

Summary of changes in the April 2014 Public Review Draft from existing zoning ordinance

This document is a summary of the changes between the existing Atglen Borough Zoning Ordinance adopted November 19, 2001 and its subsequent amendments and the Public Review Draft of the Ordinance dated April 2014 developed in accordance with the contract initiated by the Borough with the Chester County Planning Commission to update the Borough zoning ordinance.

The first section includes the table of contents from the existing ordinance with general comments on each Article, simply reflecting whether the Article remains, is deleted, or separated into other Articles in the Public Review Draft. More specific descriptions are provided in the second section outlining the draft ordinance and significant changes from the existing ordinance. The existing and draft zoning maps are included at the end of this document for reference and comparison.

As a note, a “red line” or “track changes” version of the existing ordinance showing all specific changes made by the Public Review Draft does not exist. The process of updating the ordinance involved 1st and 2nd drafts that included track changes from each preceding version and all accepted changes were incorporated into the Public Review Draft. The purpose of this document is to outline significant changes, particularly those that have the most impact on the Borough and/or future development. Specific issues or questions can be addressed through direct comparison of the existing ordinance and the Public Review Draft. If and as necessary, 1st Draft Articles and or the full 2nd Draft of the ordinance may be made available to identify changes if direct comparison between the existing and draft ordinance does not suffice.

ATGLEN ZONING ORDINANCE – EXISTING ORDINANCE as adopted 11/2001**Table of Contents / Simple, by Article**

ARTICLE 1	PREAMBLE Remains.
ARTICLE 2	DEFINITIONS Remains. Significant additions and modifications included.
ARTICLE 3	ESTABLISHMENT OF ZONING DISTRICTS Remains.
ARTICLE 4	(CR) CONSERVATION RESIDENTIAL Remains.
ARTICLE 5	(R-1) SINGLE FAMILY RESIDENTIAL DISTRICT Remains.
ARTICLE 6	(R-2) MEDIUM DENSITY RESIDENTIAL DISTRICT Remains.
ARTICLE 7	(R-3) TRADITIONAL NEIGHBORHOOD – SINGLE FAMILY RESIDENTIAL DISTRICT Remains.
ARTICLE 8	(R-4) TRADITIONAL NEIGHBORHOOD – RESIDENTIAL DISTRICT Remains.
ARTICLE 9	(TNC) TRADITIONAL NEIGHBORHOOD CORE Remains.
ARTICLE 10	(CC) CIVIC CENTER Deleted and incorporated into the TNC. The CC District includes only a few parcels in the center of the Borough, and

the district was determined unnecessary moving forward and was easily incorporated into the TNC district.

- ARTICLE 11 **(B) BUSINESS Remains. Becomes Article 10.**
- ARTICLE 12 **FLOOD HAZARD DISTRICT Remains.**
- ARTICLE 13 **WETLANDS/ HYDRIC SOILS OVERLAY Remains with some changes, incorporated into new Article 13, Natural Resource Protection.**
- ARTICLE 14 **SCENIC OVERLAY Remains. Becomes Article 14.**
- ARTICLE 15 **GENERAL PROVISIONS Remains. This Article remains generally the same but has been reorganized. Independent sections for Landscaping, Buffering, and Screening have been grouped into one section (Section 1505) and updated. Section 1512 Steep Slopes has been relocated to Section 1304 in Article 13, Natural Resource Protection and Section 1513 Forestry has been relocated to Section 1611 in Article 16, Supplemental Use Regulations. Section 1506 Lighting has been added from existing Appendix 24 in the Subdivision Ordinance (SLDO) and updated to current standards. SLDO Appendix 24 will be modified as appropriate.**
- ARTICLE 16 **SUPPLEMENTAL USE DESIGN STANDARDS Remains. This Article has been reorganized and updated to reflect the applicable named uses (and nomenclature) in the Public Review Draft. Some uses received only minor changes while others required more significant changes in addition to reflecting current practices and case law as applicable.**
- ARTICLE 17 **SIGNS Remains. This Article received significant reorganization with some modifications and sign types added, but generally the permitted number and size of signs does not change significantly. Updated to match current case law for issues such as Billboards.**
- ARTICLE 18 **NON-CONFORMING USES, BUILDINGS, STRUCTURES, AND LOTS Remains.**
- ARTICLE 19 **ZONING HEARING BOARD Remains.**
- ARTICLE 20 **ADMINISTRATION Remains. Some reorganization occurred in addition to changes to match current Borough procedures.**

ATGLEN ZONING ORDINANCE UPDATE – PUBLIC REVIEW DRAFT APRIL 2014**Table of Contents (Simple, by Article only)**

ARTICLE 1	PREAMBLE Similar to existing with only minor modifications.
ARTICLE 2	DEFINITIONS This is an important Article of the ordinance. The existing ordinance is lacking definitions that can result in interpretation issues for the zoning officer making it difficult to enforce the ordinance. Additional definitions do not necessarily mean “more regulations” but result in “more clarity” in regard to using, interpreting, and enforcing the ordinance. A significant number of new definitions simply fill in definitions that were missing in the existing ordinance. Others add necessary definitions for new text, update definitions based on current information, are definitions required by the MPC and FEMA (floodplain), or accommodate for legal issues. An example is the existing ordinance definition for “Day Care” was inconsistent with current categories indicated by State agencies for licensing and enforcement.
ARTICLE 3	ESTABLISHMENT OF ZONING DISTRICTS AND MAP. Similar to existing with only minor modifications.
ARTICLE 4	CR CONSERVATION RESIDENTIAL DISTRICT The only significant change to this district involves the maximum impervious surface requirement. After further analysis, the maximum impervious surface was reduced from 20% to 10%, which is reflective of nearly every property in the district.
ARTICLE 5	R-1 LOW DENSITY RESIDENTIAL DISTRICT No significant changes were made to this district aside from boundary changes (see the zoning maps). The district has expanded to include the southern most portion of the Borough south of Steelville Mill Road that is zoned R-2 in the existing ordinance. Because nearly all of the parcels in this area are greater than 20,000 square feet in size, it was determined this area would be rezoned R-1 as the existing lots are reflective of R-1 zoning.
ARTICLE 5a	R-1a CLUSTER RESIDENTIAL DISTRICT The new R-1a District applies to an area in the northeastern section of the Borough. This area is currently zoned R-4 in the existing ordinance which permits high density attached housing in addition to similar “cluster” development via an amendment to the Borough ordinance in 2004. The requirements of the R-1a are similar to that of the 2004 cluster amendment including the same forty (40) percent open space requirement and minimum lot size of 7,500 square feet. One difference is that the draft R-1a restricts attached housing (townhouses) to a maximum of thirty (30) percent of all potential developable units under cluster development. Conventional single family detached development is permitted by conditional use using a minimum lot size of 20,000 sf, but the density for conventional development is not permitted to exceed the same number of units permitted under cluster development in accordance with the Determination for Development calculations under Section 504a.B. Additional design standards and common open space standards have been added with the goal of producing a high quality development if and when development occurs in the R-1a District.

ARTICLE 5b

R-1b MOBILE HOME PARK OVERLAY DISTRICT The Borough has provisions for Mobile Home Parks in the both the existing zoning and subdivision ordinance as a permitted use in the R-2 district with a minimum tract size of five (5) acres. This results in a defacto exclusion, meaning there is not sufficient developable land in the existing or proposed R-2 District to allow for this use to be developed. Case law suggests that this results an a challengeable situation for the Borough and the suggested remedy is that the Borough designate an area to allow for Mobile Home Park to be a viable use. The Borough has designated an area in the southeastern corner of the Borough as an overlay to the underlying R-1 zoning district to accommodate for Mobile Home Parks. The existing mobile home park regulations were modified to include more specific requirements for open space, screening, and design requirements in Section 1618.

ARTICLE 6

R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT No significant changes were made to this district aside from boundary changes (see the zoning maps). As noted under the R-1 District, the existing area zoned R-2 south of Steelville Mill Road is reallocated to the R-1 District in the Public Review Draft. The R-2 district has also expanded to include the development directly south of Ridge Road known as Hillcrest. In addition the minimum lot size for the R-2 District was reduced from 20,000 square feet (sf) to 15,000 sf. These changes were made because a large portion of the lots in Hillcrest were nonconforming and these changes bring the lots into conformity. These changes have little, if any tangible impact, as this area is entirely built out.

ARTICLE 7

R-3 TRADITIONAL NEIGHBORHOOD SINGLE FAMILY RESIDENTIAL DISTRICT The R-3 District had no significant changes.

ARTICLE 8

R-4 TRADITIONAL NEIGHBORHOOD RESIDENTIAL DISTRICT The R-4 District has no significant changes to the regulations but has been significantly reduced in size. The R-4 District in the Public Review Draft has been reduced to R-4 area to the east of Main Street in the center of the Borough. The existing R-4 area to the north of the railroad tracks has been changed to TOD to the west of Zion Hill road and R-1a to the east of Zion Hill Road. The larger parcel in the existing R-4 area in the center of the Borough has been included in the draft TNG District.

ARTICLE 9

TNC – TRADITIONAL NEIGHBORHOOD CORE DISTRICT The TNC District is an existing zoning district with some modifications. The uses from the existing (CC) Civic Core District are incorporated into the TNC District and the CC District is not included in the Public Review Draft. The uses for the TNC District have been modified slightly, primarily to reflect new nomenclature and uses that might have a greater impact are permitted by special exception. For example Theater is permitted as a by-right use in the existing ordinance but is a special exception in the Public Review Draft.

Some design standards for buildings have been added in the Public Review Draft to ensure that new development is consistent with existing structures in the TNC District including but not limited to minimum window percentage requirements and façade breaks if a larger building were to be constructed.

ARTICLE 9A

TNG – TRADITIONAL NEIGHBORHOOD GATEWAY DISTRICT The TNG District incorporates existing R-1 parcels on the south side of Lower Valley Road that include a parking lot and storage area. The existing Business District on the north side of Lower Valley Road and the large parcel adjacent to Route 41 in the central R-4 District are also incorporated into the TNG District. The TNG is a new zoning district largely based upon the existing TNC District. The minimum lot size is slightly larger than the TNC District as is the maximum lot size to allow for larger uses than the TNC District, potentially more appropriate for uses outside the “Downtown” and more “highway oriented” uses. Residential uses are not permitted on lots that front upon Lower Valley Road aside from apartments above commercial uses. The design criteria for the TNC District also applies to the TNG district so future development creates a similar streetscape providing a “gateway” into the Borough that is more consistent with the Borough’s character than the existing development on Lower Valley Road east of Main Street.

ARTICLE 10

B – BUSINESS DISTRICT The area of the existing Business District along Lower Valley Road has been incorporated into the TNG District. One parcel in the western area of the existing Business District has incorporated into the R-1 District. The area of the existing Business District in the northern portion of the Borough has a few parcels incorporated into the R-1a District because those parcels currently are developed as single family dwellings. Otherwise, the Business District received only slight modifications in permitted uses and all other regulations were unchanged.

Adult uses are permitted by right in the existing Business District and there are existing regulations for this use. Adult uses are permitted by conditional use in the Business District in the Public Review Draft. There are generally two ways of regulating this use. The first is to leave no mention of this use in the ordinance, so as not to call “attention” to it. However, if an applicant decided to place such a use in the Borough and it is not specified as a use, an applicant could win a challenge to the ordinance and place such a use anywhere in the Borough. The opposite method (as included in the draft) is to specifically permit, define, and regulate this use appropriately. This way if an application does come in, the use will be contained within a predetermined area (in this case the Business District) and be regulated appropriately. Note there are a variety of court cases that affect how Adult use may be regulated (including the US Supreme Court). The Borough Solicitor has reviewed and approved the requirements for this use in the Public Review Draft.

All other uses permitted by conditional use. Generally speaking, Pennsylvania courts have held that every municipality must provide for every lawful land use within its borders. The existing ordinance accommodates for this in Section 1640 which states “uses similar to the specified permitted uses in each zoning district may be permitted as a conditional use when approved by Borough Council.” While this is a correct method of dealing with the challenge of permitting for all reasonable lawful uses, it is not suggested this be included in every zoning district. The Public Review Draft accommodates for this by permitting “any other use not specifically stated in this ordinance” by conditional use in the Business District. This is a standard accepted practice for dealing with this issue, which has been confirmed by the Borough Solicitor.

ARTICLE 11

TOD – TRANSIT ORIENTED DEVELOPMENT DISTRICT The TOD District is a new district that probably represents the greatest change from or addition to the existing ordinance. It is important to note that cluster development under the R-1a development is permitted by-right for both Zone 2 and 3, and by conditional use in Zone 1. Another important consideration is that the proposed TOD District is currently zoned R-4 in the existing ordinance. The existing R-4 District allows for a wide variety of residential uses including single family attached (townhouses) and apartments which would permit the area to be developed effectively as high density residential development.

The origin of the TOD District stems from the 2001 Borough Comprehensive Plan to include the potential for development in and around the potential future train station which would be located near the intersection of the railroad tracks and Main Street. The Borough, in conjunction with the Chester County Planning Commission and SEPTA, developed an Atglen Station Concept Plan in June 2012 as a step towards the future development of the station.

The concept of the TOD District is to allow for mixed use development in and around the potential train station with more intense uses near the train station and more limited uses moving away from the station. The TOD District is separated into 3 zones. Zone 1 allows for mixed uses including commercial uses with apartments permitted on the second floor and single family semi-detached (twins) dwellings. Zone 1 is located along the railroad tracks. Zone 2 also allows for mixed uses including commercial uses with apartments permitted on the second floor and single family semi-detached (twins) dwellings, but does not include some of the larger Zone 1 uses. Zone 2 is located north of Zone 1. Zone 3 permits only residential uses. The minimum lot size for Zone 1 and Zone 2 is 3,000 sf similar to that of the TNC District with a maximum lot size of 10,000 sf and 50,000 feet by conditional use (the maximum is intended to reduce the possibility of “big box” stores.)

The TOD allows for a mixed used area around the train station and contains design standards to help guide new development to achieve that vision. For example along with the standard minimum lot requirements, there are requirements to provide for a development pattern similar the TNC district in scale with the Borough. The TOD District operates under the Traditional Neighborhood Development (TND) Article VII-A of the MPC which allows the potential for modification of standards to allow for flexibility as permitted by Section 1106 (25% modification permitted).

The TOD District provides for a variety of design standards including but not limited to parking requirements and design standards specific to the TOD District, buffering and screening from adjacent zoning districts, building design standards, and open space and greenspace requirements and standards. The TOD District is intended to be developed as a whole or in large pieces as opposed to lot by lot, under a master plan that is required as part of the development. The master plan is required and stipulates potential development account for a wide variety of issues including but not limited to the following issues: transportation and pedestrian circulation and connections, stormwater, landscaping, screening from adjacent uses or zoning districts, impact on Borough facilities (water, sewer), and implementation or phasing schedule.

ARTICLE 12 **FLOOD HAZARD OVERLAY** This Article is the same as existing Article 12. The Floodplain regulations and the associated definitions are required by FEMA.

ARTICLE 13 **NATURAL RESOURCE PROTECTION** This Article incorporates natural resources protection standards in a single Article. Two existing regulations, Article 13, Wetlands/Hydric Soils Overlay and Section 1512 Steep Slopes, are relocated into this Article.

Wetlands regulations primarily refer to national standards for wetlands identification and protection and provide the Borough notification and awareness if a development may impact wetlands. This in part due to wetlands disturbance is the purview of the US Army Corps of Engineers. The existing requirements are included and delineation has been updated in the Public Review Draft to reflect current practices. One change is the existing ordinance permits uses from the underlying zoning district in wetland areas by special exception whereas the Public Review Draft changes this permission to conditional use, a somewhat more restrictive classification that may be considered more appropriate. A second change is that the Public Review Draft includes a wetlands margin where wetlands protection standards apply to an area fifty (50) feet beyond the boundaries of any identified wetlands. The purpose of this is to account for further protection of identified resources in addition to accounting for some variation in the delineation of wetlands.

The existing steep slope regulations have been modified to update the means of delineation to a more current format in addition to more specific application requirements consistent with current practices. The most significant change to the slope regulations is that the existing ordinance permits twenty five (25) percent disturbance of steep slopes (slopes greater than 25%) whereas the Public Review Draft does not permit any disturbance of steep slopes. Note: Both the existing and Public Review Draft permit fifty (50) percent disturbance of moderate slopes (slopes between 15-25 percent).

The new Article 13 includes a reference to the protection of riparian buffers as regulated by the Borough Stormwater Ordinance adopted in the spring of 2014.

Section 1306 woodlands protection is a new section in the Public Review Draft and is only applicable to when a new subdivision or land development occurs. The protection standards limit the amount of disturbance to any existing woodlands based on lot size. To be clear, these regulations do not require residents to apply for a permit to cut down a dead or dying tree, or just any tree for that matter. Rather, the woodlands requirements are intended to reduce the capacity for wholesale clearcutting of existing woodlands for new subdivision and land developments in order to protect the remaining existing woodlands in the Borough. More than a few municipalities have similar provisions that were adopted after prior occurrences of “midnight clearcutting.”

ARTICLE 14 **S SCENIC OVERLAY** This Article is the same as existing Article 14.

ARTICLE 15

GENERAL REGULATIONS General Regulations are regulations that apply to every lot/use as applicable.

This Article remains generally the same but has been reorganized. Landscaping, Buffering, and Screening have been grouped into one section (Section 1505) and updated. Section 1512 Steep Slopes has been relocated to Section 1304 in Article 13, Natural Resource Protection and Section 1513 Forestry has been relocated to Section 1611 in Article 16, Supplemental Use Regulations. Section 1506 Lighting has been included from existing Appendix 24 in the Subdivision Ordinance and updated to current standards.

Section 1505 Screening and Landscaping, combines several sections from existing zoning ordinance into one section for clarification. These regulations apply to various areas of the ordinance, but are particularly for nonresidential uses. Significant changes include more specific requirements for the landscaping of parking lots and changes to the screening that create a hierarchy of screening requirements depending on the use and adjacent uses. The primary objective for all of these provisions is buffering and screening of nonresidential uses from residential uses. The Borough Engineer has reviewed and approved this section.

Section 1506, lighting, is an improvement upon an existing regulations which are in Appendix 24 of the existing Subdivision Ordinance. In particular the modifications are oriented to better control glare and restrict the direct visibility of the light source in lighting fixtures from sidewalks, streets, and adjacent properties. The Borough Engineer has reviewed and approved this Section.

Section 1508, Outdoor Storage Standards has added provisions to allow for limited outdoor display of items for sale by retail commercial uses. All such items must be stored inside during the time the applicable business is closed.

ARTICLE 16

SUPPLEMENTAL USE REGULATIONS Supplemental Use regulations are specific regulations that only apply to a specific use and no other. These regulations assist in defining and protecting the Borough character. These regulations are significant in volume, but provide guidance to assure that new uses appropriately fit into the Borough. Some regulations are new, some reflect changes in nomenclature from existing regulations (example: conversion residential is now residential conversion), and a variety of existing regulations have received minor modifications to be consistent with current regulations, practices, or case law as applicable.

Section 1602 combines all accessory use regulations into one location for ease of use. The existing ordinance had requirements for accessory uses in several locations. These regulations mimic existing ordinance standards.

New additions in the Public Review Draft that do not exist in the existing ordinance include: Section 1620, Outdoor Dining for restaurants permitted as a special exception in the TNC, TNG, TOD, or B District; Section 1621, Parking Structure as a conditional use in the TNC, TNG, or TOD District; and Section 1632 Transit Station and Transit Station Parking, with Transit Station permitted by-right in the TNC District and Transit Station Parking permitted by-right in the TOD Zone 1 in accordance with the Atglen Station Concept Plan (June 2012).

Section 1618 Mobile Home Park includes existing regulations and requirements for additional open space, landscaping, buffering, and screening in addition to minor additional design requirements consistent with current practices.

Existing Sections 1602 Residential Animals and Animal Shelter Standards and 1603, Stable Standards were combined in the Public Review Draft in Section 1628 Residential Animals and Animal Shelter. The requirements generally remain the same with minor modifications. The maximum number of domesticated pets (cats, dogs, etc) was reduced from the existing six (6) animals to four (4) animals in the Public Review Draft in addition to adding a definition for agricultural animal and expanding upon the existing definition for domesticated animal. Other existing language in regard to horses, stables, and pastures was reorganized and reworded slightly for clarification but the intent and requirements were not changed.

ARTICLE 17

SIGN REGULATIONS This Article received significant reorganization with some modifications and sign types added, but generally the number and size of signs does not change significantly. Changes were made for consistency with current case law for issues such as Billboards and provisions were included to address digital signs (Section 1703.B). Some sign types were renamed for clarification and definitions were added for all sign types in addition to illustrations for signs in a new Appendix B.

Changes included legal considerations for signs in terms court cases and legislation in terms of time, place, and manner; freedom of speech; political signs; billboards; digital signs; and other issues. The Borough Solicitor and Engineer have reviewed and commented on this Article.

ARTICLE 18

NONCONFORMITIES This is an existing Article. Some minor modifications have been made. Generally the Public Review Draft is slightly more restrictive in regard to nonconforming uses. For example a change in nonconforming use is permitted by special exception in the existing ordinance but is a conditional use in the Public Review Draft.

ARTICLE 19

ZONING HEARING BOARD This is an existing Article. Little if any modifications or corrections were made. Zoning Hearing Board requirements are effectively straight from the MPC. See references in the text (e.g.: (MPC 905)).

ARTICLE 20

ADMINISTRATION AND ENFORCEMENT This Article contains language for the administration and enforcement of the ordinance, including a description of the powers of the zoning officer and various permits (zoning, building, use and occupancy). Some of the sections are effectively zoning language from the PA Municipalities Planning Code which governs zoning ordinances.

Conditional Use requirements have been added to this Article, and are effectively directly from the MPC to provide the Borough with clear procedures for conditional uses.

ARTICLE 21

AMENDMENTS This is a new Article. Amendment provisions are effectively directly from the MPC.

APPENDIX A **RECOMMENDED PLANT LIST** This is a new appendix added to assist in the installation of appropriate vegetation for landscaping, buffering, and screening (primarily for non-residential uses).

APPENDIX B **SIGN ILLUSTRATIONS** This is a new appendix providing sample illustrations of sign types independent of Article 2, Definitions and directly related to Article 17, Signs.

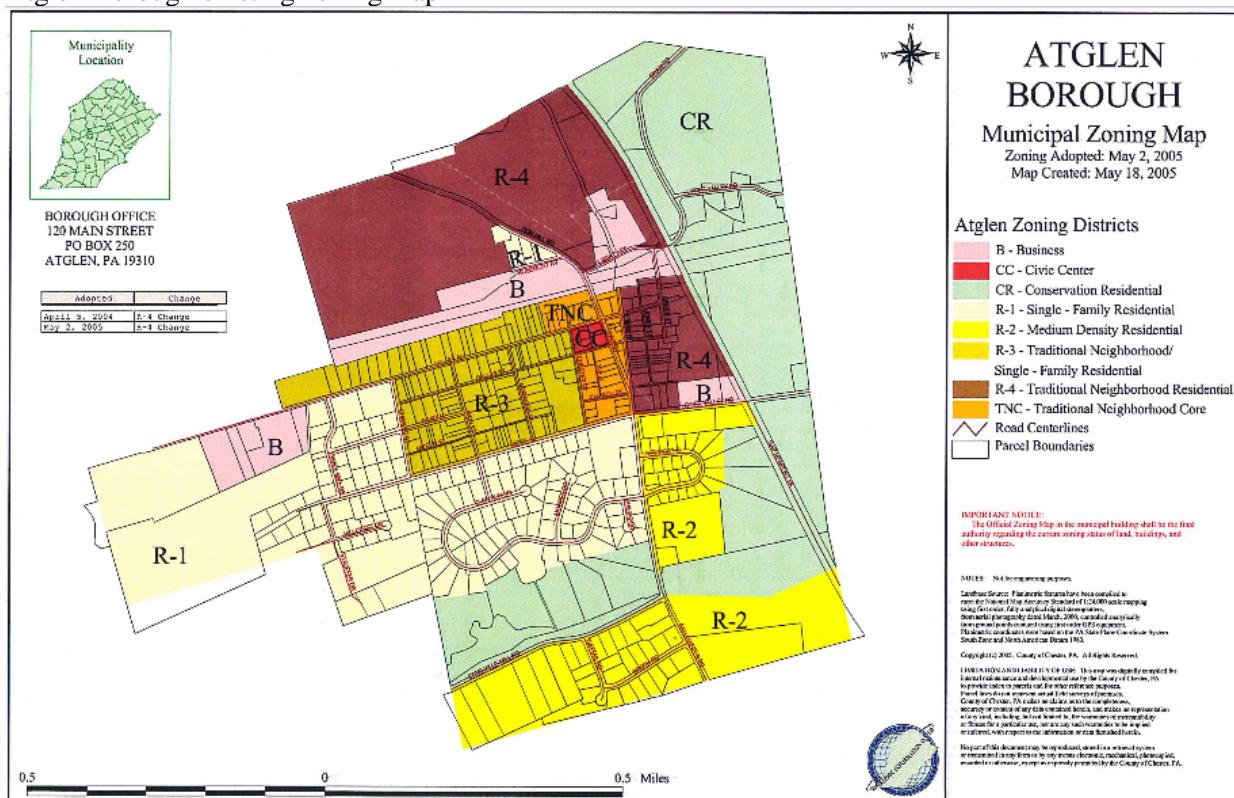
As a note, the full text of both the existing ordinance and April 2014 Public Review Draft are available on the Borough website. Both existing and draft zoning maps are available at the end of this document.

I hope you find this commentary helpful, and if you have any questions or comments on this or any other question related to the zoning ordinance, please do not hesitate to contact the Borough or myself as necessary.

Thank you,

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Atglen Borough existing zoning map



Atglen Borough, draft zoning map, April 2014 (next page)

Atglen Borough, draft zoning map, April 2014

