

**ARTICLE XII  
ADMINISTRATION**

**1200 Applicability**

1200.1 Conformance

Any activity regulated by this Ordinance shall only occur or be undertaken and be continued in conformance with the requirements of this Ordinance.

1200.2 Authorization

This Ordinance regulates all matters and activities authorized by Article VI of the Pennsylvania MPC (hereinafter referred to as MPC).

1200.3 Regulated Activities

Any of the following activities or any other activity or matter regulated by this Zoning Ordinance shall only be undertaken after the required permit or approval has been obtained in full compliance with this Ordinance:

- A. Erection, construction, movement, placement or extension of a structure, building or regulated sign;
- B. Change in the type of use or expansion of the use of a structure or area of land; and/or,
- C. Creation of a lot or alteration of lot lines.

1200.4 Repairs and Maintenance

Ordinary repairs, structural strengthening, facade improvements and maintenance to existing structures that do not infringe upon a required setback may be made without a zoning permit provided such activity does not involve 1) a change in use; 2) an expansion, construction or placement of a structure; 3) an increase in the number of dwelling units or boarding house units; and/or 4) any other activity regulated by this Ordinance.

**1201 General Procedure for Permits**

1201.1 Principal Permitted Use

Within thirty (30) days of receiving a proper and complete application for a principal permitted use (permitted by right), the Zoning Officer shall either:

- A. Issue the permit under this Ordinance; or,
- B. Refuse the permit, indicating at least one applicable reason, in writing, to the applicant or his/her representative.

1201.2 Reviews

Certain activities require approval of the Zoning Hearing Board and/or of the Governing Body, and/or the recommendations of the Planning Commission.

1201.3 Appeal

See §1205.2 which describes processes to appeal actions of the Zoning Officer to the Zoning Hearing Board.

1201.4 Timing

After a zoning permit has been received by the applicant, the applicant may undertake the action permitted by the permit under this Ordinance provided the work complies with other Municipal Ordinances. However, it is recommended that applicants wait thirty (30) days to begin construction if there is a possibility of an appeal by another party to have the permit revoked. Any commencement of construction or a use within this thirty (30) day appeal

period shall be at the risk of the applicant. (See use permit process in §1202.7)

## **1202 Permits and Certificates**

1202.1 Applicability See §1200.

1202.2 Types of Uses

- A. Principal Permitted Uses (Permitted by Right Uses) - If a use is listed as a principal permitted use by this Ordinance and meets the requirements of this Ordinance, the Zoning Officer shall issue a permit in response to a complete application.
- B. Special Exception Use or Application Requiring a Variance - A permit under this Ordinance for a use requiring a Special Exception or Variance shall be issued by the Zoning Officer only upon the written order of the Zoning Hearing Board.
- C. Conditional Use - A permit under this Ordinance for a Conditional Use shall be issued by the Zoning Officer only upon the written order of the Governing Body.

1202.3 Applications

- A. Applications - Any request for action by the Zoning Hearing Board, application for a conditional use, or for a permit under this Ordinance shall be made, in writing, on a form provided by the Municipality and in accord with the procedures established by the Municipality. Such completed application, with any required fees, and with any required site plans or other required information, shall be submitted to the Municipality employee responsible for processing such application. The applicant is responsible to ensure that a responsible Municipal official notes the date of the official receipt on the application.
- B. Number of Copies - Unless waived by the Zoning Officer, five (5) copies of a site plan shall be submitted if an application requires action by the Zoning Hearing Board or Governing Body; and, two (2) copies shall be submitted if action by the Zoning Hearing Board or Governing Body is not required.
- C. Information Required - Any application to the Zoning Officer, Zoning Hearing Board, Planning Commission or Governing Body shall include the following information:

In the case of an application involving the construction of any new structure or any addition to an existing structure, all of the information required in this §1202.3 shall be provided by the applicant. However, the Zoning Officer, Planning Commission, Governing Body, or the Zoning Hearing Board, as the case may be, may determine, as part of the review process, that certain information is not required for a particular application, and upon such determination, the specified information need not be provided by the applicant.

In the case of an application which does not involve the construction of any new structure or any addition to an existing structure, a narrative providing details of the project shall be provided as required by this subsection. However, a plot plan, as required by Subsection 6 which follows, shall not generally be required unless the Zoning Officer, Planning Commission, Governing Body, or the Zoning Hearing Board, as the case may be, deems such plot plan necessary to evaluate and make a decision on the application. The Zoning Officer, Planning Commission, Governing Body, or the Zoning Hearing Board, as the case may be, shall determine, as part of the review process, the type of information and level of detail of the plot plan if such plot plan is required.

In any case, the Zoning Officer, Planning Commission, Governing Body, or the Zoning Hearing Board, as the case may be, may require any other additional information or any level of detail deemed necessary to determine compliance with this Ordinance or to identify any impacts of the proposed use.

1. Names and address of the applicant, or appellant; and, the name and address of the owner of the affected property.
  2. A description of the existing and proposed use(s) of the property, including numbers of dwelling units, minimum square feet of proposed dwelling units and number of proposed business establishments, if any.
  3. A description of any proposed nonresidential operations and storage in sufficient detail to indicate potential nuisances and hazards regarding noise, large truck traffic, glare, odors, dust, fire or toxic or explosive hazards, or other significant public health and safety hazards.
  4. If a principal nonresidential use is proposed within close proximity to dwellings, a description of hours of operation and proposed methods of storing garbage outdoors on-site.
  5. A listing of any specific sections of this Ordinance being appealed, with the reasons for any appeal.
  6. A plot plan legible in every detail and drawn to scale, but not necessarily showing precise dimensions, which includes the following information:
    - a. Name of the development.
    - b. Name and address of land owner and/or land developer. (If a corporation, list names of officers.)
    - c. Location map.
    - d. North arrow, true or magnetic.
    - e. Graphic scale.
    - f. Written scale.
    - g. Date plot plan was completed.
    - h. Names of adjacent property owners and tax map numbers, including those across adjacent roads.
    - i. Proposed and existing street and lot layout, including street names and right-of-way widths.
    - j. Existing and proposed man-made and/or natural features:
      1. Water courses, lakes and wetlands (with names).
      2. Rock outcrops, ledges and stone fields.
      3. Buildings, structures, signs and setbacks required by this Zoning Ordinance.
      4. Approximate location of tree masses.
      5. Utility lines, wells and sewage system(s).
      6. Entrances, exits, access roads and parking areas, including the number of spaces.
      7. Drainage and storm water management facilities.
      8. Plans for any required buffer plantings.
      9. Any and all other significant features.
  7. Location of permanent and seasonal high water table areas and 100 year flood zones.
  8. Tract boundaries accurately labeled.
  9. The total acreage of the tract and extent of the areas of the site to be disturbed and percentage lot coverage when the project is completed.
  10. Location and type of rights-of-way or other existing restrictive covenants which might affect the subdivision and/or development.
  11. A statement of the type of water supply and sewage disposal proposed.
  12. The present Zoning District and major applicable lot requirements.
- D. Other Laws - The Zoning Officer may withhold issuance of a permit under this Ordinance if there is clear knowledge by the Zoning Officer that such a use would violate another Municipal, State or Federal law or regulation.
- E. Ownership - No person other than a landowner or their specifically authorized agent or a tenant or lessee with written permission of the landowner shall submit a zoning application. (See definition of "landowner" in Article III.)
- F. Advisory Reviews - The Zoning Officer may submit a copy of any plan and application to any appropriate agencies and/or individuals (such as the Planning Commission, the Susquehanna County Planning Commission, the County Conservation District or Municipal Engineer) for review and comment.

- G. Subdivision Approval - Applications for uses which also necessitate approvals under the Subdivision and Land Development Ordinance shall be processed in the manner provided for plat approval under that Ordinance. Such applications shall also contain all information or data normally required for a submission under that Ordinance. A zoning permit shall not be issued until the proposed use has been granted a Preliminary Approval under that Ordinance. However, no building or property shall be occupied or used until final subdivision approval has been granted and a Certificate of Use has been properly issued pursuant to §1202.7 of this Ordinance.

#### 1202.4 Issuance of Permit

- A. At least three (3) copies of any permit required under this Ordinance shall be made.
- B. One (1) copy of any such permit shall be retained in Municipal files and one (1) copy in Council of Government files; and, one (1) copy shall be retained by the applicant. A copy of any such permit shall be shown by the applicant to the Zoning Officer upon the Zoning Officer's request.
- C. The Zoning Officer shall issue or deny a permit for a principal permitted use within a maximum of thirty (30) days after a complete, duly filed application and fees are submitted.
- D. No owner, contractor, worker or other person shall perform building or construction activity of any kind regulated by this Ordinance unless a valid zoning permit has been issued and posted for such work, nor shall such persons conduct such work after notice that a zoning permit has been revoked.

#### 1202.5 Revocation of Permits

The Zoning Officer shall revoke a permit or approval issued under the provisions of this Ordinance in case of:

- A. Any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based: (The Pennsylvania Criminal Code provides for penalties for providing false information to a municipal employee in the carrying out of his/her duties); or,
- B. Violation of any condition lawfully imposed upon a special exception, variance or conditional use; or,
- C. Any work being accomplished or land or structures being used in such a way that does not comply with this Ordinance or an approved site plan or approved permit application; or,
- D. Any other just cause set forth in this Ordinance.

If a zoning permit is revoked, the person holding the permit shall immediately surrender such permit and all copies to the Zoning Officer.

#### 1202.6 Changes to Approved Plans

- A. After the issuance of a permit and/or approval under this Ordinance, an approved application shall not be changed without the written consent of the Municipality, as stated in Subsection B below.
- B. Changes to an approval by the Zoning Hearing Board as a special exception use or by the Governing Body as a conditional use shall require re-approval of the changes by such bodies if the Zoning Officer determines that such changes affect matters that were within the scope of approval of such body. Such approval by the Zoning Hearing Board or the Governing Body is not required for clearly minor technical adjustments or matters that are solely corrections of information that do not affect any of the significant features of the site plan or the intensity of the use, as determined by the Zoning Officer.
- C. A copy of such adjustment or correction shall be provided, in writing, to the Chairperson of the Planning

Commission, the President of the Governing Body or the Chairperson of the Zoning Hearing Board, as appropriate, if the change concerns a plan approved by such bodies.

#### 1202.7 Certificate of Use

- A. A Certificate of Use shall be required by the Municipality upon a change of use or completion of work authorized by a permit or approval under this Ordinance. It shall be unlawful to use and/or occupy a structure, building and/or land or portions thereof until such Certificate has been issued. A new Certificate of Use shall be required if a change in use of the property is proposed; and then such Certificate shall be issued only after all required approvals are obtained.
- B. An application for a Certificate of Use shall be made on an official Municipal form. If the use is in conformance with Municipal ordinances and approvals, such Certificate shall be issued, in duplicate, within ten (10) business days of a properly submitted and duly filed application. A minimum of one (1) copy shall be retained in Municipal records.
- C. The Zoning Officer shall inspect such structure or land related to an application for a Certificate of Use. If the Zoning Officer determines, to the best of his/her current knowledge, that such work conforms with this Ordinance and applicable Municipal codes, approvals and permits, then such Certificate of Use shall be issued.
- D. The applicant shall show a valid Certificate of Use to the Zoning Officer upon the Officer's request.

### 1203 Fees

#### 1203.1 Application Fees

As authorized by §617.3(e) and §908(1.1) of the MPC, the Governing Body shall establish a uniform schedule of fees, charges and expenses, as well as a collection procedure, for zoning permits, conditional use permits, Zoning Hearing Board proceedings and other matters pertaining to this Ordinance. Permits, certificates, conditional use permits, special exception permits and variances shall be issued only after all fees have been paid in full; and, the Zoning Hearing Board shall take no action on appeals until all fees have been paid in full.

#### 1203.2 Stenographer Fees

The appearance fee for a stenographer shall be shared equally by the applicant and the Municipality as required by §908(7) of the MPC. The cost of the original transcript shall be paid by the Municipality if the transcript is ordered by the Municipality or shall be paid by the person appealing from the decision of the Municipality if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

### 1204 Zoning Officer

#### 1204.1 Appointment

The Zoning Officer shall be appointed by the Governing Body in accord with §614 of the MPC. The Zoning Officer(s) shall not hold any elective office within the Municipality, but may hold other appointed offices not in conflict with the MPC.

#### 1204.2 Duties and Powers

The Zoning Officer shall:

- A. Administer this Ordinance.
- B. Provide information to applicants regarding required procedures.

- C. Receive and examine all applications required under the terms of this Ordinance, and issue or refuse permits in accord with this Ordinance.
- D. Receive written complaints of violation of this Ordinance, and issue a written notice of violation to any person violating any provision of this Ordinance.
- E. Keep records of applications, permits, certificates, written decisions and interpretations issued, of variances and special exceptions granted by the Zoning Hearing Board, of conditional uses approved by the Governing Body, of complaints received, of inspections made, of reports rendered, and of notices or orders issued.
- F. Make all required inspections and perform all other duties in accord with this Ordinance.
- G. Not have the power to permit any activity which does not conform to this Ordinance, or all other Ordinances of the Municipality known to the Zoning Officer.

#### 1204.3 Qualifications

Pursuant to §614 of the MPC, the following minimum qualifications shall apply to any Zoning Officer appointed to serve the Municipality after the adoption of this Ordinance, unless such mandatory qualifications are waived by motion of the Governing Body:

- A. The person shall demonstrate a working knowledge of municipal zoning.
- B. The person shall be familiar with Constitutional issues concerning search and seizure and with the process of filing actions with the Magisterial District Judge.
- C. The person shall exhibit an ability to thoroughly evaluate site plans and building plans.
- D. The person shall demonstrate competent oral and written communication skills.
- E. The person shall be familiar with the MPC.

### **1205 Zoning Hearing Board**

#### 1205.1 Membership and Qualifications

- A. Membership - The Governing Body shall create a Zoning Hearing Board, which shall have the number of members and alternate members with such powers and authority, and which shall conduct all proceedings as set forth in Article IX of the MPC.
- B. Recommended Qualifications - Each Zoning Hearing Board member should:
  - 1. Become familiar with the MPC and the Zoning Ordinance and Subdivision and Land Development Ordinance.
  - 2. Attend at least one (1) seminar and/or workshop pertaining to municipal planning and/or zoning within each calendar year.
- C. Vacancies - The Board shall promptly notify the Governing Body of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of a term.
- D. Removal of Members - See §905 of the MPC.

### E. Organization.

1. Officers - The Board shall elect officers from its own membership who shall serve annual terms and may succeed themselves.
2. Quorum - For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all members of the Board, except that the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board as provided by §908 of the MPC. The quorum may be met by alternate members, serving as permitted by §906(b) of the MPC.
3. Rules - The Board may make, alter, and rescind rules and forms for its procedure, consistent with all applicable Municipal ordinances and laws of the Commonwealth of Pennsylvania.

### 1205.2 Jurisdiction

In accord with §909.1(a) of the MPC, the Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

- A. Substantive challenges to the validity of any land use ordinance, except those brought before the Governing Body pursuant to §609.1 (Landowner Curative Amendments) and §916.1(a) (2) (Validity of Ordinances) of the MPC.
- B. Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said ordinance.
- C. Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.
- D. Applications for variances from the terms of this Ordinance pursuant to §910.2 of the MPC.
- E. Applications for special exceptions under this Ordinance pursuant to §912.1 of the MPC and the requirements of this Ordinance.
- F. Appeals from the Zoning Officer's determination under §916.2 (Preliminary Opinion) of the MPC.
- G. Appeals from the determination of the Zoning Officer or Municipal Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving Subdivision and Land Development applications.
- H. The Zoning Hearing Board shall not, under any circumstances, have the authority to order any specific change in or amendment to the Zoning Map or to allow any use of property substantially different from those permitted under the Schedule of Use Regulations for the particular District.

### **1206 Zoning Hearing Board -- Hearings and Decisions**

The Zoning Hearing Board shall conduct hearings and make decisions in accord with §908 of the MPC, and the provisions of this §1206. The hearings shall be conducted by the Board, or, the Board may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings, shall be made by the Board; however, the appellant or the applicant, as the case may be, in addition to the Municipality, may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.

## **1207 Variances**

The Zoning Hearing Board shall hear duly filed requests for variances.

### **1207.1 Standards**

The Board may grant a variance only in accord with the requirements of §910.2 of the MPC. **The applicant shall have the burden of proof to show compliance with such standards.** As of January 2003, the MPC provided that **all** of the following findings are made where relevant in a given case:

- A. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood or District in which the property is located.
- B. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
- C. That such unnecessary hardship has not been created by the appellant.
- D. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
- E. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

### **1207.2 Re-Application**

The Zoning Officer shall refuse to accept a proposed application that is not materially or significantly different from an appeal on the same property that was denied by the Board within the previous year.

### **1207.3 Variance Conditions**

In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the MPC and this Ordinance, and to protect the public health, safety, and welfare.

## **1208 Conditional Uses and Special Exceptions**

### **1208.1 Applications**

Applications for conditional uses and special exceptions shall, at a minimum, include the information required in §1208.6. In addition, the Planning Commission, Governing Body, or the Zoning Hearing Board shall require any other information deemed necessary.

### **1208.2 Conditional Uses**

Uses specified as conditional uses shall be permitted only after review and approval by the Governing Body pursuant to the express standards as provided for specific conditional uses in this Ordinance, in §1208.4, and any other applicable standards in this Ordinance.

- A. Expansions - Expansions or additions to uses classified as conditional uses shall also be considered conditional uses. The addition of an accessory structure shall not be considered a conditional use.
- B. Procedure
  - 1. Submission - The applicant shall submit five (5) complete sets of any required plans and information to the

Zoning Officer. The Zoning Officer shall refuse to accept an application which does not provide sufficient information to determine compliance with this Ordinance.

2. Distribution - The Zoning Officer shall distribute copies of the site plan to the Planning Commission and the Governing Body. A minimum of one (1) copy shall be retained in the Municipality files. The applicable Volunteer Fire Company shall be given an opportunity for a review, if deemed appropriate by the Planning Commission.
3. Zoning Officer Review - The Zoning Officer shall report, in writing or in person, to the Planning Commission or the Governing Body stating whether the application complies with this Ordinance. The Zoning Officer may recommend a review by the Municipality Engineer.
4. Planning Commission Review
  - a. The Planning Commission shall be provided with an opportunity to review any proposed conditional use. The Commission, at its option, may provide a written advisory review.
  - b. If such review is not received by the Governing Body within the time limit within which the Governing Body must issue its decision then the Governing Body may make its decision without having received comments from the Planning Commission.
5. Governing Body Action - The Governing Body shall conduct hearings and make decisions in accordance with §908 and §913.2 of the MPC. In granting a conditional use, the Governing Body may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it determines are necessary to implement the purposes of the MPC and this Ordinance, and to protect the public health, safety, and welfare.
6. Notice - In addition to the notice and posting requirements of the MPC, notice of all conditional use hearings shall be mailed to the owners of all properties contiguous to the parcel which is the subject of the hearing not less than fourteen (14) calendar days prior to the hearing. Such notice shall be by U.S. Mail to the last known address of the contiguous owners as listed in Susquehanna County tax assessment records.

### 1208.3 Special Exceptions

Uses specified as special exceptions shall be permitted only after review and approval by the Zoning Hearing Board pursuant to the express standards and criteria as provided for specific special exceptions in this Ordinance and in §1208.4.

A. Expansions - Expansions or additions to uses classified as special exceptions shall also be considered special exceptions. The addition of an accessory structure shall not be considered a special exception.

#### B. Procedure

1. All applicants for a special exception use shall submit five (5) sets of plans for the proposed use to the Zoning Officer together with a written application.
2. All applications shall contain the information required in §1208.6.
3. Municipal Procedures:
  - a. The Zoning Officer shall forward the application to the Zoning Hearing Board, the Planning Commission, and the Zoning Hearing Board's solicitor. A minimum of one (1) copy shall be retained in the Municipality files.

- b. The Zoning Officer shall, prior to the Zoning Hearing Board meeting at which the application will be discussed, review the application to determine compliance with this Ordinance and report these findings to the Zoning Hearing Board.
4. Planning Commission Review of Special Exception Uses.
    - a. The Planning Commission shall be provided with an opportunity to review any proposed special exception use. The Planning Commission, at its option, may provide a written advisory review.
    - b. If such review is not received by the Zoning Hearing Board within the time limit within which the Board must issue its decision then the Zoning Hearing Board may make a decision without having received comments from the Planning Commission.
  5. Zoning Hearing Board Action on Special Exception Uses
    - a. The Board shall hear and decide a request for a special exception use under the procedures in §1206 of this ordinance and §908 of the MPC.
    - b. In granting a special exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it determines are necessary to implement the purposes of the MPC and this Ordinance, and to protect the public health, safety, and welfare.

#### 1208.4 Standards and Criteria

The standards and criteria applied to conditional uses and special exceptions are intended to ensure that the proposed use will be in harmony with the purposes, goals, objectives and standards of this Ordinance and other ordinances of the Municipality. In addition to the applicable general provisions of this Ordinance and to the standards and criteria provided in this Ordinance for specific conditional uses and specific special exceptions, the following standards and criteria shall be applied in the review of applications for conditional uses and special exceptions:

- A. The proposed use shall be in harmony with the purposes, goals, objectives and standards of the Comprehensive Plan, this Ordinance, and all other ordinances of the Municipality.
- B. The proposed use shall also be evaluated as to the degree to which the proposed location may be particularly suitable or unsuitable for the proposed use in terms of the physical characteristics of the site.
- C. The proposed use at the proposed location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, adjacent property values, or other matters affecting the public health, safety, and general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of this Ordinance, or any other plan, program, map or ordinance of the Municipality or other government agency having jurisdiction to guide growth and development.
- D. The proposed use shall not impose an undue burden on any of the improvements, facilities, utilities, and services of the Municipality, whether such services are provided by the Municipality or some other entity. The applicant shall be wholly responsible for providing such improvements, facilities, utilities, and services as may be required to adequately serve the proposed use when the same are not available or are inadequate to serve the proposed use in the proposed location. As part of the application and as a condition of approval of the proposed use, the applicant shall be responsible for establishing ability, willingness, and binding commitment to provide such improvements, facilities, utilities, and services in sufficient time and in a manner consistent with this and other Ordinances of the Municipality. The permit approval shall be so conditioned.
- E. The following additional factors shall be considered:

1. Location, arrangement, size, design and general site compatibility of buildings, lighting, and signs.
  2. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers, and traffic controls.
  3. Location, arrangement, appearance and sufficiency of off-street parking and loading.
  4. Adequacy and arrangement of pedestrian traffic, access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
  5. Adequacy of storm water and drainage facilities.
  6. Adequacy of water supply and sewage disposal facilities.
  7. Adequacy, type and arrangement of trees, shrubs, and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
  8. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
  9. Special attention to the adequacy and impact of structures, roadways, and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- F. No application shall be approved unless it is found that, in addition to complying with all of the standards and criteria enumerated above, all of the applicable standards contained in this Ordinance shall be met. In instances where the supplemental standards contained herein do not adequately protect the general health, safety, and welfare of parties affected, all conditions and safeguards deemed necessary by the Governing Body or Zoning Hearing Board to protect the general health, safety, and welfare as well as to implement the purposes of this Ordinance and the MPC shall be imposed as conditions of approval in accord with §912.1 or §913.2 of the MPC, as the case may be.

Conditions which may be imposed can include, but not be limited to, provisions for additional parking, traffic control, landscaping, setbacks, special measures addressing sales period activities, environmental controls and other measures which mitigate any potential adverse impact the use may have on adjoining uses.

The applicant shall supply evidence regarding compliance with the express standards and criteria contained herein; and data or evidence may be accepted from protestants. Such evidence shall be evaluated relative to the injurious impact on the public health, safety, and welfare; and, the proposed use shall be approved with appropriate conditions or denied based on said evaluation.

#### 1208.5 Limitation of Approval

Any conditional use approval granted by the Governing Body and any special exception approval granted by the Zoning Hearing Board shall expire one (1) year from the date such approval was granted if no building construction as approved has taken place or the use is not otherwise established as a functional and constructive activity prior to the expiration date. Upon such expiration, the said approval, and any permit issued subsequent thereto, shall be deemed null and void and the developer shall be required to submit another application for the same. The Governing Body or Zoning Hearing Board, as the case may be, may grant an extension of the time limitations for good cause.

#### 1208.6 Information Required

The applicant shall supply the information required by §1202.3,C, of this Ordinance and evidence regarding compliance with the express standards and criteria contained herein; and, data or evidence may be accepted from protestants. Such evidence shall be evaluated relative to the injurious impact on the public health, safety, and welfare; and, the proposed use shall be approved with appropriate conditions or denied based on said evaluation.

### **1209 Time Limits on Permits and Variances**

#### 1209.1 Zoning Permit

After a variance is approved or a conditional or special exception approval is officially authorized under this Ordinance, then a Zoning Permit shall be secured by the applicant within twelve (12) months of such approval; otherwise, such approval shall be deemed null and void and the developer shall be required to submit another application for the same.

### 1209.2 Review Completion

If the applicant submits complete plans for a subdivision or land development approval or special exception or conditional use approval that is related to the variance or issuance of a permit under this Ordinance within the above time limits, then such time limits shall begin after such plan review is completed or such plan approval is granted.

### 1209.3 Extension

For good cause the Zoning Officer may, upon application, in writing stating the reasons therefore, extend, in writing, the twelve (12) month application period to up to eighteen (18) months.

### 1209.4 Expiration

If an applicant fails to obtain the necessary permits within the above time period, or after having obtained the permit fails to diligently commence substantial construction within twelve (12) months, or allows interruptions in substantial construction of longer than six (6) months, it shall be conclusively presumed that the applicant has waived, withdrawn or abandoned the approval, and all such approvals, variances and permits shall be deemed automatically rescinded.

### 1209.5 Completion

Any building construction shall be completed within five (5) years of issuance of an applicable permit, unless a written extension is granted by the Zoning Officer for good cause. Otherwise, a permit shall be considered to have automatically expired at the end of such five-year period.

## **1210 Mediation**

Parties to proceedings authorized by this Ordinance and the MPC may use the Mediation Option as authorized by and in accord with §908.1 of said Code.

## **1211 Time Limits for Appeals**

The time limitations for appeals shall be as follows:

### 1211.1 Zoning Hearing Board -- County Court

No person shall be allowed to file any appeal with the Zoning Hearing Board later than thirty (30) days after the officially issued decision of the Zoning Officer, or appeal to the County Court of Common Pleas later than thirty (30) days after the officially issued decision of the Governing Body or the Zoning Hearing Board, except as may be provided under §914.1 of the MPC.

### 1211.2 Temporary Permits

This thirty (30) day time limit for appeal shall not apply to the revocation of a permit issued by the Zoning officer under §1202.5.

### 1211.3 Subdivision or Land Development Approval

The failure of an aggrieved person, other than the landowner, to appeal an adverse decision directly related to a preliminary subdivision or land development plan shall preclude an appeal from a final plan approval, except in the case where the final submission substantially deviates from the approved preliminary plan.

## **1212 Appeals to Court and Other Administrative Proceedings**

Appeals to Court and other administrative proceedings shall be governed by Article X-A and Article IX of the MPC, respectively.

## **1213 Public Utility Corporation Exemptions**

See §619 of the MPC.

## **1214 Limited Municipal Exemption**

The minimum lot area requirements of this Ordinance shall not apply to uses or structures owned by the Borough for uses and structures that are intended for a legitimate governmental, recycling, public recreation, storm water control

or public health and safety purpose.

### **1215 Amendments**

The Governing Body may amend this Ordinance by complying with the requirements set forth in Article VI of the MPC. A landowner who desires to challenge on substantive grounds the validity of an ordinance or map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the Governing Body with a written request that his challenge and proposed amendment be heard and decided as provided in §609.1 and §916.1 of the MPC.

### **1216 Violations**

#### **1216.1 Compliance**

Failure to comply with any provision of this Ordinance; failure to secure or comply with a decision of the Governing Body or Zoning Hearing Board; or the failure to secure a permit, when required, prior to or (when ordered) after the erection, construction, extension, or addition to a building or prior to or after the use or change of use of land; or failure to secure a Certificate of Use Permit, shall be violations of this Ordinance.

#### **1216.2 Complaints**

Whenever a violation of this Ordinance occurs, any person may file a complaint in regard thereto. All such complaints must be in writing, including the full name, address and telephone number of the complainant, and shall be filed with the Zoning Officer, who shall record receipt of the said complaint and investigate and report thereon.

#### **1216.3 Enforcement Notice**

When written notice of a violation of any of the provisions of this Ordinance is served by the Zoning Officer, personally or by certified mail, in the manner prescribed by §616.1 of the MPC and set forth in this §1216.3, such violation shall be discontinued or corrected as set forth in said notice.

- A. If it appears to the Municipality that a violation of this Ordinance has occurred, the Municipality shall initiate enforcement proceedings by sending an enforcement notice as provided in this §1216.3,B.
- B. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested, in writing, by the owner of record.
- C. An enforcement notice shall state at least the following:
  1. The name of the owner of record and any other person against whom the municipality intends to take action.
  2. The location of the property in violation.
  3. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the ordinance.
  4. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
  5. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in this Ordinance.
  6. That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.
- D. In any appeal of an enforcement notice to the Zoning Hearing Board, the Municipality shall have the responsibility of presenting its evidence first.
- E. Any filing fee paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to the appealing party by the Municipality if the Zoning Hearing Board, or any court in a subsequent appeal, rules

in the appealing party's favor.

## **1217 Penalties and Remedies**

### **1217.1 Causes of Action**

In case any building, structure, landscaping, or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of any provisions of this Ordinance, the Governing Body or, with the approval of the Governing Body, an officer of the Municipality, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping, or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Municipality at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the Governing Body. No such action may be maintained until such notice has been given.

### **1217.2 Enforcement Remedies**

- A. Any person, partnership or corporation who or which has violated or permitted the violation of any of the provisions of this Zoning Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Municipality, pay a judgment of not more than \$500 (state law) plus all court costs, including reasonable attorney fees incurred by the Municipality as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the Magisterial District Judge. If the defendant neither pays nor timely appeals the judgment, the Municipality may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the Magisterial District Judge determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating this Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth (5<sup>th</sup>) day following the date of the determination of a violation by the Magisterial District Judge and thereafter each day that a violation continues shall constitute a separate violation.
- B. The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
- C. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Municipality, the right to commence any action for enforcement pursuant to this section.

## **1218 Liability**

Neither the approval nor the granting of any review, issuance of permit or approval related to construction, activity within the flood plain, site plan review, subdivision or land development approval, erosion control, storm water runoff, activity on steep slopes, or any other review or permit of this Ordinance, by an officer, employee, consultant or agency of the Municipality, shall constitute a representation, guarantee or warranty of any kind by the Municipality, or its employees, officials, consultants or agencies, of the practicality or safety of any structure, use or subdivision, and shall create no liability upon, nor a cause of action against such public body, official, consultant nor employee for any damage that may result pursuant thereto.

If the Zoning Officer mistakenly issues a permit under this Ordinance, the Municipality shall not be liable for any later lawful withdrawal of such permit for valid cause shown.