

**ORDINANCE NO. 2831
BOROUGH OF MILLVALE
COUNTY OF ALLEGHENY**

**AN ORDINANCE OF THE BOROUGH OF MILLVALE, COUNTY OF ALLEGHENY, AND
COMMONWEALTH OF PENNSYLVANIA AMENDING AND REVISING THE BOROUGH OF
MILLVALE CODE, PART II: GENERAL LEGISLATION, CHAPTER 312-9, ZONING ARTICLE II, BY
AMENDING AND REVISING SECTION 312-9.**

WHEREAS, the Borough of Millvale has the authority, pursuant to the Pennsylvania Municipalities Planning Code, to amend and revise land use regulations as may be necessary within the Borough of Millvale; and

WHEREAS, the Borough of Millvale is a densely populated urban community that looks to create thoughtful development processes in order to protect the health, welfare, and quality of life of its residents while encouraging development, and

WHEREAS, the Council of the Borough of Millvale concludes that proper land use regulations within the limits of the Borough are necessary to the community's health, safety, and general welfare as well as to the cleanliness, beauty, comfort, and safety of the Borough.

WHEREAS, the Council of Millvale Borough possesses the authority to regulate any proposed land use regulation within the Millvale Borough

NOW, THEREFORE, be it resolved by the Borough of Millvale that:

**Article II
Form and Function**

§ 312-9. Zoning districts and land uses.

- A. Table 1 identifies which land uses are permissible in each of the Borough's zoning districts. After locating the zoning district in which the lot is located, use the listing of uses described in the table to determine what uses are permissible as a use by right, by conditional use and as a use by special exception. If no symbol exists, the use is not permissible in that zoning district. In accordance with the Pennsylvania Municipalities Planning Code, the Borough, having prepared a multi-municipal Comprehensive Plan with the Boroughs of Etna and Sharpsburg, shares land uses with the Boroughs of Etna and Sharpsburg. See the Zoning Ordinances of Etna Borough and/or Sharpsburg Borough for any land use not noted as permissible in any zoning district of Millvale Borough and subsequent definitions.
- B. Zoning Districts Purpose.
- (1) Residential (R1). The purpose of this district is to preserve and promote existing single-family neighborhoods and to protect them from the encroachment of incompatible land uses. This district is intended to be a residential district consisting of single-family homes on individual lots, while permitting customary residential accessory uses. Certain residential related uses and compatible public and semipublic uses may be permitted as conditional uses or uses by special exception.
 - (2) Residential (R2). The purpose of this district is to improve and encourage existing neighborhoods with a mix of housing types, in a manner that respects and continues traditional neighborhood development. The intent of this district is to improve and encourage the orderly development and preservation of a variety of housing types compatible with existing dwellings in established residential areas, while permitting customary residential accessory uses. Certain residential related uses and compatible public and semipublic uses may be permitted, or allowed through conditional uses or uses by special exception.
 - (3) Mixed Use (S). The purpose of this district is to encourage the implementation of diverse commercial and residential land uses, such as residential, office, retail, recreational, and other similar uses in a manner that complement each other. The district is intended to provide a compatible mix of residential and commercial uses that cater to the surrounding neighborhoods and area. The district is also intended to accommodate residential uses with traditional commercial development, and to exclude uses not compatible with such activities.
 - (4) Commercial (C). The purpose of this district is to provide regulations for stores, offices and other related commercial uses and to encourage the continuation of existing local commercial establishments and development of new commercial uses. The intent is to

provide opportunities for commercial uses that help serve the community and regions need for general goods and services, while also providing through conditional use the combination of commercial establishments and multiple-family dwellings.

- (5) Industrial (I). The purpose of this district is to accommodate wholesale activities, warehouse and industrial operations whose external effects will not adversely affect the public health, safety and general welfare of residents and inhabitants within the Borough. The overall intent of the district is to provide for industrial uses reasonably compatible to the Borough's character and location, encourage the location and construction of industrial uses that offer employment opportunity and an increased tax base to the community, establish reasonable standards for industrial development to ensure its compatibility with adjacent nonindustrial activities and areas, locate industrial uses on lands in close proximity to arterial roads to provide efficient and safe access for industrial-related traffic.
- (6) Riverfront (R). The purpose of this district is to promote flexibility and creativity in the design and development of land along the Allegheny River. This district is intended to be consistent with the Borough Comprehensive Plan; utilize, maintain, preserve and enhance the amenities of the river; permit limited commercial and residential development; and encourage planned projects that provide public access to the riverfront and amenities, including, but not limited to, walkways, planting, benches, lights, landscaping, marinas, picnicking and sports areas.
- (7) Overlays. The purpose of these districts is to allow the Borough to establish special land use regulations, standards, and/or procedures in areas with unique land use, site planning, building design, or environmental resource issues. These districts can be used as a mechanism to implement long-term goals (set forth in the Borough Comprehensive Plan), create land use requirements based on a specific property, location, or to coordinate land use and design requirements unique to a large tract of land. Overlay zoning districts are intended to be applied only where special circumstances justify the modification of base zoning district regulations to achieve specific land use and design objectives, that incorporate protections for environmentally sensitive lands, preservation of historic structures and/or areas, establishment of highway corridors, and encourage mixed use, transit-oriented, or traditional neighborhood development.

C. Riverfront District.

(1) District criteria.

- (a) Criteria for approval. Riverfront developments may be allowed or denied by Council after recommendation by the Planning Commission in accordance with the procedure set forth in this chapter.
- (b) Findings of fact. A riverfront development plan for a riverfront development shall be approved if, and only if, it is found to meet the following criteria:
 - (1) Borough and regional access to the river. The proposed riverfront development plan shall not inhibit the creation of a Borough and regional access point to the Allegheny River by the public.
 - (2) Public trail. The proposed riverfront development plan shall not inhibit the future creation of a trail along the Allegheny River for walking, hiking and biking, the portion of which trail in Millvale Borough shall be part of a regional trail along the Allegheny River.
 - (3) Riverfront. The proposed riverfront development plan incorporates plans and means for improving public access to, use of, and enjoyment of the scenic and other assets of the Allegheny River and furthers the goals of the Borough relative to the use and preservation of riverfront property; or in the alternative, will not inhibit the same.
 - (4) Comprehensive Plan. The proposed riverfront development plan preserves the development objectives of this chapter and is consistent with or does not substantially deviate from the 1991 Concept Plan prepared by Allegheny County Planning Department.
 - (5) Open space. The proposals for the maintenance and conservation of any proposed common open space are reliable; and the amount and extent of improvements of such open space is adequate with respect to the purpose, use, and type of development proposed.
 - (6) Infrastructure. The physical design of the proposed riverfront development plan adequately provides for public services, pedestrian and vehicle traffic facilities and parking, light, air, recreation and visual enjoyment.

- (7) Neighborhood. The total environment of the proposed riverfront development plan is harmonious and consistent with the riverfront district or subdistrict in which it is located, and that the long-term development of any unused portion of the land owned or controlled by the developer will be harmonious and consistent with the portion of the land proposed for approval.
- (8) Environment. The proposed riverfront development plan will afford a greater degree of protection of natural watercourses, topsoil, trees, and other features of the natural environment, and prevention of erosion, landslides, siltation and flooding.
- (9) Balanced development. The riverfront development plan will provide for a reasonable balance among permitted uses within the riverfront district, including uses already established pursuant to previously approved riverfront development plans.
- (10) Residential. Residential area will be of adequate size and design to provide a long-term assurance of a sound residential environment for its residents.
- (11) Safety. No use or design feature in the proposed riverfront plan development shall involve any element or cause any condition or traffic hazard that may be dangerous, injurious or noxious to any other property or persons within the zone.
- (12) Timing. In the case of a riverfront development plan which proposes development over a period of years, the riverfront development plan will provide at each stage of development a sufficient proportion of open space, plan facilities and amenities, and other improvements and conditions as required in this chapter and as intended to protect the interest of the public and other residents of the riverfront development and the integrity of the riverfront development plan.
- (13) Visual barriers. The bulk of any development shall not unduly establish visual barriers to and from the river.
- (14) Water-dependent or water-enhanced development. All uses and facilities within the Riverfront District shall be water-enhanced and/or water-oriented.

D. Standards for all Planned Riverfront Development.

- (1) Riverfront development plans. Riverfront developments may be approved under provisions of this chapter if, and only if, they comply with the following standards and provisions.
- (2) Ownership. The entire site for the planned riverfront development shall be owned or controlled by the developer. One hundred percent of the land in a subdistrict shall be controlled by the applicant seeking planned riverfront development approval at the time of application through ownership or sales option. A final planned riverfront development plan shall not be approved until proof of ownership of the land or proof of control of the land through sales agreement has been submitted by the applicant.
- (3) Size of site. The site shall be an entire subdistrict as defined in § 312-15. The site may be comprised of one or more of the subdistricts set forth in § 312-15.
- (4) Highway access. The site must provide for access from an arterial street or highway to ensure convenient and safe access which will not cause undue congestion or safety hazards on local streets. Where the traffic impact statement indicates that the traffic to be generated by the proposed riverfront development plan is likely to constitute a hazard to safety, the riverfront development plan shall not be approved except in phases which correspond to the limits on capacity and to any programmed improvements designated to mitigate such hazard. A hazard to safety shall be deemed to occur when traffic at any part of any intersection would exceed a service level "D" as defined by the Pennsylvania Department of Transportation Design Manual, Part 2, Highway Design, 1981.
- (5) Safety. The development and the site shall be of such character so as to avoid danger to health or peril from fire, flood, or other hazard.
- (6) Building setback. There shall be a building setback of 50 feet from normal pool wherein no improvements shall be erected, with the exception of walkways, bike trails, landscaping and boat slips and docks.
- (7) Common open space. Common open space shall be developed to a degree commensurate with its location and probable usage, including walkways, bike trails and landscaping. The common open space shall be so dedicated and otherwise preserved

and maintained so as to always remain open and available for use by the users and occupants of the riverfront development. The building setback in Subsection B(6) above shall be considered as common open space. The common open space, including all improvements and facilities, shall be either:

- (a) Dedicated for public use to a public body or a nonprofit corporation which agrees to operate and maintain the dedicated land and facilities; provided, however, no public body is obligated by this chapter, including the Borough of Millvale, to accept such dedication; or
 - (b) Deeded to an organization representing the property owners of the development, which organization shall covenant to operate and maintain land and facilities. Such organization may neither be dissolved nor dispose of the common open space unless the maintenance of the common open space is otherwise guaranteed to the Borough's satisfaction.
- (8) Common open space maintenance. If the organization established to own and maintain common open space, or any successor organization, shall at any time fail to maintain such common open space in reasonable order and condition in accordance with the riverfront planned development, the Borough may serve written notice upon such organization or upon the residents of the riverfront planned development setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition, and said notice shall include a demand that deficiencies of maintenance be corrected within 30 days thereof, and shall state the date and place of a hearing thereon which shall be held within 14 days of the notice. At such hearing, Borough Council may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be corrected.
- (a) If the deficiencies so set forth in the original notice or in the modifications thereof shall not be corrected within said 30 days or any extension thereof, the Borough, in order to preserve the taxable values of the properties within the riverfront unit development and to prevent the common open space from becoming a public nuisance, may enter upon said common open space and maintain the same for a period of one year. Said maintenance by the Borough shall not constitute a taking of said common open space, or a de facto taking of same, nor vest in the public any rights to use the same.
 - (b) Before the expiration of said year, the Borough shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common open space, call a public hearing upon notice to such organization, or to the residents of the riverfront unit development, to be held by the Borough Council or its designated agency, at which hearing, such organization or the residents of the riverfront unit development shall show cause why such maintenance by the Borough shall not, at the option of the Borough, continue for a succeeding year. If the Borough Council, or its designated agency, shall determine that such organization is ready and able to maintain said common open space in reasonable condition, the Borough shall cease to maintain said common open space at the end of said year. If the Borough Council or its designated agency shall determine that such organization is not ready and able to maintain said common open space in a reasonable condition, the Borough may, in its discretion, continue to maintain said common open space during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter.
 - (c) The decision of the Borough Council or its designated agency shall be subject to appeal to court in the same manner, and within the same time limitation, as is provided for zoning appeals by the Pennsylvania Municipalities Planning Code.
 - (d) The cost of any such maintenance by the Borough shall be assessed ratably against the properties within the riverfront development that have a right of enjoyment of the common space pursuant to their individual real estate assessments as determined by the Allegheny County Board of Property Assessments, Appeals and Review, and shall become a lien on said properties collectible in such manner as other municipal liens. The Borough, at the time of entering upon said common open space for purpose of maintenance, shall file a notice of lien in the Prothonotary's Office of Allegheny County with the properties affected by the lien within the riverfront development. The Borough may take any other steps, at law or in equity, to recover the cost of such maintenance from the owners of the properties within the riverfront development.
- (9) Screening. A planned visual barrier or landscape screen shall be provided and maintained

by the developer on every yard between any contiguous commercial and residential uses. This screen shall be not less than 10 feet in depth and composed of both evergreen and deciduous plants and trees arranged to form both a low-level and a high-level screen. The high-level screen shall consist of trees planted with specimens having a minimum caliper no less than 3 1/2 inches, and planted at intervals that will assure a visual screen within two years of planting which blocks not less than 50% of the structures and facilities on the commercial site. The low-level screens shall consist of shrubs or hedges planted at an initial height of not less than two feet, placed in alternating rows to reduce a dense visual barrier. Any plant or tree not surviving three years after planting shall be replaced.

- (a) A masonry wall or earth mound not less than five feet in height and a landscape screen shall be provided and maintained by the developer in every yard between any contiguous light industrial and residential uses and adjacent to every railroad right-of-way. The screen shall conform to the requirements of screening immediately above.
- (10) Building space. The requirements determining the spacing of building shall be flexible so as to encourage imaginative site design. The spaces between buildings shall guarantee adequate light, air and emergency access.
- (11) Building groupings. Structures used for dwelling units shall be oriented so as to ensure adequate light and air exposure for walls containing main window exposure or main entrances. Each structure shall be so arranged so as to avoid undue exposure to concentrated loading or parking facilities.
- (12) Signs. No signs shall be permitted in a planned riverfront development except in strict conformance with regulations regarding signs as set forth in this chapter. No billboard or outdoor advertising whatsoever shall be permitted.
- (13) Public trail. All subdistricts shall provide for a public trail that permits nonmotorized access for cyclists, walkers, joggers and handicapped users throughout the Riverfront District. Design and construction specifications for the public trail are subject to the approval of Allegheny County Planning Department.
- (14) Special regulations for Subdistricts A and B.
 - (a) Height. Dry stack marina structures shall not exceed the height of 50 feet. All other structures shall not exceed the height of 35 feet.
- (15) Special regulations for Subdistrict C.
 - (a) Height. Dwelling units shall not exceed the height of 40 feet. All other structures shall not exceed the height of 35 feet.
 - (b) Not less than 15% of the entire subdistrict shall be provided and maintained as open space. Land area located within the fifty-foot river setback and slope area shall be credited toward the open space requirement. The maximum number of residential units shall not exceed 12 per acre. No structure shall contain more than 10 dwelling units.

RESOLVED this 12th day of November 2024 by the Millvale Borough Council by vote.


ATTEST:

BY:  James Machajewski, Jr., Council President

BY:  Eddie T. Figas, Manager/Secretary

EXAMINED AND APPROVED on this 12th day of November 2024.

ATTEST:

BY:  Brian P. Spoales, Mayor