

PART 3**SPECIAL EXCEPTIONS AND CONDITIONAL USES****§27-301. Purposes, Organization and Applicability of This Part.**

1. Both a "special exception" and a "conditional use" are permissions granted to an applicant to use land in a zoning district for a purpose or land use that is not permitted outright (i.e., that is not a permitted principal or accessory use) in that district. Special exceptions and conditional uses are utilized by this Chapter because merely allowing and not allowing land uses is too narrow for sound planning in some zoning districts. Some land uses fall in between what is consistent and what is not consistent with a district's planned way of life. Furthermore, some uses should be located in a district, but should be very carefully sited or controlled in order to protect the district's overall quality of life. Establishing a special exception/conditional use system for Philipsburg that allows such land uses in appropriate zoning districts, subject to location and operation standards that are to protect the quality of life in those districts, is the general purpose of this Part.
2. The major difference between special exceptions and conditional uses is that the former are granted or denied by the Zoning Hearing Board, while the latter are granted or denied by the Borough Council. Land uses that are allowed as special exceptions generally affect only their particular neighborhoods, while land uses that are allowed as conditional uses may affect the entire Borough and thus, should be under the jurisdiction of the Borough's primary elected officials (i.e., the Council). The multi-page table under §27-212(4), "Land Uses, Off-Street Parking and Off-Street Loading" and other parts of this Chapter state which land uses are allowed in which zoning districts as special exceptions, and which land uses are allowed in which zoning districts as conditional uses.¹⁵
3. It is important to note that special exceptions and conditional uses are not deviations from this Chapter or its purposes listed in §27-104. "General Purposes of This Chapter." These uses are both envisioned by this Chapter and if the location and operation standards prescribed by this Part are followed permitted by this Chapter.
4. The procedure that an applicant is to use in obtaining a special exception or a conditional use is provided in §27-302, "Procedure for Obtaining a Special Exception or a Conditional Use." The standards that the Zoning Hearing Board or the Borough Council (as the case may be) is to use in determining whether or not a special exception or conditional use (as the case may be) should be granted to the applicant are provided in §27-303, "Standards that are to be Used to Grant a Special Exception or a Conditional Use." This Part and its regulations only apply to land uses that are proposed to be established in a zoning district where those uses

¹⁵ Editor's Note: This Chapter currently does not allow any land uses in any districts as conditional uses.

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are allowed only as special exceptions or conditional uses by §27-212, "Land Uses, Off-Street Parking, and Off-Street Loading" or other parts of this Chapter.

(Ord. 984, 6/14/1999, Art. III, §300)

§27-302. Procedure for Obtaining a Special Exception or a Conditional Use.

All applications for special exceptions and conditional uses shall be made according to the following rules.

- A. **Who May Apply:** Any landowner or tenant with the written permission of his or her landowner may apply for a special exception or conditional use.
- B. **Land Uses that may be Permitted through a Special Exception or a Conditional Use.** The only land uses that may be permitted through a special exception or a conditional use are those that are expressly permitted as special exceptions or conditional uses for the involved zoning district by §27-212, "Land Uses, Off-Street Parking and Off-Street Loading" or other parts of this Chapter.
- C. **Applying to the Zoning Officer.** Any one of the aforementioned parties who wishes to establish a land use that is permitted in the involved zoning district as a special exception or a conditional use shall file an application with the Zoning Officer on a form supplied by the Borough. This application shall not be considered complete unless enough information is included on the form to enable the Zoning Hearing Board or the Borough Council (as the case may be) to determine if the proposed land use meets the standards given for that use under §27-303. Upon receiving a complete application, the Zoning Officer shall forward it to the Zoning Hearing Board if the application is for a special exception or to Borough Council if the application is for a conditional use.
- D. **Procedure that the Zoning Hearing Board is to Use in Deciding on a Special Exception Application.** The procedure that the Zoning Hearing Board is to use in deciding whether or not to grant a special exception is given in §27-702(8), "Zoning Hearing Board."
- E. **Procedure that Borough Council is to Use in Deciding on a Conditional Use Application.** The procedure that Borough Council is to use in deciding whether or not to grant a conditional use is given in §27-703(2)(C), "Borough Council."
- F. **Burdens of Proof.** In both special exception hearings and conditional use hearings, the burden of proof shall be on the applicant to prove that his or her proposed use meets the standards prescribed for it by §27-303, "Standards that are to be Used to Grant a Special Exception or a Conditional Use."

- G. Conditions. In granting a special exception or a conditional use, the Zoning Hearing Board or the Borough council (as the case may be) may attach reasonable conditions and safeguards (in addition to those prescribed by §37-303) as it may deem necessary to implement the purposes of this Chapter (see §27-104, "General Purposes of this Chapter"). Such conditions shall "run with the land" and shall not be tied solely to a particular property owner. If a condition is violated subsequent to the grant of a special exception or a conditional use, it shall be enforced according to the provisions of §27-119, "Enforcement."
- H. Appealing the Decision of the Zoning Hearing Board or the Borough Council. The decision of the Zoning Hearing Board regarding a special exception application or the decision of the Borough Council regarding a conditional use application may be appealed to the Centre County Court of Common Pleas.
- I. Zoning and Occupancy Permits. Zoning and occupancy permits shall be required for each approved special exception or conditional use. §§27-105, "Zoning Permits," and 27-116, "Occupancy Permits" explain how and when to get these permits.

(Ord. 984, 6/14/1999, Art. III, §305)

§27-303. Standards That Are to be Used to Grant a Special Exception or Conditional Use.

- 1. Purpose and Organization of this Section. The purpose of this Section is to provide standards that the Zoning Hearing Board is to use in deciding whether or not to grant a special exception use or that the Borough Council is to use in deciding whether or not to grant a conditional use. Each land use or activity that is permitted as a special exception or a conditional use in one or more zoning districts by §27-212, "Land Uses, Off-Street Parking and Off-Street Loading" or another part of this Chapter is listed in alphabetical order under subsection (4) below. Each application made under §27-302, "Procedure for Obtaining a Special Exception or a Conditional Use" must meet the standards given under the listing of the involved land use or activity in order to obtain a special exception or a conditional use. Note that both the standards for land uses that this Chapter permits as special exceptions and the standards for land uses that this Chapter permits as conditional uses are provided in the same list.
- 2. Standards.
 - A. Banks or Financial Institutions. These may be permitted in the R1B District as special exceptions only if:

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- (1) The proposed bank will follow all provisions of this Chapter, including all parking requirements.
 - (2) The proposed bank will not have a gross floor area of more than 6,000 square feet.
 - (3) The proposed bank constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot.
 - (4) The proposed bank will not substantially impair, alter or detract from the value, use or enjoyment of surrounding properties via fumes, odors, vibrations, glare, electrical interference, radio or television signal interference, voltage fluctuations, smoke, noise or other noxious, offensive or hazardous elements.
 - (5) The proposed bank will not congest the Borough's streets or highways.
 - (6) The proposed bank will not impair the access, sight lines, or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk or parking area.
 - (7) The proposed bank will provide for safe automobile and truck access that, where possible, minimizes the total number of access points on the involved street or highway and provides ample storage space on driveways for vehicles entering and leaving the premises.
 - (8) The proposed bank's driveways or entranceways will be at least 30 feet from the intersection of any public streets.
 - (9) The proposed bank will not require an uneconomical, inefficient or illogical extension of public utilities and services.
 - (10) The hours of operation of the proposed bank (excluding any automatic teller machines) will not disturb the lifestyle of its neighbors.
- B. Bars, Taverns, Night Clubs or Dance Halls. These may be permitted in the R1B District as special exceptions only if:
- (1) The proposed land use will follow all provisions of this Chapter.
 - (2) The proposed land use will not have a gross floor area of more than 5,000 square feet.
 - (3) The proposed land use constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot.

- (4) The proposed land use will not substantially impair, alter or detract from the value, use or enjoyment of surrounding properties via fumes, odors, vibrations, glare, electrical interference, radio or television signal interference, voltage fluctuations, smoke, noise or other noxious, offensive or hazardous elements.
 - (5) The proposed use will not congest the Borough's streets or highways.
 - (6) The proposed use will not impair the access, sight lines, or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk or parking area.
 - (7) The proposed use will provide for safe automobile and truck access that, where possible, minimizes the total number of access points on the involved street or highway and provides ample storage space on driveways for vehicles leaving the premises.
 - (8) The proposed use will not require an uneconomical, inefficient or illogical extension of public utilities and services.
 - (9) The exterior areas of the proposed use will be adequately lighted.
 - (10) The hours of operation of the proposed use will not disturb the lifestyle of its neighbors.
 - (11) Refuse from the proposed use will be stored in a location that is as undetectable as possible from neighboring lots and will be removed for disposal regularly.
 - (12) The proposed use will not threaten the safety, health, morals and general welfare of the Borough and its citizens.
- C. Beauty Parlors and Barbershops. These may be permitted in the R1B District as special exceptions only if:
- (1) The proposed land use will follow all provisions of this Chapter.
 - (2) The proposed land use will not have a gross floor area of more than 3,500 square feet.
 - (3) The proposed land use constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot.
 - (4) The proposed land use will not substantially impair, alter or detract from the value, use, or enjoyment of surrounding properties via fumes, odors, vibrations, glare, electrical interference, radio or television sig-

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nal interference, voltage fluctuations, smoke, noise or other noxious, offensive or hazardous elements.

- (5) The proposed use will not impair the access, sight lines, or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk, or parking area.
- (6) The proposed use will provide for safe automobile access that, where possible, minimizes the total number of access points on the involved street or highway.
- (7) The proposed use will not require an uneconomical, inefficient or illogical extension of public utilities and services.
- (8) Refuse from the proposed use will be stored in a location that is as undetectable as possible from neighboring lots and will be removed for disposal regularly.

D. **Bed and Breakfast Establishments.** A bed and breakfast establishment may be permitted in the R1B and R2 Districts as a special exception only if the proposed use meets the conditions below. In approving such an establishment, the Zoning Hearing Board may set limits on the number of guests who may stay there at any one time in order to minimize negative impacts on adjacent properties:

- (1) The proposed establishment will follow all provisions of this Chapter, including all parking requirements.
- (2) The proposed establishment constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot.
- (3) The owner/operator of the proposed establishment will live on the premises.
- (4) The proposed establishment will not substantially impair, alter, or detract from the value, use or enjoyment of surrounding properties via fumes, odors, vibrations, glare, electrical interference, radio or television signal interference, voltage fluctuations, smoke, noise or other noxious, offensive or hazardous elements.
- (5) The proposed establishment will not impair the access, sight lines or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk or parking area.
- (6) The proposed establishment will not require an uneconomical, inefficient or illogical extension of public utilities and services.

- (7) The proposed establishment will provide food service only for its guests, unless a restaurant is established within the building on a separate basis.
 - (8) Refuse from the proposed establishment will be stored in a location that is as undetectable as possible from neighboring lots and will be removed for disposal regularly.
- E. Clubs and Lodges. These may be permitted in the R1B and R2 Districts as special exceptions only if:
- (1) The proposed land use will follow all provisions of this Chapter.
 - (2) The proposed land use constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot.
 - (3) The proposed land use will not substantially impair, alter or detract from the value, use or enjoyment of surrounding properties by way of fumes, odors, vibrations, glare, electrical interference, radio or television signal interference, voltage fluctuations, smoke, noise or other noxious, offensive or hazardous elements.
 - (4) The proposed use will not congest the Borough's streets or highways.
 - (5) The proposed use will not impair the access, sight lines or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk or parking area.
 - (6) The proposed use will provide for safe automobile and truck access that, where possible, minimizes the total number of access points on the involved street or highway and provides ample storage space on driveways for vehicles leaving the premises.
 - (7) The proposed use will not require an uneconomical, inefficient or illogical extension of public utilities and services.
 - (8) The exterior areas of the proposed use will be adequately lighted.
 - (9) The hours of operation of the proposed use will not disturb the lifestyle of its neighbors.
 - (10) Refuse from the proposed use will be stored in a location that is as undetectable as possible from neighboring lots and will be removed for disposal regularly
- F. Convenience Stores. These may be permitted in the R1B District as special exceptions only if:

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- (1) The proposed store will follow all provisions of this Chapter, including all parking requirements.
- (2) The proposed store will not have a gross floor area of more than 6,000 square feet.
- (3) The proposed store constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot.
- (4) The proposed store will not substantially impair, alter or detract from the value, use or enjoyment of surrounding properties via fumes, odors, vibrations, glare, electrical interference, radio or television signal interference, voltage fluctuations, smoke, noise or other noxious, offensive or hazardous elements.
- (5) The proposed store will not congest the Borough's streets or highways.
- (6) The proposed store will not impair the access, sight lines or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk or parking area.
- (7) The proposed store will provide for safe automobile and truck access that, where possible, minimizes the total number of access points on the involved street or highway and provides ample storage space on driveways for vehicles leaving the premises.
- (8) The proposed store's driveways or entranceways will be at least 30 feet from the intersection of any public streets.
- (9) The proposed store will not require an uneconomical, inefficient, or illogical extension of public utilities and services.
- (10) The proposed store will not provide vehicular repair or maintenance services.
- (11) The proposed store will also meet the standards prescribed by this Section for gasoline stations (if the store is to include a gasoline station).
- (12) The hours of operation of the proposed store will not disturb the lifestyle of its neighbors.
- (13) Refuse from the proposed store will be stored in a location that is as undetectable as possible from neighboring lots and will be removed for disposal regularly.

- G. Fences, Walls and Other Screens that are Taller than the Height Limits Set by §27-503. Such fences, walls and other screens may be permitted in any district as a special exception only if:
- (1) The proposed fence, wall or other screen will follow all other requirements of this Chapter.
 - (2) The proposed fence, wall or other screen will be strong enough both to withstand any wind pressure that may be applied to it under normal storm conditions and to avoid threatening the health, lives or property of those around it.
 - (3) The proposed fence, wall or other screen will not constitute a fire hazard.
 - (4) The proposed fence, wall or other screen will not deny a significant amount of light or air to neighboring properties.
 - (5) The proposed fence, wall or other screen will not impair the sight lines or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk or parking area.
- H. Fences, Walls and Other Screens that Include Barbs, Thorns, electric Wires Designed to Shock or Other Harmful Components. (See §27-503, Fences, Walls and Other Screens). Such fences, walls and other screens may be permitted in any district as a special exception only if:
- (1) The proposed fence, wall or other screen will follow all other requirements of this Chapter.
 - (2) The barbs, thorns, electric wires or other harmful components are necessary to protect property or the public health.
 - (3) The barbs, thorns, electric wires or other harmful components will be made as attractive as is possible.
 - (4) The proposed fence, wall, or other screen will be strong enough both to withstand any wind pressure that may be applied to it under normal storm conditions and to avoid threatening the health, lives or property of those around it.
 - (5) The proposed fence, wall or other screen will not constitute a fire hazard.
 - (6) The proposed fence, wall, or other screen will not impair the sight lines or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk, or parking area.

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- I. Funeral Homes or Mortuaries. These may be permitted in the R1B District as special exceptions only if:
- (1) The proposed use will follow all provisions of this Chapter, including all parking requirements.
 - (2) The proposed use will not substantially impair, alter or detract from the value, use or enjoyment of surrounding properties by way of fumes, odors, vibrations, glare, electrical interference, radio or television signal interference, voltage fluctuations, smoke, noise or other noxious, offensive or hazardous elements.
 - (3) The proposed use will not impair the access, sight lines, or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk or parking area.
 - (4) The proposed use will provide for safe automobile and truck access that, where possible, minimizes the total number of access points on the involved street or highway and provides ample storage space on driveways for vehicles leaving the premises.
 - (5) The proposed use will not require an uneconomical, inefficient or illogical extension of public utilities and services.
 - (6) Refuse from the proposed use will be stored in a location that is as undetectable as possible from neighboring lots and will be removed for disposal regularly.
- J. Gasoline Stations. Gasoline stations may be permitted in the R1B District as special exceptions only if.
- (1) The proposed station will follow all provisions of this Chapter.
 - (2) The proposed station will not substantially impair, alter, or detract from the value, use, or enjoyment of surrounding properties via fumes, odors, vibrations, glare, electrical interference, radio or television signal interference, voltage fluctuations, smoke, noise or other noxious, offensive or hazardous elements.
 - (3) The proposed station will not store vehicles less than 10 feet from property lines, right-of-ways or sidewalks.
 - (4) The proposed station will not store unlicensed vehicles outside of a building for more than 30 days.
 - (5) The proposed station will not impair the access, sight lines or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk or parking area.

- (6) The proposed station will provide for safe automobile and truck access that, where possible, minimizes the total number of access points on the involved street or highway and provides ample storage space on driveways for vehicles leaving the premises.
- (7) The proposed station's driveways or entranceways will be at least 30 feet from the intersection of any public streets.
- (8) The proposed station's fuel pumps, air towers and water outlets will be located no closer than 10 feet from any property line.
- (9) All automobile parts or supplies on the proposed station's lot, except for those displayed for sale at the fuel pump, will be stored within a building.
- (10) The proposed station will not require an uneconomical, inefficient or illogical extension of public utilities and services.
- (11) The proposed station will also meet the standards prescribed by this Section for convenience stores (if the station is to include a convenience store).
- (12) Refuse from the proposed station will be stored in a location that is as undetectable as possible from neighboring lots and will be removed for disposal regularly.

K. Laundromats and Commercial Laundries. These may be permitted in the R1B District as special exceptions only if:

- (1) The proposed land use will follow all provisions of this Chapter.
- (2) The proposed land use will not have a gross floor area of more than 5,000 square feet.
- (3) The proposed land use constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot.
- (4) The proposed land use will not substantially impair, alter or detract from the value, use or enjoyment of surrounding properties by way of fumes, odors, vibrations, glare, electrical interference, radio or television signal interference, voltage fluctuations, smoke, noise or other noxious, offensive or hazardous elements.
- (5) The proposed use will not congest the Borough's streets or highways.

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- (6) The proposed use will not impair the access, sight lines, or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk or parking area.
 - (7) The proposed use will provide for safe automobile access that, where possible, minimizes the total number of access points on the involved street or highway.
 - (8) The proposed use will not require an uneconomical, inefficient or illogical extension of public utilities and services.
 - (9) Refuse from the proposed use will be stored in a location that is as undetectable as possible from neighboring lots and will be removed for disposal regularly.
- L. Major Impact Home Occupations. A major impact home occupation (see §27-502, Home Occupations) may be permitted in the R1A, R1B, R2, R3 and C1 Districts as a special exception only if it meets the conditions given below. If the Zoning Hearing Board decides to grant a special exception to such a business, the Board shall set a required number of off-street parking spaces and a required number of off-street loading berths for the occupation (beyond the requirements of the involved home). These required numbers shall be based on a case-by-case analysis of the home occupation's parking and loading needs, and may use the parking and loading requirements of §27-212(4), "Land Uses, Off-Street Parking and Off-Street Loading" as a guide:
- (1) There will be no evidence of the home occupation's existence on the exterior of its building except for a sign that meets the requirements of Part 6, "Signs."
 - (2) There will be no retail sales directly to customers on the premises, except by way of the mail, telephone or Internet.
 - (3) The area devoted to the home occupation will not exceed 25% of the involved residential unit's total ground floor area.
 - (4) No exterior displays of goods or interior displays of goods that are visible from the outside of the involved residence will be utilized.
 - (5) No materials or products will be stored outside the dwelling unit unless they are kept in an enclosed structure that complies with the requirements of this Chapter.
 - (6) No equipment or process will be used in the home occupation that creates noise, vibration, glare, fumes, odors or electrical interference detectable to normal senses in other residential units.

- (7) No equipment or process will be used that creates visual or audible interference in any radio or television outside of the involved residential unit or that causes significant fluctuations in line voltage outside of that unit.
 - (8) The home occupation will only employ members of the household living in the involved dwelling unit.
 - (9) The proposed home occupation is not a nursery school, dancing school, exercise or health center, day care center, funeral home, mortuary, eating or drinking establishment, animal kennel, animal hospital, veterinarian office, boarding house, personal care home, medical or dental clinic, motor vehicle repair or rental facility, theater or commercial recreation facility.
 - (10) Refuse from the proposed home occupation will be stored in a location that is as undetectable as possible from neighboring lots, and will be removed for disposal regularly.
- M. Off-Street Loading Plans. An off-street loading plan that reduces the number of off-street loading berths required by this Chapter for a particular land use may be approved as a special exception in any zoning district only if that plan meets the requirements of §27-506(3), "Off-Street Parking and Loading Plans."
- N. Off-Street Parking Plans. An off-street parking plan that reduces the number of off-street parking spaces required by this Chapter for a particular land use may be approved as a special exception in any zoning district only if that plan meets the requirements of §27-506(4), "Off-Street Parking and Loading Plans."
- O. Radio and/or Television Antennas That Do Not Meet the Requirements of §27-504(3), Radio and/or Television Antennas. Such devices may be permitted as special exceptions in all zoning districts only if:
- (1) The minimum setbacks from property lines given in §27-504 do not allow an antenna to be located anywhere on the involved lot at a reasonable cost.
 - (2) The restrictions of §27-504 practically forbid quality reception or transmission on the involved lot.
 - (3) The proposed antenna is consistent with the character and type of development in the neighborhood surrounding the involved lot.
 - (4) The proposed antenna will not substantially impair, alter or detract from the value, use, or enjoyment of surrounding properties via vibrations, glare, electrical interference, radio or television signal interfer-

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ence, voltage fluctuations or other noxious, offensive or hazardous elements.

- (5) The proposed antenna will not impair the access, sight lines, or safety of any public roadways or driveways, private roadways or driveways, pedestrian walks or parking areas.

P. Residential House, Building or Mobile home Containing More than One Building. These may be permitted as special exceptions in the R1B, R2, and C1 Districts only if:

- (1) The proposed building will follow all provisions of this Chapter, including all parking requirements.
- (2) Each dwelling unit within the proposed building will have a gross floor area of no less than 640 square feet.
- (3) The proposed building constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot.
- (4) The proposed building will not significantly deteriorate the residential appearance of its lot or its neighborhood.
- (5) The proposed building will not require an uneconomical, inefficient or illogical extension of public utilities and services.
- (6) The proposed building's driveways or entranceways will be at least 30 feet from the intersection of any public streets.

Q. Residential House or Building Containing More than One Dwelling in Which All Dwellings are Exclusively for the Elderly. These may be permitted as special exceptions in the R1B, R2, and C1 Districts only if:

- (1) The proposed building will follow all provisions of this Chapter, including all parking requirements.
- (2) Each dwelling unit within the proposed building will have a gross floor area of no less than 640 square feet.
- (3) The proposed building constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot.
- (4) The proposed building will not significantly deteriorate the residential appearance of its lot or its neighborhood.

- (5) The proposed building will not require an uneconomical, inefficient or illogical extension of public utilities and services.
 - (6) The proposed building's driveways or entranceways will be at least 30 feet from the intersection of any public streets.
- R. Restaurants (Sit Down, Including Restaurants With Bars). Such restaurants may be permitted in the R1B District as special exceptions only if:
- (1) The proposed restaurant will follow all provisions of this Chapter.
 - (2) The proposed restaurant will not have a gross floor area of more than 5,000 square feet.
 - (3) The proposed restaurant constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot.
 - (4) The proposed restaurant will not substantially impair, alter or detract from the value, use, or enjoyment of surrounding properties via fumes, odors, vibrations, glare, electrical interference, radio or television signal interference, voltage fluctuations, smoke, noise or other noxious, offensive or hazardous elements.
 - (5) The proposed restaurant will not congest the Borough's streets or highways.
 - (6) The proposed restaurant will not impair the access, sight lines, or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk or parking area.
 - (7) The proposed restaurant will provide for safe automobile and truck access that, where possible, minimizes the total number of access points on the involved street or highway and provides ample storage space on driveways for vehicles leaving the premises.
 - (8) The proposed restaurant will not require an uneconomical, inefficient, illogical extension of public utilities and services.
 - (9) The exterior areas of the proposed restaurant will be adequately lighted.
 - (10) The hours of operation of the proposed restaurant will not disturb the lifestyle of its neighbors.
 - (11) Refuse from the proposed restaurant will be stored in a location that is as undetectable as possible from neighboring lots and will be removed for disposal regularly.

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- (12) The proposed restaurant will not threaten the safety, health, morals and general welfare of the Borough and its citizens.

S. Sexually Oriented Businesses. Adult arcades, adult bookstores, adult video stores, adult cabarets, adult motels, adult motion picture theaters, adult theaters, escort agencies, nude model studios, sexual encounter centers and other businesses classified as sexually oriented businesses by this Chapter may be permitted in the 1 District as special exceptions only if they meet the conditions below:

- (1) Note that the provisions of this subsection do not apply to modeling classes operated by a proprietary school licensed by the Commonwealth of Pennsylvania, a college, junior college, or university supported entirely or partly by taxation or a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation. Furthermore, the provisions of this subsection do not apply to structures that have no signs visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing, contain a class where students must enroll at least 3 days in advance and where no more than one nude model is on the premises at any one time.
- (2) For the purposes of subsection (1) below, measurements shall be made in a straight line without regard to intervening structures or objects from the nearest portion of a building or structure used as a part of a premises where a sexually oriented business is conducted to the nearest property line of a premises of a church, public or private pre-elementary, elementary or secondary school, public library; child care facility; child-oriented business, nursery school or affected public park. For the purposes of subsection (2) below, measurements shall be made in a straight line without regard to intervening structures or objects from the closest exterior wall of the structure in which each sexually oriented business is located.
- (3) A sexually oriented business that is legally operating on the effective date of this Chapter's enactment (see §27-106, "Effective Date of This Chapter's Enactment" and in violation of subsections (1) or (2) below shall be deemed a nonconforming use (see §27-117, "Nonconformities"). However, no sexually oriented business shall be deemed a nonconforming use due to the subsequent location of a church; public or private pre-elementary, elementary or secondary school; public library; child care facility; child-oriented business, nursery school or public park within 150 feet of that business. Sexually oriented businesses may be permitted as special exceptions only if:

- (a) The proposed business will not be located within 150 feet of a church, a public or private pre-elementary, elementary or secondary school, a public library; a child care facility or nursery school, a public park adjacent to any residential district or a child-oriented business.
- (b) The proposed business will not be located within 150 feet of another sexually oriented business.
- (c) The proposed business will follow all provisions of this Chapter, including all parking and buffering requirements.
- (d) The proposed business constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot.
- (e) The proposed business will not substantially impair, alter or detract from the value, use, or enjoyment of surrounding properties via fumes, odors, vibrations, glare, electrical interference, radio or television signal interference, voltage fluctuations, smoke, noise or other noxious, offensive or hazardous elements.
- (f) The proposed business will not congest the Borough's streets or highways.
- (g) The proposed business will not impair the access, sight lines, or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk or parking area.
- (h) The proposed business will provide for safe automobile and truck access that, where possible, minimizes the total number of access points on the involved street or highway and provides ample storage space on driveways for vehicles leaving the premises.
- (i) The proposed business will not require an uneconomical, inefficient or illogical extension of public utilities and services.
- (j) The exterior areas of the proposed business will be adequately lighted.
- (k) The hours of operation of the proposed business will not disturb the lifestyle of its neighbors.
- (l) Refuse from the proposed business will be stored in a location that is as undetectable as possible from neighboring lots and will be removed for disposal regularly.

ZONING

- T. Warehouses. These may be permitted in the R1B District as special exceptions only if:
- (1) The proposed warehouse will follow all provisions of this Chapter, including all parking and buffering requirements.
 - (2) The proposed warehouse will not have a gross floor area of more than 6,000 square feet.
 - (3) The proposed warehouse constitutes an appropriate use that is consistent with the character and type of development in the area surrounding the involved lot.
 - (4) The proposed warehouse will not substantially impair, alter or detract from the value, use, or enjoyment of surrounding properties via fumes, odors, vibrations, glare, electrical interference, radio or television signal interference, voltage fluctuations, smoke, noise or other noxious, offensive or hazardous elements.
 - (5) The proposed warehouse will be located on a street with the capacity to easily handle all forms of vehicles that will make deliveries to the premise.
 - (6) The proposed warehouse will not impair the access, sight lines or safety of any public roadway or driveway, private roadway or driveway, pedestrian walk or parking area.
 - (7) The proposed warehouse will provide for safe automobile and truck access that, where possible, minimizes the total number of access points on the involved street or highway and provides ample storage space on driveways for vehicles leaving the premises.
 - (8) The proposed warehouse's driveways or entranceways will be at least 30 feet from the intersection of any public streets.
 - (9) The proposed warehouse will not require an uneconomical, inefficient or illogical extension of public utilities and services.
 - (10) The delivery times of the proposed warehouse will not disturb the lifestyle of its neighbors.

(Ord. 984, 6/14/1999, Art. III, §310)