISH A STUDENT
HOME OVERLAY ZONING DISTRICT, TO REVISE CERTAIN DIMENSIONAL
REQUIREMENTS FOR THE RESIDENTIAL AND NEIGHBORHOOD COMMERCIAL
DISTRICTS, TO AMEND ACCESSORY STRUCTURES REGULATIONS, AND TO AMEND THE
DEFINITIONS SECTION

THE COUNCIL OF THE CITY OF BETHLEHEM HEREBY ORDAINS AS FOLLOWS:

SECTION 1. That in Article 1303 of the Zoning Ordinance titled Classification of Districts, a new SH Student Housing and Student Home Overlay Zoning District is hereby added to Article 1303.02, Classes of Districts, in the City.

SECTION 2. The Bethlehem Zoning Map is hereby amended to include the area depicted as the “SH Student Housing and Student Home Overlay District” on the attached map labeled “Exhibit A”.

SECTION 3. That in Article 1303 of the Zoning Ordinance titled Classification of Districts, Subsection 1303.07, Purposes of Each District, the following new Subsection is added:

“(v) SH Student Housing and Student Home Overlay Zoning District – Because the student population brings vitality and economic stability to both downtowns, this overlay district is being created to address the locations of housing units occupied by multiple college students and related noise, litter, other nuisances, overcrowding, and parking problems. The purpose of this district is fourfold:

- To recognize that housing of college students often causes different challenges than housing for other persons.
- To stabilize and protect neighborhoods throughout the City by providing for student housing, while maintaining the supply of housing that is affordable to families.
- To promote the development of additional on-campus housing by colleges and universities within the Institutional Zoning District.
- To direct concentrations of housing of college students to locations proximate to a college, and where public transit services are available, to minimize parking shortages and to reduce congestion.”

SECTION 4. That in Article 1302 of the Zoning Ordinance titled Definitions, the following new definitions are added:

“1302.108 Regulated Rental Unit. A dwelling unit occupied by three or more, but not more than five, unrelated persons under one (1) rental agreement.

“1302.127 Student Home – Subject to the maximum occupancy limits set forth in Article 1327.02, a dwelling unit occupied by 3 or more students aged 18 years or older, but not more than 5, who are not “related” to each other and each of whom is enrolled at a college or university authorized to grant post-

secondary degrees by the Pennsylvania Department of Education. A housing unit occupied by 1 or 2 college students shall be treated the same as any other housing unit of the same housing type, and shall not be considered a Student Home. To qualify as a Student Home, the dwelling unit shall not be the residence of persons not enrolled at a college or university authorized to grant postsecondary degrees by the Pennsylvania Department of Education. The term shall not regulate housing for college students within the Institutional Zoning District.”

All subsequent subsections are hereby renumbered accordingly.

SECTION 5. That in Article 1302 of the Zoning Ordinance titled Definitions, Section 1302.43 which reads as follows:

1302.43 Family. ~~One or more individuals who are “related” to each other by blood, marriage, or adoption (including persons receiving formal foster care) or up to 5 unrelated individuals who maintain a common household with common cooking facilities and certain rooms in common, and who live within one dwelling unit. A family shall also expressly include numbers of unrelated persons that may be allowed by the Group Home provision of this Ordinance residing within an approved group home.~~

Shall be amended to read as follows:

1302.43 Family. Two or more individuals who are “related” to each other by blood, marriage, or adoption (including persons receiving formal foster care) or up to 4 persons age 18 or older who are not “related” to each other who maintain a common household with common cooking facilities and certain rooms in common, and who live within one dwelling unit. A family shall also expressly include numbers of unrelated persons that may be allowed by the Group Home provision of this Ordinance residing within an approved group home. A family shall not include an association of two or more persons occupying a dwelling unit which otherwise meets the definition of a “student home.”

SECTION 6. That in Article 1302 of the Zoning Ordinance titled Definitions, Section 1302.52 which reads as follows:

1302.52 ~~Half-Story. That portion of a building under a sloping gable, hip or gambrel roof, the wall plates on at least two opposite exterior walls of which are five feet or less on average above the floor level of such half-story. Provided that it is not used as a dwelling unit, a top floor in which the floor area with 7 feet or more of head clearance equals 50 percent or less of the floor area of the story next below shall be a “half-story”.~~

shall be deleted and replaced with the following:

1302.52 Half-Story. That portion of a building under a sloping gable, hip or gambrel roof. The top floor of which shall be deemed a “half story” only if the following requirements are met:

- (a) A half story should be similar in construction and design to adjacent older buildings and match the streetscape of the entire block.
- (b) Habitable floor area is defined as floor area with 7 feet or more of head clearance.
- (c) Habitable floor area shall not exceed 50 percent of the habitable floor area of the story next below.
- (d) If an existing dormer or gable end on the top floor is located in the first 10 feet back from the front or rear building wall, the expansion of the half story can be located partially in the front or rear portion of the top floor but the overall construction cannot exceed more than two thirds of the area comprising the first 10 feet back from either the front or rear building wall, and the habitable floor area cannot exceed the requirements in subsection b above.
- (e) Alterations to the top floor shall maintain the original form of a gable, hip or gambrel roof, and the eaves of said half story shall sit upon the top plates of the second story building walls.

SECTION 7. That the following new Article 1327 is hereby established, and shall be added to the Table of Contents:

“Article 1327. SH Student Housing and Student Home Overlay Zoning District.

1327.01 Student Housing

- (a) A Student Home, as defined in Section 1302, shall be permitted by right in a CB, CL, IR-R or SH Overlay District. A housing unit occupied by 1 or 2 college students shall be treated the same as any other housing unit of the same housing type, and shall be allowed wherever that housing type is allowed. The Student Home regulations shall not regulate housing of students within the Institutional zoning district.
- (b) The provisions of Articles 1302.127 and 1327 shall only apply to any new "student home" use commenced on or after the effective date of this Ordinance.
- (c) New Regulated Rental Units or Student Homes will only be allowed in the Student Housing Overlay district. Pre-existing Regulated Rental uses, regardless whether they fall in the Student Housing Overlay district or not, shall continue to have non-conforming use status so long as they maintain a current license and successfully pass an annual inspection under Article 1739.

1327.02 SH Student Housing Overlay Zoning District. The SH Student Housing Overlay District is an overlay district depicted on the Zoning Map, as amended, governing the occupancy of structures for student housing purposes. The SH Overlay District supplements, and does not supersede, the regulations in the underlying zoning districts. The underlying zoning district regulations and all other City regulations shall continue to apply within the SH Overlay District, unless the use qualifies as a “student home” within the SH Overlay Zoning District in which case the following requirements shall also apply:

- (a) In the SH Overlay Zoning District, a housing unit may be occupied as a “Student Home” if there is compliance with this Article.
- (b) A lawful Student Home shall have a maximum occupancy of 5 college students in the SH Overlay Zoning District, and a maximum occupancy of 3 college students in the CB, CL or IR-R zoning districts. However, the Student Home provisions shall not apply within the Institutional Zoning District.
- (c) In the SH Overlay Zoning District, a housing unit shall only be newly approved to be used as a Student Home if the applicant provides the required off-street parking spaces for the housing unit, plus one additional off-street parking space for the 5th college student resident. This additional parking requirement shall not apply in the CB district. This additional parking requirement shall not apply to pre-existing Regulated Rental units that are legally created through the City’s Regulated Rental Ordinance. See Section 1319.02(g), which may allow off-site parking.
- (d) A Student Home shall only be allowed in a dwelling unit. A Boarding House or Rooming House shall not be used as a Student Home, unless the property is within the Institutional zoning district.
- (e) A Student Home must comply with all the Regulated Rental Unit Regulations under Article 1739 of the City’s Codified Ordinances.
- (f) A Student Home is permitted to display a maximum one (1) square foot sign in accordance with Section 1320.08.a.”

SECTION 8. That Section 1306.01(a) of the Zoning Ordinance, titled Dimensional Regulations for Residential Districts, which reads as follows:

Zoning District	Use	Maximum Height (Whichever is more restrictive) See 1306.02 (a) for accessory bldgs.	
		Max. Stories	Max. Feet
3. RG Residential District	Multi-Family Dwelling (More than 2-1/2 Stories)	5-0	60

4. RT Residential District See additional Standards in Article 1311.	Multi-Family Dwellings (3 1/2 Stories or Less)	3 -5	35
	Multi-Family Dwellings (More than 3 1/2 Stories)	5-0	60

Shall be amended to read as follows:

Zoning District	Use	Maximum Height (Whichever is more restrictive) See 1306.02 (a) for accessory bldgs.		Max. Imp. Cov
		Max. Stories	Max. Feet	(%)
3. RG Residential District	Single Family Detached Dwelling	2.5	35	<u>70%</u>
	Single Family Semi-Detached Dwelling	2.5	35	<u>70%</u>
	Multi-Family Dwelling (2-1/2 Stories & Less) or Duplex	2.5	35	<u>70%</u>
	Multi-Family Dwelling (More than 2-1/2 Stories)	<u>3.0</u>	<u>40 (g)</u>	<u>70%</u>
	Single Family Attached Dwelling	2.5	35	<u>70%</u>
	Non-Residential and Other Allowed Uses	2.5	35	<u>70%</u>
4. RT Residential District See additional standards in Article 1311.	Single Family Detached Dwelling	2.5	35	<u>80%</u>
	Single Family Semi-Detached Dwelling	2.5	35	<u>80%</u>
	Two-Family Detached Dwelling	2.5	35	<u>80%</u>
	Two-Family Semi-Detached Dwelling	2.5	35	<u>80%</u>
	Multi-Family Dwelling (<u>2-1/2</u> Stories or Less)	<u>2.5</u>	35	<u>80%</u>
	Multi-Family Dwelling (More than <u>2-1/2</u> Stories)	<u>3.5</u>	<u>40 (g)</u>	<u>80%</u>
	Single Family Attached Dwelling	2.5 e	35 e	<u>80%</u>
	Non-Residential and Other Allowed Uses	2.5	35	<u>80%</u>

SECTION 9. A footnote (g) shall be added to the end of Section 1306.01(a) as follows:

“(g) In the RT and RG Residential districts, a multi-family dwelling building shall be allowed to have a maximum height of 5 stories or 60 feet, whichever is more restrictive, if the lot’s area contains 2 acres or more after completion of the subdivision or land development.”

SECTION 10. That the following revision is made to the dimensional requirements in Section 1306.01(b) of the Zoning Ordinance, titled Dimensional Regulations for Primarily Non-Residential Districts:

Section 1306.01.b.2.a within the CL Limited Commercial District, which reads as follows:

~~Allowed Residential Uses—The requirements of the RT District (multi-family provisions) shall apply in the CL District.~~

Shall be amended to read as follows:

“Allowed Residential Uses – The requirements of the RT District (multi-family provisions) shall apply in the CL District, except that the maximum height listed for this CL District shall apply for multifamily dwellings instead of the height requirements of the RT District.”

SECTION 11. A new subsection shall be added to Section 1306.03, Accessory Structures and Uses, as follows:

“(e) In the RT and RG Zones, sheds, patios or decks with roofs, gazebos, and playhouses not exceeding 125 square feet are permitted even if their construction exceeds the overall maximum building coverage for that property. This provision shall only apply to single family detached, single family semi-detached, or single family attached dwellings.”

SECTION 12. All Ordinances and parts of Ordinances inconsistent herewith be, and the same are hereby repealed.

Sponsored by _____

PASSED finally in Council on the _____ day of _____, 2021.

President of Council

ATTEST:

City Clerk

This Ordinance approved this _____ day of _____, 2021.

Mayor



CITY OF BETHLEHEM
OFFICE OF THE CITY SOLICITOR

INTEROFFICE MEMORANDUM

66

To: Robert G. Vidoni, Esquire, City Clerk
CC: The Honorable Robert J. Donchez, Mayor; W. Alexander Karras, Chief of Staff
From: Edmund J. Healy, Esquire, First Assistant City Solicitor
Re: Proposed Pending Ordinance Resolution relating to student housing
Date: December 10, 2020

To ensure continuity in the start date of December 31, 2020 for the new zoning regulations proposed for student housing, the Administration requests City Council to enact the attached resolution to declare the proposed Student Home zoning amendment as a “pending ordinance” of the City. Under the judicially-created “pending ordinance doctrine”, the Administration would then be able to deny permit applications for uses inconsistent with the proposed regulatory scheme prior to the final reading and actual enactment of those regulations.

The Planning and Zoning Bureau shall transmit to Council copies of all comments and recommendations of the City Planning Commission and Lehigh Valley Planning Commission prior to the public hearings.

Please place this Interoffice Memorandum and the proposed Resolution and its attachment on the December 15, 2020 City Council Agenda as needed for review and consideration.

Respectfully,

Edmund J. Healy, Esq.
Edmund J. Healy, Esq.
First Assistant City Solicitor

RESOLUTION NO. 2020-_____

WHEREAS, interest on the part of the Administration and community has surfaced in steering the placement of off-campus, privately-owned housing for college students, which student population brings vitality and economic stability to both downtowns, as well as related nuisances, overcrowding, parking problems, and possible loss of owner-occupied or market rate dwelling units;

WHEREAS, as ancillary to the forgoing objectives within the RT and RG zoning districts, controlling the height and building coverage of lots, and the placement of certain accessory structures not exceeding 125 square feet is desirable;

WHEREAS, over the past several months, the Administration, City Planning Commission, Lehigh Valley Planning Commission, public at large, many stakeholders, and City Council have participated in a developmental process for an amendment to the City Zoning Ordinance, including the Zoning Map, to better manage and steer the above objectives within the confines of the City;

WHEREAS, the Administration and City Council have reached a consensus on the final version of the zoning text and map amendments which are believed to best represent the ways in which to achieve these objectives, the terms of which are set forth in Exhibit "A" attached hereto;

WHEREAS, for purposes of complying with the purposes and intention of the Pennsylvania Municipalities Planning Code, the Administration and City Council desire to resubmit the proposed draft text and map amendments, as further clarified by recent revisions, to the City Planning Commission and Lehigh Valley Planning Commission for final consideration;

WHEREAS, for purposes of clarity and declaring a uniform effective date for the new regulations within the confines of the City, the City Council takes the action hereinafter set forth.

NOW THEREFORE, be it resolved by authority of the City Council of the City of Bethlehem as follows:

(12-02-2020 7:45 am ed.)

1. Exhibit "A" attached hereto is declared as of December 31, 2020 to be a pending ordinance of the City of Bethlehem.
2. Beginning December 31, 2020, the Administration may deny applications for zoning permits and requests for certificates of occupancy and/or other relief under the Zoning Ordinance, and building permits for any new use or structure which would be conducted or erected in a manner inconsistent with the provisions of Exhibit "A".
3. Prior to formal enactment of the said pending ordinance, City Council shall consider all comments and recommendations from the City Planning Commission, Lehigh Valley Planning Commission, and members of the public obtained in the manner required by the Municipalities Planning Code.
4. The City Clerk is directed to advertise (a) Exhibit "A" in the manner required by the Municipalities Planning Code and (b) the substance of this Resolution.

Sponsored by: _____

ADOPTED by Council this _____ day of _____, 2020.

President of Council

ATTEST:

City Clerk

BILL NO. _____

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Zoning District	Use	Maximum Height (Whichever is more restrictive) See 1306.02 (a) for accessory bldgs.	
		Max. Stories	Max. Feet
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4. RT Residential District See additional Standards in Article 1311.	Multi-Family Dwellings (3-1/2 Stories or Less)	3-5	35
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See additional standards in Article 1311.

SECTION 9. A footnote (g) shall be added to the end of Section 1306.01(a) as follows:

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Shall be amended to read as follows:

“Allowed Residential Uses – The requirements of the RT District (multi-family provisions) shall apply in the CL District, except that the maximum height listed for this CL District shall apply for multifamily dwellings instead of the height requirements of the RT District.”

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“(e) In the RT and RG Zones, sheds, patios or decks with roofs, gazebos, and playhouses not exceeding 125 square feet are permitted even if their construction exceeds the overall maximum building coverage for that property. This provision shall only apply to single family detached, single family semi-detached, or single family attached dwellings.”

SECTION 12. All Ordinances and parts of Ordinances inconsistent herewith be, and the same are hereby repealed.

Sponsored by _____

PASSED finally in Council on the _____ day of _____, 2021.

President of Council

ATTEST:

City Clerk

This Ordinance approved this _____ day of _____, 2021.

Mayor