

- (6) Lighting. Any lighting used to illuminate any off-street parking shall be so arranged as to reflect the light away from adjoining premises and public rights-of-way.
- (7) There shall be adequate provisions for ingress and egress to all parking and loading spaces designed for use by employees, customers, delivery services, sales people and/or the general public. Where a parking or loading area does not abut on a public right-of-way or private alley or easement of access, there shall be provided an access drive per lane of traffic not less than 12 feet in width per lane of traffic; and not less than 18 feet in width in all cases where the access is to storage areas or loading and unloading spaces required hereunder. Driveways for residential uses shall not be constructed closer than three feet to any lot line.
- B. Parking facilities required. Any structure or building hereafter erected, converted, or enlarged for any of the following uses, or any open area hereafter used for commercial purposes, shall be provided with not less than the minimum spaces, as set forth below, which spaces shall be readily accessible to the uses served thereby. Fractional numbers of parking spaces shall be increased to the next whole number.
- (1) Residential. At least two off-street parking spaces must be provided for each dwelling unit in single or two-family dwellings. Dwellings with three or more units must have a minimum of 1 1/2 spaces for each dwelling unit.
- (2) Commercial.
- (a) C-1 General Commercial parking. One per 70 square feet of sales area.
- (b) Off-street loading. One bay for each establishment.
- (3) Neighborhood groceries.
- (a) Parking. A minimum of four spaces.
- (b) Off-street loading. One bay for each establishment.
- (4) Standards.
- (a) "Gross leasable floor space" is defined as the total floor area designed for tenant occupancy and exclusive use, including basements, mezzanines, and upper floors, if any, expressed in square feet and measured from the center line of joint partitions and from outside wall faces.
- (b) Off-street parking facilities for residential and general commercial uses including neighborhood groceries shall have stalls of no less than nine feet by 18 feet and adequate provision for internal circulation, egress, and exit.

§ 290-21. Signs. [Amended 8-4-1992 by Ord. No. 8/4/1992]

- A. Erection and maintenance of signs. Signs may be erected and maintained only when in compliance with the provisions of this section and any and all other ordinances and regulations relating to the erection, alteration, or maintenance of signs and similar devices.

B. Signs in residential districts. The following types of signs and no other shall be permitted in the residential districts. All signs shall be subject to all general regulations, § 290-21D hereof.

- (1) Signs advertising the sale or rental of the premises upon which they are erected, when erected by the owner or broker or any other person interested in the sale or rental of such premises, may be erected and maintained, provided:
 - (a) The size of any such sign is not in excess of five square feet; and
 - (b) Not more than two signs are placed upon any property in single and separate ownership, unless such property fronts upon more than one street, in which event two such signs may be erected on each frontage.
- (2) Signs indicating the location and direction of premises available for or in process of development, but not erected upon such premises and having inscribed thereon the name of the owner, developer, builder, or agent may be erected and maintained; provided:
 - (a) The size of any such sign is not in excess of six square feet, and not in excess of four feet in length; and
 - (b) Not more than one such sign is erected on each 500 feet of street frontage.
- (3) Signs bearing the word "sold" or the word "rented" with the name of the persons effecting the sale or rental may be erected and maintained, provided the conditions in § 290-21B(1), hereof, are complied with.
- (4) Signs of mechanics, painters, and other artisans may be erected and maintained during the period such persons are performing work on the premises on which such signs are erected, provided:
 - (a) The size thereof is not in excess of six square feet; and
 - (b) Such signs are removed promptly upon completion of the work.
- (5) Trespassing signs, or signs indicating the private nature of a driveway or property, provided that the size of any sign shall not exceed two square feet.
- (6) Signs of schools, colleges, churches, hospitals, sanitariums, or other institutions of a similar nature may be erected and maintained, provided:
 - (a) The size of any such sign is not in excess of 20 square feet; and
 - (b) Not more than one sign is placed on a property in a single and separate ownership, unless such property fronts upon more than one street, in which event one such sign may be erected on each frontage.
- (7) Signs advertising home occupations shall not be larger than 12 inches by 24 inches, and may include the name, occupation, and logotype or trademark, if appropriate, of the practitioner. Such signs shall not be illuminated, with the exception of medical offices during the hours such offices are open for the care of patients.

- (8) Signs advertising the sale of farm products when permitted by this chapter, provided:
- (a) The size of any such sign is not in excess of six square feet;
 - (b) Not more than two signs are used; and
 - (c) The signs shall be displayed only when such products are on sale.
- (9) Official traffic and street name signs when erected by, or with the written approval of, the Borough Council.
- (10) Signs necessary for the identification, operation or protection of public utility facilities and municipal uses; however, all general regulations, § 290-21D, shall apply to such signs.
- C. Business identification signs. Signs bearing the name of the occupant and products manufactured, processed, sold or displayed may be erected and maintained on the premises in commercial and industrial districts. The size of business identification signs shall not exceed 40 square feet of surface area and not more than 20 square feet on each side; however, all general regulations, § 290-21D, shall apply to such signs.
- D. General regulations for all signs. The following regulations shall apply to all permitted sign uses:
- (1) Signs must be constructed of durable material, maintained in good condition, and not allowed to become dilapidated.
 - (2) No sign shall be placed in such a position that it will cause danger to traffic on a street by obscuring the view.
 - (3) No sign, other than an official traffic sign, shall be erected within the right-of-way of any street unless authorized by Borough Council for a special purpose.
 - (4) No sign shall project over a public sidewalk area more than 18 inches.
 - (5) Overhead signs shall be at least nine feet high, measured from the ground or pavement to the bottom-most part of the sign.
 - (6) No sign shall exceed 20 feet in height.
 - (7) No permit shall be required for the erection, alteration, or maintenance of any signs as permitted in § 290-21B, Signs in residential districts, with area not more than six square feet.
 - (8) A permit shall be required for the erection or alteration of business identification signs.
 - (9) Advertising painted upon, or displayed upon, a barn or other building or structure shall be regarded as an advertising sign board and the regulations pertaining thereto shall apply.
 - (10) Each sign shall be removed when the circumstances leading to its erection no longer apply. At no time shall there be more than one sign on each street frontage.

- (11) In all districts, only those signs referring directly to materials or products made, sold, or displayed on the premises shall be permitted, except as otherwise noted. Such signs shall comply with all other requirements, as stated herein, for the district in which they are erected.
 - (12) Temporary signs advertising a sale or event sponsored by a civic or religious group, provided that such signs shall not be displayed in excess of one month and shall be removed promptly after the event.
 - (13) Business signs may be erected and maintained, provided that 1) the area of one side of any freestanding sign shall not exceed 20 square feet, and 2) not more than one such sign shall be erected on each street frontage. In addition, the area of any sign attached to a building shall not exceed 10% of the wall area on which the sign is placed and the sign placed on any building or lot shall relate to the business on the premises.
- E. Prohibited uses and signs. The following are not permitted:
- (1) No animated, sequential, flashing or oscillating signs shall be permitted in any district. Any sign by reason of its intensity, color, location, or movement that may interfere with traffic lights or other controls, or abrogate public safety shall not be permitted in any district.
 - (2) No light shall be higher than five feet above the maximum building height on which the light is erected.
- F. General regulations for lighting.
- (1) All lighting shall be shielded and shall be designed so that it does not reflect or beam onto adjacent properties. No lighting shall be permitted which is of so great an intensity as to constitute a nuisance to neighboring properties.
 - (2) No light shall be higher than five feet above the maximum building height on which the light is erected.

§ 290-22. Conditional uses. [Amended 8-4-1992 by Ord. No. 8/4/1992]

Uses specified as conditional within the district regulations of this chapter shall be permitted only after review by the Planning Commission and approval by the Borough Council based on the determination that the conditional use is appropriate to the specific location for which it is proposed, consistent with the community development plan, and in keeping with the purposes and intent of this chapter. Where the Borough Council, in this chapter, has stated conditional uses to be granted or denied by the Borough Council pursuant to express standards and criteria, the Borough Council shall hold hearings on and decide requests for such conditional uses in accordance with such standards and criteria. In granting a conditional use, the Borough Council may attach such reasonable conditions and safeguards, in addition to those expressed in this chapter, as it may deem necessary to implement the purposes of this chapter and the Pennsylvania Municipalities Planning Code, 53 P.S. § 10101 et seq.

§ 290-23. Conditional use for mobile home parks. [Added 8-4-1992 by Ord. No. 8/4/1992]

Where provided as a conditional use, mobile home parks must satisfy the following requirements, as well as those contained elsewhere in this chapter:

- A. Minimum yard and area requirements shall be required for individual spaces as follows:
 - (1) Lot area: 4,500 square feet.
 - (2) Width: 90 feet.
 - (3) Depth: 50 feet.
 - (4) Setback: 22 feet.
 - (5) Side yard: nine feet.
 - (6) Rear yard: nine feet.
- B. Individual mobile homes must be installed with their longest axis parallel to the adjoining street.
- C. Off-street parking space shall be provided at the rate of at least two spaces for each mobile home lot plus additional car space for each five lots to provide for guest parking and for delivery and service vehicles.
- D. Pavement widths.
 - (1) The major road leading into the park must have at least a forty-foot right-of-way and thirty-eight-foot cartway.
 - (2) All streets with guest parking both sides: 40 feet minimum right-of-way.
 - (3) All other streets: 22 feet minimum right-of-way.
- E. The park must be serviced by public sanitary sewer and public water, or have a packet treatment plant. Screen planting of trees, evergreens, hedges or shrubs may be required where differing adjacent land uses occur.
- F. Skirting is required within three months of installation of the individual mobile home.
- G. No individual mobile home shall be installed of smaller width than 12 feet.
- H. Utility sheds are required and exposed fuel tanks are to be located to the rear of the lot.
- I. In addition to meeting the above requirements and conforming to other laws of the Borough, county or state, mobile home parks shall also conform to the requirements set forth in the Minimum Property Standards for Mobile Home Courts, of the Federal Housing Administration; provided, where provisions of such regulations conflict with those of the existing Borough, county or state, the most restrictive or those imposing the higher standards shall govern.

§ 290-24. Conditional use in C-1 General Commercial District. [Added 5-4-1993 by Ord. No. 1993-1]

Where provided as a conditional use, such uses in a C-1 General Commercial District must satisfy the area and bulk, minimum setback, height, coverage and off-street parking requirements for uses in a High-Density Residential District rather than the area and bulk, setback, height, coverage and off-street parking requirements otherwise provided for in a C-1 General Commercial District.

§ 290-25. Special exceptions. [Amended 8-4-1992 by Ord. No. 8/4/1992]

Where the Borough Council, in this chapter, has stated special exceptions to be granted or denied by the Zoning Hearing Board pursuant to express standards and criteria, the Board shall hear and decide requests for such special exceptions in accordance with such standards and criteria. In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this chapter, as it may deem necessary to implement the purposes of this chapter and the Pennsylvania Municipalities Planning Code, 53 P.S. § 10101 et seq.

§ 290-26. Swimming pools. [Amended 8-4-1992 by Ord. No. 8/4/1992]

A. Private swimming pools. Private swimming pools, in districts where permitted, shall comply with the following conditions and requirements: **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D)]**

- (1) The pool is intended, and is to be used, solely for the enjoyment of the occupants of a principal use of the property on which it is located.
- (2) It may be located only in the rear yard or side yard of the property on which it is an accessory use.
- (3) Fences, barriers and gates for swimming pools shall comply with the applicable requirements of the Uniform Construction Code.
- (4) All private swimming pools may be inspected periodically by the Zoning Officer to determine whether the provisions of this chapter are being complied with. The owners of such pools shall permit the Zoning Officer to have access thereto at reasonable times during daylight hours for that purpose. If such inspection shows that a violation of this chapter has occurred or is occurring, he shall and he is hereby authorized and directed to suspend the use of said pool until such a time as the violation has been corrected.
- (5) Every application for a permit to construct or alter any private swimming pool shall be accompanied by a plan, in duplicate, on paper or cloth, prepared in ink or by other process so as not to fade, smear or obliterate, and in sufficient detail to show all of the following:
 - (a) Pool dimensions, depth and volume in gallons.
 - (b) The type and size of the filter system, filtration and backwash capacities or cleaning system where the filter has no backwashing facility.

§ 290-23. Conditional use for mobile home parks. [Added 8-4-1992 by Ord. No. 8/4/1992]

Where provided as a conditional use, mobile home parks must satisfy the following requirements, as well as those contained elsewhere in this chapter:

- A. Minimum yard and area requirements shall be required for individual spaces as follows:
- (1) Lot area: 4,500 square feet.
 - (2) Width: 90 feet.
 - (3) Depth: 50 feet.
 - (4) Setback: 22 feet.
 - (5) Side yard: nine feet.
 - (6) Rear yard: nine feet.
- B. Individual mobile homes must be installed with their longest axis parallel to the adjoining street.
- C. Off-street parking space shall be provided at the rate of at least two spaces for each mobile home lot plus additional car space for each five lots to provide for guest parking and for delivery and service vehicles.
- D. Pavement widths.
- (1) The major road leading into the park must have at least a forty-foot right-of-way and thirty-eight-foot cartway.
 - (2) All streets with guest parking both sides: 40 feet minimum right-of-way.
 - (3) All other streets: 22 feet minimum right-of-way.
- E. The park must be serviced by public sanitary sewer and public water, or have a packet treatment plant. Screen planting of trees, evergreens, hedges or shrubs may be required where differing adjacent land uses occur.
- F. Skirting is required within three months of installation of the individual mobile home.
- G. No individual mobile home shall be installed of smaller width than 12 feet.
- H. Utility sheds are required and exposed fuel tanks are to be located to the rear of the lot.
- I. In addition to meeting the above requirements and conforming to other laws of the Borough, county or state, mobile home parks shall also conform to the requirements set forth in the Minimum Property Standards for Mobile Home Courts, of the Federal Housing Administration; provided, where provisions of such regulations conflict with those of the existing Borough, county or state, the most restrictive or those imposing the higher standards shall govern.

§ 290-24. Conditional use in C-1 General Commercial District. [Added 5-4-1993 by Ord. No. 1993-1]

Where provided as a conditional use, such uses in a C-1 General Commercial District must satisfy the area and bulk, minimum setback, height, coverage and off-street parking requirements for uses in a High-Density Residential District rather than the area and bulk, setback, height, coverage and off-street parking requirements otherwise provided for in a C-1 General Commercial District.

§ 290-25. Special exceptions. [Amended 8-4-1992 by Ord. No. 8/4/1992]

Where the Borough Council, in this chapter, has stated special exceptions to be granted or denied by the Zoning Hearing Board pursuant to express standards and criteria, the Board shall hear and decide requests for such special exceptions in accordance with such standards and criteria. In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this chapter, as it may deem necessary to implement the purposes of this chapter and the Pennsylvania Municipalities Planning Code, 53 P.S. § 10101 et seq.

§ 290-26. Swimming pools. [Amended 8-4-1992 by Ord. No. 8/4/1992]

- A. Private swimming pools. Private swimming pools, in districts where permitted, shall comply with the following conditions and requirements:
- (1) The pool is intended, and is to be used, solely for the enjoyment of the occupants of a principal use of the property on which it is located.
 - (2) It may be located only in the rear yard or side yard of the property on which it is an accessory use.
 - (3) It may not be located, including any walks, or paved areas or accessory structures adjacent thereto, closer than 20 feet to any property line of the property on which located.
 - (4) Fences, barriers and gates for swimming pools shall comply with the applicable requirements of the Uniform Construction Code. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D)]**
- B. Public swimming pools. Public swimming pools in districts where permitted shall comply with the conditions set forth in:
- (1) "Public Bathing Law," 1931, June 23, P.L. 899, and amendments thereto.⁶
 - (2) 28 Pa. Code Chapter 18, and amendments thereto. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D)]**

⁶ Editor's Note: See 35 P.S. § 672 et seq.

- (c) The location and type of waste disposal system.
- (6) Every such application for permit shall be accompanied by detailed drawings of equipment, if any, to be connected to the Borough sewer lines, which shall show that such equipment and connection will comply with the plumbing provisions of Borough ordinances.
 - (7) Every private swimming pool, including water supply and drainage systems and other appurtenances and equipment, shall be constructed or installed in accordance with the plans submitted to and approved by the Zoning Officer of the Borough pursuant to the provisions of the section, and no deviation shall be made from such plans unless supplementary plans relating thereto, conforming to the provisions of this chapter, are submitted for approval.
 - (8) No portion of any private swimming pool, other than walks, fences, pumps, filters and other related equipment, shall be located within eight feet from any building or within four feet from any property line or within 30 feet from any front building line or on any portion of a lot required by any ordinance of the Borough to be maintained as a yard area.
 - (9) No pumps, filters or other swimming pool equipment or facilities, other than fences, walks, equipment which is entirely underground and hidden from view and equipment which is not permanently or indefinitely installed, shall be located within four feet of any property line.
 - (10) Unobstructed walk areas not less than three feet wide, as measured from the edge of the water, shall extend entirely around every private swimming pool; provided, however, that where a diving board is installed, the walk area shall extend not less than two feet beyond the rear edge of such diving board, and at said end it shall extend not less than two feet from each side of such board. The walk area shall be constructed of impervious material, and the surfaces shall be such as to be smooth and easily cleaned and of a nonslip construction. The slope of the walks shall have a pitch of at least 1/4 inch to the foot, designed so as to prevent back-drainage from entering the pool.
 - (11) Every private swimming pool, including those now existing or under construction, shall be separated entirely from public thoroughfares and neighboring properties by a securely constructed and installed fence or similar barrier having a height at all points of at least four feet above the grade level. All points of entry into the area of the swimming pool shall be equipped with a secure gate having a high-mounted automatic locking device, on the pool side thereof, which is inaccessible to small children.
 - (12) One or more means of egress in the form of steps or ladders shall be provided for every private swimming pool.
 - (13) Private swimming pool water must be filtered and chemically treated. One complete recirculation of the entire volume of pool water through the filter system is required every 12 hours during the swimming season. Every private swimming pool shall be equipped with a sand filter, a diatomaceous filter or an approved equal.

- (14) Physical connections between potable water systems and pool circulating systems will not be permitted. The fill pipe shall be located at least two fill-pipe diameters above the rim of the pool. Any system for the supplying of recirculated or make-up water which is permanently connected, in any way, with the public water supply shall be constructed in conformity with all applicable requirements of the Department of Health and of the agency or corporation operating such public water system.
- (15) Every private swimming pool recirculation system shall consist of pumping equipment, hair and lint catchers and filters, together with the necessary pipe connections to the pool inlets and outlets, and facilities and pipe connections necessary for backwashing filters or cleaning them. The pump used in any filtration system shall have sufficient capacity to provide a filter flow and normal backwash rates. The recirculation system shall contain a filter and appurtenances which meet the following requirements:
- (a) The capability and performance shall be sufficient to furnish water which meets the following clarity criterion when in the pool: a black disc, six inches in diameter on a white field, when placed on the bottom of the pool at the deepest point, is clearly visible from the side of the pool.
 - (b) All pressure filters shall be equipped with readily accessible air relief valves, loss of head shown by pressure gauges on the outlet lines, and access head or hole large enough to permit inspection, maintenance and repair work.
 - (c) To assure himself of the quality and chemical property of the water in a private swimming pool, the owner shall procure an approved water test set and use it as directed by the manufacturer.
 - (d) No gaseous chlorination system shall be utilized as a disinfection method for any private swimming pool.
 - (e) All valves shall be marked for proper identification.
- (16) All electric wiring installed shall be installed and used in conjunction with private swimming pools in conformity with National Electric Code standards, and the materials used or installed shall be as approved by National Underwriters' Laboratories.
- (17) No electric wires or conductors shall be installed or permitted to remain in such a position as to cross, either overhead or underground, any part of a private swimming pool, nor shall any electric wiring be installed parallel to any pool wall closer than five feet thereto, except if such wiring is both located underground and enclosed in rigid conduits.
- (18) All underwater lights shall be watertight, self-contained units, each with their own ground connection running from a waterproof junction box to a proper grounding facility or medium. All underground electric wires supplying current to such light or lights, within a distance of five feet of the pool wall or walls, must be enclosed in rigid conduits.

(19) All metal fences, enclosures or railings which are located near or adjacent to private swimming pools and which might become electrically alive as a result of contact with broken overhead conductors or from any other cause shall be effectively grounded.

B. Public swimming pools. Public swimming pools in districts where permitted shall comply with the conditions set forth in:

- (1) "Public Bathing Law," 1931, June 23, P.L. 899, and amendments thereto.⁶
- (2) 28 Pa. Code Chapter 18, and amendments thereto. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

6. Editor's Note: See 35 P.S. § 672 et seq.

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§ 290-27. Projections into required yard.

The following projections into yards and courts shall be permitted:

- A. Cornices, eaves, belt courses, sills or other similar architectural features, exterior stairway, fire escape or other required means of egress, rain lead or chimney may extend or project into a required yard not more than two feet.
- B. No patio or paved terrace shall be located within five feet of any property line or between the building setback line and the right-of-way line.

§ 290-28. Front yard exception.

In any use district when 50% or more of the block frontage containing a lot upon which a proposed building is to be located is already improved with buildings having front yards of less depth than that required for that particular use district, the average of such front yards shall establish the minimum front yard depth for the remainder of the frontage; provided, however, that in no case shall the setback be less than 10 feet from the curbline.

§ 290-29. Intersection clearance.

On a corner lot, no fence, structure or planting higher than two feet above the curb or street line shall be permitted within a triangle described by 15 feet lines extended along the right-of-way lines from the intersection.

§ 290-30. Nonconforming use. [Amended 8-4-1992 by Ord. No. 8/4/1992]

- A. Registration. Nonconforming uses shall be registered within six months of the effective date of this chapter. The Zoning Officer shall identify, register, and certify the registration of all nonconforming uses and nonconforming structures. A certification of nonconformance shall be issued by the Zoning Officer for all structures and uses which are in conflict with the use designated for the zone in which they are situated, when requested by the owner of such structure or use. Appeals may be taken to the Zoning Hearing Board.
- B. Continuation.
 - (1) Any lawful use of a structure or land existing at the effective date of this chapter may be continued although such use does not conform to the provisions of this chapter.
 - (2) Continuation of use of a structure or land shall not be permitted if the use was unlawfully established as a nonconforming use under any previous zoning ordinance for the Borough of Beech Creek.
- C. Extensions.
 - (1) A nonconforming use of a building may be extended throughout the building if no structural alterations are made therein; provided that such extension may include structural alterations when authorized as a special exception when the

Zoning Hearing Board finds that such structural alterations will not adversely affect adjoining property.

- (2) A nonconforming use or a nonconforming structure may be extended on the lot after the prohibitory provision took effect but not in violation of the area and yard requirements of the district in which such structure or premises are located, or in violation of the use regulations which would apply to the nonconforming use or structure if the same were located in an area permitting the use. The more restrictive yard requirements shall apply.
- D. Nonconforming lots of record.
- (1) In any district in which single-family houses are permitted, a single-family house and customary accessory building may be erected on any lot of record in existence at the effective date of this chapter. Consideration shall be given by the Zoning Hearing Board as to the desirability and feasibility of resubdividing the area when two or more nonconforming lots have continuous frontage and are in single ownership.
 - (2) These provisions shall apply even though such lot fails to meet requirements of side, front or rear yards or the minimum lot area requirements applicable in the district in which the lot is located.
- E. Repairs.
- (1) Normal maintenance of a building or other structure containing a nonconforming use is permitted, including necessary nonstructural repairs and incidental alterations not extending the nonconforming use, except as otherwise provided herein.
 - (2) A building or other structure containing residential nonconforming uses may be altered in any way to improve interior livability, provided that no structural alterations shall be made which would increase the number of dwelling units or the bulk of the building.
 - (3) Any nonconforming building or structure damaged, destroyed by fire, explosion, act of God or any other cause not within the control of the owner, not greater than 80% of its existing floor area or volume, may be restored, reconstructed or used as before, provided that the volume of such use, building or structure shall not exceed the volume which existed prior to such damage, and that it may be completed within one year of such events.
- F. Changes. A nonconforming use of a building or land may be changed to a use of an equal or more restricted classification when authorized as a special exception by the Zoning Hearing Board.
- G. Abandonment. If a nonconforming use of a building or land ceases for a period of one year or more, subsequent use of such building or land shall be in conformity with the provisions of this chapter.
- H. Building permits. In a case where a building permit has been issued prior to the effective date of this chapter, and the proposed use of land and/or building does not conform with this chapter, said proposed use shall be regulated by the nonconforming

use requirements of this chapter and shall be considered the same as a lawful nonconforming use if construction other than excavation and foundations is undertaken within a period of 30 calendar days after the issuance date of said building permit and construction thereof is completed within 12 calendar months from the issuance date of the building permit.

§ 290-31. Junkyards; including automobile wreckings. [Amended 8-4-1992 by Ord. No. 8/4/1992]

No new junkyards shall be permitted within the Borough limits after the date of passage of this chapter. Such uses existing at said date of adoption may continue their operations as nonconforming uses, but shall terminate within one year unless they comply with the following provisions:

- A. A living fence shall be established within one year of the passage of this chapter to completely enclose the junkyard.
- B. A living fence may be established no closer than 10 feet to any property line.
- C. Plant material to be used for the living fence must attain an average height of six feet within eight years of the passage of this chapter. Plant material should preferably be evergreen trees or shrubs including, but not limited to, Scotch pines, red pine, Australian pine, Norway spruce, or American arborvitae material. Other material recommended for use include multiflora rose, or rhamnus frangula columnaris (tallhedge). The suitability of the plant material shall be determined by the Planning Commission.
- D. If evergreens are to be used, they shall be planted in double rows about six feet apart, with offset spacing.
- E. Tallhedge, or multiflora rose, when used, shall be planted in single rows on two foot centers.
- F. Existing junkyards shall be maintained in such a manner as to cause no public or private nuisance, nor to cause any offensive or noxious sounds or odors, nor cause the breeding or harboring of rats, flies, or other vermin.

§ 290-32. Parking and storage regulations for recreational vehicles. [Added at time of adoption of Code (see Ch. 1, General Provisions, Art. D)]

Recreational vehicles may be parked or stored in any zoning district subject to the following regulations:

- A. Parking or storage is permitted at any time inside an enclosed structure, which structure conforms to the zoning requirements of the particular district.
- B. Parking or storage is permitted outside only in the side yard, the rear yard, or partially in both, provided:
 - (1) Inside parking or storage is not possible.

- (2) The unit is not located nearer than three feet to the side or rear lot line.
 - ~~(3) The unit can be parked or stored in a safe and secure manner so as not to be a hazard to either persons or property.~~
 - (4) The unit shall be located behind the building line of the dwelling.
- C. While parked or stored, a recreational vehicle shall not be:
- (1) Used or occupied for dwelling purposes, except for sleeping by visitors of the owner or occupant of the lot for a period not exceeding 14 days in any one calendar year.
 - (2) Permanently or temporarily connected to sewer lines, or permanently connected to water or electrical lines. A unit may be temporarily connected to water and electric lines while used during the times specified in Subsection C(1) or while being loaded, unloaded or serviced as provided in Subsection D hereof.
 - (3) Used for storage of goods, materials, or equipment other than those items considered to be part of the unit or essential for its immediate use.
- D. No cords, hoses or lines of any kind are permitted to be laid or maintained across any public sidewalk, street, alley or cartway, except for the purpose of routine maintenance or loading or unloading of a recreational vehicle.
- E. No equipment auxiliary to any such recreational vehicle, such as generators, air compressors, air conditioners or similar equipment shall be operated between sunset and sunrise.
- F. No recreational vehicle shall be parked or left standing on a public street of the Borough for more than 24 consecutive hours. No recreational vehicle shall be stored or parked so as to encroach upon or extend over any public sidewalk.

ARTICLE VII

Administration and Government

§ 290-33. Zoning Officer. [Amended 8-4-1992 by Ord. No. 8/4/1992]

- A. Appointment and powers of Zoning Officer.
- (1) For the administration of this chapter, a Zoning Officer, who shall not hold any elective office in the Borough, shall be appointed.
 - (2) The Zoning Officer shall meet the qualifications established by the Borough and shall be able to demonstrate to the satisfaction of the Borough a working knowledge of municipal zoning.
 - (3) The Zoning Officer shall administer this chapter in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to this chapter.

use requirements of this chapter and shall be considered the same as a lawful nonconforming use if construction other than excavation and foundations is undertaken within a period of 30 calendar days after the issuance date of said building permit and construction thereof is completed within 12 calendar months from the issuance date of the building permit.

§ 290-31. Junkyards; including automobile wreckings. [Amended 8-4-1992 by Ord. No. 8/4/1992]

No new junkyards shall be permitted within the Borough limits after the date of passage of this chapter. Such uses existing at said date of adoption may continue their operations as nonconforming uses, but shall terminate within one year unless they comply with the following provisions:

- A. A living fence shall be established within one year of the passage of this chapter to completely enclose the junkyard.
- B. A living fence may be established no closer than 10 feet to any property line.
- C. Plant material to be used for the living fence must attain an average height of six feet within eight years of the passage of this chapter. Plant material should preferably be evergreen trees or shrubs including, but not limited to, Scotch pines, red pine, Australian pine, Norway spruce, or American arborvitae material. Other material recommended for use include multiflora rose, or rhamnus frangula columnaris (tallhedge). The suitability of the plant material shall be determined by the Planning Commission.
- D. If evergreens are to be used, they shall be planted in double rows about six feet apart, with offset spacing.
- E. Tallhedge, or multiflora rose, when used, shall be planted in single rows on two foot centers.
- F. Existing junkyards shall be maintained in such a manner as to cause no public or private nuisance, nor to cause any offensive or noxious sounds or odors, nor cause the breeding or harboring of rats, flies, or other vermin.

ARTICLE VII

Administration and Government

§ 290-32. Zoning Officer. [Amended 8-4-1992 by Ord. No. 8/4/1992]

- A. Appointment and powers of Zoning Officer.
 - (1) For the administration of this chapter, a Zoning Officer, who shall not hold any elective office in the Borough, shall be appointed.
 - (2) The Zoning Officer shall meet the qualifications established by the Borough and shall be able to demonstrate to the satisfaction of the Borough a working knowledge of municipal zoning.

- (3) The Zoning Officer shall administer this chapter in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to this chapter.
 - (4) The Zoning Officer is hereby authorized to institute civil enforcement proceedings as a means of enforcement when acting within the scope of his employment.
- B. Deputy. The Zoning Officer may designate an employee of the Borough as his Deputy who shall exercise all the powers of the Zoning Officer during the temporary absence or disability of the Zoning Officer.
- C. Compensation. The compensation for the Zoning Officer and the Deputy Zoning Officer shall be determined by the Borough Council.
- D. Duties and responsibilities. The Zoning Officer shall have all the duties and powers conferred by this chapter in addition to those reasonably implied for that purpose. He shall not issue a permit in connection with any contemplated erection, construction, alteration, repair, extension replacement and/or use of any building, structure, sign and/or land unless it first conforms with the requirements of this chapter, all other ordinances of the Borough, and with the laws of the Commonwealth of Pennsylvania. He shall:
- (1) Receive applications, process the same, and issue permits for the erection, construction, alteration, repair extension, replacement, and/or use of any building, structure, sign, and/or land in the Borough.
 - (2) At his discretion, examine or cause to be examined, all buildings, structures, signs, and/or land or portions thereof, for which an application has been filed for the erection, construction, alteration, repair, extension, replacement, and/or use before issuing any permit. Thereafter, he may make such inspections during the completion of work for which a permit has been issued. Upon completion of the building, structure, sign, and/or change, a final inspection shall be made and all violations of approved plans or permit shall be noted and the holder of the permit shall be notified of the discrepancies.
 - (3) Keep a record of all applications received, all permits and certificates issued, reports of inspections, notices, and orders issued, and the complete recording of all pertinent factors involved. He shall file and safely keep copies of all plans permitted, and the same shall form a part of the records of his office and shall be available for the use of the Borough Council and other officials of the Borough Council. At least annually, he shall submit to the Borough Council a written statement of all permits and certificates of use and occupancy issued, and violations and stop-work orders recommended or promulgated.

§ 290-33. Permits.

- A. Requirements. It shall be unlawful to commence the excavation for or the construction or erection of any building, including an accessory building, or to commence the moving or alteration of any building, including an accessory building, until the Zoning Officer has issued a building permit for such work. No permit shall be required for

- (4) The Zoning Officer is hereby authorized to institute civil enforcement proceedings as a means of enforcement when acting within the scope of his employment.
- B. Deputy. The Zoning Officer may designate an employee of the Borough as his Deputy who shall exercise all the powers of the Zoning Officer during the temporary absence or disability of the Zoning Officer.
- C. Compensation. The compensation for the Zoning Officer and the Deputy Zoning Officer shall be determined by the Borough Council.
- D. Duties and responsibilities. The Zoning Officer shall have all the duties and powers conferred by this chapter in addition to those reasonably implied for that purpose. He shall not issue a permit in connection with any contemplated erection, construction, alteration, repair, extension replacement and/or use of any building, structure, sign and/or land unless it first conforms with the requirements of this chapter, all other ordinances of the Borough, and with the laws of the Commonwealth of Pennsylvania. He shall:
- (1) Receive applications, process the same, and issue permits for the erection, construction, alteration, repair extension, replacement, and/or use of any building, structure, sign, and/or land in the Borough.
 - (2) At his discretion, examine or cause to be examined, all buildings, structures, signs, and/or land or portions thereof, for which an application has been filed for the erection, construction, alteration, repair, extension, replacement, and/or use before issuing any permit. Thereafter, he may make such inspections during the completion of work for which a permit has been issued. Upon completion of the building, structure, sign, and/or change, a final inspection shall be made and all violations of approved plans or permit shall be noted and the holder of the permit shall be notified of the discrepancies.
 - (3) Keep a record of all applications received, all permits and certificates issued, reports of inspections, notices, and orders issued, and the complete recording of all pertinent factors involved. He shall file and safely keep copies of all plans permitted, and the same shall form a part of the records of his office and shall be available for the use of the Borough Council and other officials of the Borough Council. At least annually, he shall submit to the Borough Council a written statement of all permits and certificates of use and occupancy issued, and violations and stop-work orders recommended or promulgated.

§ 290-34. Permits.

- A. Requirements. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D)]
- (1) It shall be unlawful to commence the excavation for or the construction or erection of any building, including an accessory building, or to commence the moving or alteration of any building, including an accessory building, until the Zoning Officer has issued a building permit for such work. No permit shall be required for repairs to or maintenance of any building, structure or grounds

provided such repairs do not change the use or otherwise violate the provisions of this chapter. A permit shall be required for the demolition, by any means, of any structure larger than 400 square feet in floor area or greater than one story in height.

- (2) No private swimming pool shall be constructed, installed, enlarged or altered unless a permit first shall have been issued therefor by the Zoning Officer, which permit shall be issued only if the proposed work complies with the requirements of § 290-26, with all other relevant ordinances of the Borough and with the applicable requirements of the Department of Health.
- B. Form of application. The application for a permit shall be submitted in such form as the Zoning Officer may prescribe and shall be accompanied by the required fee as hereinafter prescribed. Application for a permit shall be made by the owner or lessee of any building or structure, or the agent of either; provided, however, that if the application is made by a person other than the owner or lessee, it shall be accompanied by a written authorization of the owner or the qualified person making an application, that the proposed work is authorized by this owner. The full names and addresses of the owner, lessee, applicant, and of the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.
 - C. Description of works. The application shall contain a general description of the proposed work, use, and occupancy of all parts of the building, structure, or sign and such additional information as may be required by the Zoning Officer. The application for the permit shall be accompanied by a plot plan of the proposed building, structure, or sign drawn to scale with sufficient clarity to show the nature and character of the work to be performed, including off-street parking and loading space if required, the location of new and existing construction, and the distance of the same from the existing lot lines.
 - D. Time limit for application. An application for a permit for any proposed work shall be deemed to have been abandoned six months after the date of filing, unless such application has been diligently prosecuted or a permit shall have been issued, except that reasonable extensions of time for additional periods not exceeding 90 days each may be granted at the discretion of the Zoning Officer.
 - E. Issuance of permits. Upon receiving the application, the Zoning Officer shall examine the same within 10 days after filing. If the application or plans do not conform to the provisions of all pertinent local laws, he shall reject such application in writing, stating the reasons thereof. He shall inform the applicant of his right of appeal to the Zoning Hearing Board in the event such application is rejected. If satisfied that the proposed work and/or use conforms to the provisions of this chapter and all laws and ordinances applicable thereto, and that the certification of use and occupancy as required herein has been applied for, he shall issue a permit therefor as soon as practical.
 - F. Expiration of permit. The permit shall expire after one year from the date of issuance; provided, however, that the same may be extended every six months for a period not to exceed an additional one year.
 - G. Revocation of permits. The Zoning Officer may revoke a permit or approval issued under the provisions of this chapter in case of any false statement or misrepresentation

repairs to or maintenance of any building, structure or grounds provided such repairs do not change the use or otherwise violate the provisions of this chapter. A permit shall be required for the demolition, by any means, of any structure larger than 400 square feet in floor area or greater than one story in height. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D)]**

- B. Form of application. The application for a permit shall be submitted in such form as the Zoning Officer may prescribe and shall be accompanied by the required fee as hereinafter prescribed. Application for a permit shall be made by the owner or lessee of any building or structure, or the agent of either; provided, however, that if the application is made by a person other than the owner or lessee, it shall be accompanied by a written authorization of the owner or the qualified person making an application, that the proposed work is authorized by this owner. The full names and addresses of the owner, lessee, applicant, and of the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.
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- F. Expiration of permit. The permit shall expire after one year from the date of issuance; provided, however, that the same may be extended every six months for a period not to exceed an additional one year.
- G. Revocation of permits. The Zoning Officer may revoke a permit or approval issued under the provisions of this chapter in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based or for any other cause set forth in this chapter.

- H. Posting of permit. A true copy of the permit shall be kept on the site of operations open to public inspection during the entire time of prosecution of the work or use and until the completion of the same as defined on the application.
- I. Temporary permit. A temporary permit may be authorized by the Zoning Hearing Board for a nonconforming structure or use which it deems necessary to promote the proper development of the community, provided that such nonconforming structure or use shall be completely removed upon expiration of the permit without cost to the Borough. Such permits shall be issued for a specified period of time not to exceed one year, and may be renewed annually for an aggregate period not to exceed three years.
- J. Payment of fees. No permit to begin work for the erection, construction, alteration, repair, extension, replacement, and/or use of any building, structure, sign and/or land for construction or use purposes shall be issued until the fees prescribed by the Borough Council pursuant to resolution shall be paid to the Zoning Officer. The payment of fees under this section shall not relieve the applicant or holder of said permit from payment of other fees that may be required by this chapter, or any other ordinance or law.
- K. Compliance with chapter. The permit shall be a license to proceed with the work and should not be construed as authority to violate, cancel, or set aside any of the provisions of this chapter, except as stipulated by the Zoning Hearing Board.
- L. Compliance with permit and plot plan. All work or uses shall conform to the approved application and plans for which the permit has been issued as well as the approved plot plan.

§ 290-34. Enforcement notice. [Amended 8-4-1992 by Ord. No. 8/4/1992]

- A. If it appears to the Borough that a violation of this chapter has occurred, the Borough shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.
- 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 Borough 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 this chapter.
 - (4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.

of fact in the application or on the plans on which the permit or approval was based or for any other cause set forth in this chapter.

- H. Posting of permit. A true copy of the permit shall be kept on the site of operations open to public inspection during the entire time of prosecution of the work or use and until the completion of the same as defined on the application.
- I. Temporary permit. A temporary permit may be authorized by the Zoning Hearing Board for a nonconforming structure or use which it deems necessary to promote the proper development of the community, provided that such nonconforming structure or use shall be completely removed upon expiration of the permit without cost to the Borough. Such permits shall be issued for a specified period of time not to exceed one year, and may be renewed annually for an aggregate period not to exceed three years.
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- K. Compliance with chapter. The permit shall be a license to proceed with the work and should not be construed as authority to violate, cancel, or set aside any of the provisions of this chapter, except as stipulated by the Zoning Hearing Board.
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- 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 Borough 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 this chapter.

- (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 period of 10 days.
 - (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 Borough shall have the responsibility of presenting its evidence first. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. D)]**
- 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 Borough if the Zoning Hearing Board, or any court in a subsequent appeal, rules in the appealing party's favor. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. D)]**

§ 290-36. Causes of action. [Amended 8-4-1992 by Ord. No. 8/4/1992]

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 this chapter, the Borough Council or, with the approval of the Borough Council, an officer of the Borough Council, 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 Borough Council at least 30 days prior to the time the action is begun by serving a copy of the complaint on the Borough Council. No such action may be maintained until such notice has been given.

§ 290-37. Enforcement remedies; violations and penalties. [Amended 8-4-1992 by Ord. No. 8/4/1992]

- A. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the Borough 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 Borough 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 chapter 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 day following the date of the determination

- (5) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a period of 10 days.
- (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 Borough shall have the responsibility of presenting its evidence first. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- 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 Borough if the Zoning Hearing Board, or any court in a subsequent appeal, rules in the appealing party's favor. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

§ 290-35. Causes of action. [Amended 8-4-1992 by Ord. No. 8/4/1992]

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 this chapter, the Borough Council or, with the approval of the Borough Council, an officer of the Borough Council, 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 Borough Council at least 30 days prior to the time the action is begun by serving a copy of the complaint on the Borough Council. No such action may be maintained until such notice has been given.

§ 290-36. Enforcement remedies; violations and penalties. [Amended 8-4-1992 by Ord. No. 8/4/1992]

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- 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 Borough the right to commence any action for enforcement pursuant to this section.
- D. Magisterial District Judges shall have initial jurisdiction over proceedings brought under this section.

§ 290-37. Zoning Hearing Board. [Amended 8-4-1992 by Ord. No. 8/4/1992]

- A. There is hereby created for the Borough a Zoning Hearing Board in accordance with the provisions of Article IX of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10901 et seq.
- B. The membership of the Board shall consist of three residents of the Borough appointed by resolution by the Borough Council. The terms of office shall be for three years and shall be so fixed that the term of office of one member shall expire each year. The Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the Borough.
- C. Any Board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the Borough Council which appointed the member, taken after the member has received 15 days' advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.
- D. The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action a quorum shall be not less than a majority of all the members of the Board, but 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 in this chapter.
- E. The Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the Borough Council and laws of the Commonwealth. The Board shall keep full public records of its business, which records shall be the property of the Borough and shall submit a report of its activities to the Borough Council as requested by the Borough Council.
- F. Within the limits of funds appropriated by the Borough Council, the Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Board may receive compensation for the performance of their duties, as may be fixed by the Borough Council, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the Borough Council.

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 Borough the right to commence any action for enforcement pursuant to this section.
- D. Magisterial District Judges shall have initial jurisdiction over proceedings brought under this section.

§ 290-38. Zoning Hearing Board. [Amended 8-4-1992 by Ord. No. 8/4/1992]

- A. There is hereby created for the Borough a Zoning Hearing Board in accordance with the provisions of Article IX of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10901 et seq.
- B. The membership of the Board shall consist of three residents of the Borough appointed by resolution by the Borough Council. The terms of office shall be for three years and shall be so fixed that the term of office of one member shall expire each year. The Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the Borough.
- C. Any Board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the Borough Council which appointed the member, taken after the member has received 15 days' advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.
- D. The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action a quorum shall be not less than a majority of all the members of the Board, but 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 in this chapter.
- E. The Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the Borough Council and laws of the Commonwealth. The Board shall keep full public records of its business, which records shall be the property of the Borough and shall submit a report of its activities to the Borough Council as requested by the Borough Council.
- F. Within the limits of funds appropriated by the Borough Council, the Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Board may receive compensation for the performance of their duties, as may be fixed by the Borough Council, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the Borough Council.

§ 290-39. Hearings. [Amended 7-1-1983 by Ord. No. 1983-1; 8-4-1992 by Ord. No. 8/4/1992]

The Zoning Hearing Board shall conduct hearings and made decisions in accordance with the following requirements:

- A. Public notice shall be given and written notice shall be given to the applicant, the Zoning Officer and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by rules of the Board. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.
- B. The hearing shall be held within 60 days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time.
- C. The hearings shall be conducted by the Board or the Board may appoint any member 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 Borough, 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.
- D. The parties to the hearing shall be the Borough, any person affected by the application who has made timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.
- E. The Chairman or acting Chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
- F. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
- G. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
- H. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer or shall be paid by the person appealing from the decision of the Board 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.
- I. The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any

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- B. The hearing shall be held within 60 days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time.
- C. The hearings shall be conducted by the Board or the Board may appoint any member 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 Borough, 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.
- D. The parties to the hearing shall be the Borough, any person affected by the application who has made timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.
- E. The Chairman or acting Chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
- F. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
- G. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
- H. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer or shall be paid by the person appealing from the decision of the Board 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.
- I. The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any

communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

- J. The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of this chapter or of any law, ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than 30 days after the report of the hearing officer. Where the Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within 60 days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of the said decision within 10 days from the last day it could have met to render a decision in the same manner as provided in Subsection A of this section. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.
- K. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.
- L. The Borough Council shall establish, by resolution, fees with respect to hearings before the Zoning Hearing Board.

§ 290-39. Jurisdiction. [Added 8-4-1992 by Ord. No. 8/4/1992]

- A. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
- (1) Substantive challenges to the validity of any land use ordinance, except those brought before the Borough Council pursuant to §§ 609.1 and 916.1(a)(2) of the

communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

- J. The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of this chapter or of any law, ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than 30 days after the report of the hearing officer. Where the Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within 60 days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of the said decision within 10 days from the last day it could have met to render a decision in the same manner as provided in Subsection A of this section. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.
- K. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.
- L. The Borough Council shall establish, by resolution, fees with respect to hearings before the Zoning Hearing Board.

§ 290-40. Jurisdiction. [Added 8-4-1992 by Ord. No. 8/4/1992]

- A. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
- (1) Substantive challenges to the validity of any land use ordinance, except those brought before the Borough Council pursuant to §§ 609.1 and 916.1(a)(2) of the

Pennsylvania Municipalities Planning Code (hereinafter "MPC"), 53 P.S. §§ 10609.1, 10916.1.⁷

- (2) 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.
 - (3) Appeals from a determination by the Borough Engineer or the Zoning Officer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance.⁸
 - (4) Applications for variances from the terms of this chapter and flood hazard ordinance or such provisions within a land use ordinance, pursuant to § 910.2 of the MPC, 53 P.S. § 10910.2.
 - (5) Applications for special exceptions under this chapter or floodplain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to § 912.1 of the MPC, 53 P.S. § 10912.1.
 - (6) Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of this chapter.
 - (7) Appeals from the Zoning Officer's determination under § 916.2 of the MPC, 53 P.S. § 10916.2.
 - (8) Appeals from the determination of the Zoning Officer or Borough Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development not involving applications under Article V or VII of the MPC, 53 P.S. §§ 10501 et seq., 10701 et seq.
- B. The Borough Council shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
- (1) All applications for approvals of planned residential developments under Article VII of the MPC pursuant to the provisions of § 702 of the MPC, 53 P.S. § 10702.
 - (2) All applications pursuant to § 508 of the MPC, 53 P.S. § 10508, for approval of subdivisions or land developments under Article V of the MPC, 53 P.S. § 10501 et seq.
 - (3) Applications for conditional use under the express provisions of this chapter.
 - (4) Applications for curative amendment to this chapter or pursuant to §§ 609.1 and 916.1(a) of the MPC, 53 P.S. §§ 10609.1, 10916.1(a).

7. Editor's Note: Original § 708, Subsection 1B, which pertained to challenges to validity of a land use ordinance raising procedural questions, of the 1978 Code of Ordinances, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

8. Editor's Note: See also Ch. 148, Floodplain Management, and Ch. 245, Subdivision and Land Development.

Pennsylvania Municipalities Planning Code (hereinafter "MPC"), 53 P.S. §§ 10609.1, 10916.1.⁷

- (2) 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.
 - (3) Appeals from a determination by the Borough Engineer or the Zoning Officer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance.⁸
 - (4) Applications for variances from the terms of this chapter and flood hazard ordinance or such provisions within a land use ordinance, pursuant to § 910.2 of the MPC, 53 P.S. § 10910.2.
 - (5) Applications for special exceptions under this chapter or floodplain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to § 912.1 of the MPC, 53 P.S. § 10912.1.
 - (6) Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of this chapter.
 - (7) Appeals from the Zoning Officer's determination under § 916.2 of the MPC, 53 P.S. § 10916.2.
 - (8) Appeals from the determination of the Zoning Officer or Borough Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development not involving applications under Article V or VII of the MPC, 53 P.S. §§ 10501 et seq., 10701 et seq.
- B. The Borough Council shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
- (1) All applications for approvals of planned residential developments under Article VII of the MPC pursuant to the provisions of § 702 of the MPC, 53 P.S. § 10702.
 - (2) All applications pursuant to § 508 of the MPC, 53 P.S. § 10508, for approval of subdivisions or land developments under Article V of the MPC, 53 P.S. § 10501 et seq.
 - (3) Applications for conditional use under the express provisions of this chapter.
 - (4) Applications for curative amendment to this chapter or pursuant to §§ 609.1 and 916.1(a) of the MPC, 53 P.S. §§ 10609.1, 10916.1(a).

7. Editor's Note: Original § 708, Subsection 1B, which pertained to challenges to validity of a land use ordinance raising procedural questions, of the 1978 Code of Ordinances, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

8. Editor's Note: See also Ch. 148, Floodplain Management, and Ch. 245, Subdivision and Land Development.

- (5) All petitions for amendments to land use ordinances, pursuant to the procedures set forth in § 609 of the MPC, 53 P.S. § 10609.
- (6) Appeals from the determination of the Zoning Officer or the Borough Engineer in the administration of any land use ordinance or provisions thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to applications for land development under Articles V and VII of the MPC, 53 P.S. §§ 10501 et seq., 10701 et seq. Where such determination relates only to development not involving an Article V or VII application, the appeal from such determination of the Zoning Officer or the Borough Engineer shall be to the Zoning Hearing Board pursuant to this section. Where the applicable land use ordinance vests jurisdiction for final administration of subdivision and land development applications in the Planning Commission, all appeals from determinations under this subsection shall be to the Planning Commission and all appeals from the decision of the Planning Commission shall be to court.

§ 290-40. Variances. [Added 8-4-1992 by Ord. No. 8/4/1992]

- A. The Zoning Hearing Board shall hear requests for variances where it is alleged that the provisions of this chapter inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the Zoning Officer. The Board may grant a variance, provided that all of the following findings are made where relevant in a given case:
 - (1) 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 chapter in the neighborhood or district in which the property is located.
 - (2) 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 chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
 - (3) That such unnecessary hardship has not been created by the applicant.
 - (4) 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.
 - (5) 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.
- B. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this chapter and the Pennsylvania Municipalities Planning Code, 53 P.S. § 10101 et seq.

- (5) All petitions for amendments to land use ordinances, pursuant to the procedures set forth in § 609 of the MPC, 53 P.S. § 10609.
- (6) Appeals from the determination of the Zoning Officer or the Borough Engineer in the administration of any land use ordinance or provisions thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to applications for land development under Articles V and VII of the MPC, 53 P.S. §§ 10501 et seq., 10701 et seq. Where such determination relates only to development not involving an Article V or VII application, the appeal from such determination of the Zoning Officer or the Borough Engineer shall be to the Zoning Hearing Board pursuant to this section. Where the applicable land use ordinance vests jurisdiction for final administration of subdivision and land development applications in the Planning Commission, all appeals from determinations under this subsection shall be to the Planning Commission and all appeals from the decision of the Planning Commission shall be to court.

§ 290-41. Variances. [Added 8-4-1992 by Ord. No. 8/4/1992]

- A. The Zoning Hearing Board shall hear requests for variances where it is alleged that the provisions of this chapter inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the Zoning Officer. The Board may grant a variance, provided that all of the following findings are made where relevant in a given case:
 - (1) 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 chapter in the neighborhood or district in which the property is located.
 - (2) 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 chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
 - (3) That such unnecessary hardship has not been created by the applicant.
 - (4) 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.
 - (5) 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.
- B. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this chapter and the Pennsylvania Municipalities Planning Code, 53 P.S. § 10101 et seq.

§ 290-42. Parties appellant before the Board. [Added 8-4-1992 by Ord. No. 8/4/1992]

Appeals raising the substantive validity of any land use ordinance (except those to be brought before the Borough Council pursuant to the Pennsylvania Municipalities Code, procedural questions or alleged defects in the process of enactment or adoption of a land use ordinance; or 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; from a determination by the Borough Engineer or the Zoning Officer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance; from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of this chapter; from the determination of the Zoning Officer or Borough Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development not involving subdivision and land development or planned residential development may be filed with the Zoning Hearing Board in writing by the landowner affected, any officer or agency of the Borough, or any person aggrieved. Requests for a variance and for special exception may be filed with the Board by any landowner or any tenant with the permission of such landowner.

§ 290-43. Time limitations. [Added 8-4-1992 by Ord. No. 8/4/1992]

- A. No person shall be allowed to file any proceeding with the Zoning Hearing Board later than 30 days after an application for development, preliminary or final, has been approved by the Borough if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan or from an adverse decision by the Zoning Officer on a challenge to the validity of this chapter or an amendment hereto or map or an amendment thereto shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.
- B. All appeals from determinations adverse to the landowner shall be filed by the landowner within 30 days after notice of the determination is issued.

§ 290-44. Enactment of amendments. [Amended 8-4-1992 by Ord. No. 8/4/1992]

- A. The Borough Council may from time to time amend, supplement, or repeal any of the regulations and provisions of this chapter. The procedure for the preparation of a proposed zoning ordinance as set forth in § 607 of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10607, is hereby declared optional.
- B. Before voting on the enactment of an amendment, the Borough Council shall hold a public hearing thereon, pursuant to public notice, and pursuant to mailed notice and electronic notice if applicable per 53 P.S. § 10109. In addition, if the proposed

§ 290-41. Parties appellant before the Board. [Added 8-4-1992 by Ord. No. 8/4/1992]

Appeals raising the substantive validity of any land use ordinance (except those to be brought before the Borough Council pursuant to the Pennsylvania Municipalities Code, procedural questions or alleged defects in the process of enactment or adoption of a land use ordinance; or 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; from a determination by the Borough Engineer or the Zoning Officer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance; from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of this chapter; from the determination of the Zoning Officer or Borough Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development not involving subdivision and land development or planned residential development may be filed with the Zoning Hearing Board in writing by the landowner affected, any officer or agency of the Borough, or any person aggrieved. Requests for a variance and for special exception may be filed with the Board by any landowner or any tenant with the permission of such landowner.

§ 290-42. Time limitations. [Added 8-4-1992 by Ord. No. 8/4/1992]

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- B. All appeals from determinations adverse to the landowner shall be filed by the landowner within 30 days after notice of the determination is issued.

§ 290-43. Enactment of amendments. [Amended 8-4-1992 by Ord. No. 8/4/1992]

- A. The Borough Council may from time to time amend, supplement, or repeal any of the regulations and provisions of this chapter. The procedure for the preparation of a proposed zoning ordinance as set forth in § 607 of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10607, is hereby declared optional.
- B. Before voting on the enactment of an amendment, the Borough Council shall hold a public hearing thereon, pursuant to public notice, and pursuant to mailed notice and electronic notice if applicable per 53 P.S. § 10109. In addition, if the proposed

amendment involves a Zoning Map change, notice of said public hearing shall be conspicuously posted by the Borough at points deemed sufficient by the Borough along the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D)]**

- C. In the case of an amendment other than that prepared by the Planning Commission the Borough Council shall submit each such amendment to the Planning Commission at least 30 days prior to the hearing on such proposed amendment to provide the Planning Commission an opportunity to submit recommendations.
- D. If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, the Borough Council shall hold another public hearing, pursuant to public notice, and mailed notice and electronic notice, if applicable, before proceeding to vote on the amendment. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D)]**
- E. At least 30 days prior to the public hearing on the amendment by the Borough Council, the Borough shall submit the proposed amendment to the county planning agency for recommendations.
- F. Within 30 days after enactment, a copy of the amendment to this chapter shall be forwarded to the county planning agency.

§ 290-44. Procedure for landowner curative amendments. [Added 8-4-1992 by Ord. No. 8/4/1992]

- A. A landowner who desires to challenge on substantive grounds the validity of this chapter or the Zoning 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 Borough Council with a written request that his challenge and proposed amendment be heard and decided as provided in § 916.1 of the Pennsylvania Municipalities Planning Code (hereinafter "MPC"), 53 P.S. § 10916.1. The curative amendment and challenge shall be referred to the Planning Commission and the county planning agency as provided in § 609 and notice of the hearing thereon shall be given as provided in §§ 610 and 916.1 of the MPC, 53 P.S. §§ 10609, 10610, and 10916.1.
- B. The hearing shall be conducted in accordance with § 908 of the MPC, 53 P.S. § 10908, and all references therein to the Zoning Hearing Board shall, for purposes of this section be references to the Borough Council; provided, however, that the provisions of § 908(1.2) and (9) shall not apply and the provisions of § 916.1 shall control. If the Borough does not accept a landowner's curative amendment brought in accordance with this subsection and a court subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for the entire zoning ordinance and map, but only for those provisions which specifically relate to the landowner's curative amendment and challenge. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D)]**

amendment involves a Zoning Map change, notice of said public hearing shall be conspicuously posted by the Borough at points deemed sufficient by the Borough along the tract to notify potentially interested citizens. ~~The affected tract or area shall be posted at least one week prior to the date of the hearing.~~ **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D)]**

- C. In the case of an amendment other than that prepared by the Planning Commission the Borough Council shall submit each such amendment to the Planning Commission at least 30 days prior to the hearing on such proposed amendment to provide the Planning Commission an opportunity to submit recommendations.
- D. If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, the Borough Council shall hold another public hearing, pursuant to public notice, and mailed notice and electronic notice, if applicable, before proceeding to vote on the amendment. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D)]**
- E. At least 30 days prior to the public hearing on the amendment by the Borough Council, the Borough shall submit the proposed amendment to the county planning agency for recommendations.
- F. Within 30 days after enactment, a copy of the amendment to this chapter shall be forwarded to the county planning agency.

§ 290-45. Procedure for landowner curative amendments. [Added 8-4-1992 by Ord. No. 8/4/1992]

- A. A landowner who desires to challenge on substantive grounds the validity of this chapter or the Zoning 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 Borough Council with a written request that his challenge and proposed amendment be heard and decided as provided in § 916.1 of the Pennsylvania Municipalities Planning Code (hereinafter "MPC"), 53 P.S. § 10916.1. The curative amendment and challenge shall be referred to the Planning Commission and the county planning agency as provided in § 609 and notice of the hearing thereon shall be given as provided in §§ 610 and 916.1 of the MPC, 53 P.S. §§ 10609, 10610, and 10916.1.
- B. The hearing shall be conducted in accordance with § 908 of the MPC, 53 P.S. § 10908, and all references therein to the Zoning Hearing Board shall, for purposes of this section be references to the Borough Council; provided, however, that the provisions of § 908(1.2) and (9) shall not apply and the provisions of § 916.1 shall control. If the Borough does not accept a landowner's curative amendment brought in accordance with this subsection and a court subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for the entire zoning ordinance and map, but only for those provisions which specifically relate to the landowner's curative amendment and challenge. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D)]**

- C. The Borough Council, if it determines that a validity challenge has merit, may accept a landowner's curative amendment, with or without revision, or may adopt an alternative amendment which will cure the challenged defects. The Borough Council shall consider the curative amendments, plans and explanatory material submitted by the landowner and shall also consider:
- (1) The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;
 - (2) If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of this chapter or Zoning Map.
 - (3) The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources and other natural features;
 - (4) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts; and
 - (5) The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

§ 290-46. Procedure for Borough curative amendments. [Added 8-4-1992 by Ord. No. 8/4/1992]

- A. If the Borough determines that this chapter, or any portion hereof, is substantially invalid, it shall take the following actions:
- (1) The Borough shall declare by formal action, this chapter or portions hereof substantially invalid and propose to prepare a curative amendment to overcome such invalidity. Within 30 days such declaration and proposal the Borough Council shall:
 - (a) By resolution make specific findings setting forth the declared invalidity of this chapter which may include:
 - [1] References to specific uses which are either not permitted or not permitted in sufficient quantity;
 - [2] Reference to a class of use or uses which requires revision; or
 - [3] Reference to this entire Chapter which requires revisions.
 - (b) Begin to prepare and consider a curative amendment to this chapter to correct the declared invalidity.
- B. Within 180 days from the date of the declaration and proposal, the Borough shall enact a curative amendment to validate, or reaffirm the validity of, this chapter pursuant to

- C. The Borough Council, if it determines that a validity challenge has merit, may accept a landowner's curative amendment, with or without revision, or may adopt an alternative amendment which will cure the challenged defects. The Borough Council shall consider the curative amendments, plans and explanatory material submitted by the landowner and shall also consider:
- (1) The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;
 - (2) If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of this chapter or Zoning Map.
 - (3) The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources and other natural features;
 - (4) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts; and
 - (5) The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

§ 290-45. Procedure for Borough curative amendments. [Added 8-4-1992 by Ord. No. 8/4/1992]

- A. If the Borough determines that this chapter, or any portion hereof, is substantially invalid, it shall take the following actions:
- (1) The Borough shall declare by formal action, this chapter or portions hereof substantially invalid and propose to prepare a curative amendment to overcome such invalidity. Within 30 days such declaration and proposal the Borough Council shall:
 - (a) By resolution make specific findings setting forth the declared invalidity of this chapter which may include:
 - [1] References to specific uses which are either not permitted or not permitted in sufficient quantity;
 - [2] Reference to a class of use or uses which requires revision; or
 - [3] Reference to this entire Chapter which requires revisions.
 - (b) Begin to prepare and consider a curative amendment to this chapter to correct the declared invalidity.
- B. Within 180 days from the date of the declaration and proposal, the Borough shall enact a curative amendment to validate, or reaffirm the validity of, this chapter pursuant to

the provisions of § 609 of the Pennsylvania Municipalities Planning Code (hereinafter "MPC"), 53 P.S. § 10609, in order to cure the declared invalidity of this chapter.

- C. Upon the initiation of the procedures as set forth in Subsection A, the Borough Council shall not be required to entertain or consider any landowner's curative amendment filed under § 609.1 of the MPC, 53 P.S. § 10609.1, nor shall the Zoning Hearing Board be required to give a report requested under § 909.1 or 916.1 of the MPC, 53 P.S. §§ 10909.1, 10916.1, subsequent to the declaration and proposal based upon the grounds identical or substantially similar to those specified by the resolution required by Subsection A(1). Upon completion of the procedures set forth in Subsections A and B, no rights to a cure pursuant to the provisions of §§ 609.1 and 916.1 of the MPC, 53 P.S. §§ 10609.1, 10916.1, shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of this chapter for which there has been a curative amendment pursuant to this section.
- D. The Borough, having utilized the procedures set forth in this section, may not again utilize said procedure for a period of 36 months following the date of enactment of a curative amendment, or reaffirmation of the validity of this chapter; Provided, however, if after the date of declaration and proposal there is a substantially new duty imposed upon the Borough by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, the Borough may utilize the provisions of this section to propose a curative amendment to this chapter to fulfill said duty or obligation.

the provisions of § 609 of the Pennsylvania Municipalities Planning Code (hereinafter "MPC"), 53 P.S. § 10609, in order to cure the declared invalidity of this chapter.

- C. Upon the initiation of the procedures as set forth in Subsection A, the Borough Council shall not be required to entertain or consider any landowner's curative amendment filed under § 609.1 of the MPC, 53 P.S. § 10609.1, nor shall the Zoning Hearing Board be required to give a report requested under § 909.1 or 916.1 of the MPC, 53 P.S. §§ 10909.1, 10916.1, subsequent to the declaration and proposal based upon the grounds identical or substantially similar to those specified by the resolution required by Subsection A(1). Upon completion of the procedures set forth in Subsections A and B, no rights to a cure pursuant to the provisions of §§ 609.1 and 916.1 of the MPC, 53 P.S. §§ 10609.1, 10916.1, shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of this chapter for which there has been a curative amendment pursuant to this section.
- D. The Borough, having utilized the procedures set forth in this section, may not again utilize said procedure for a period of 36 months following the date of enactment of a curative amendment, or reaffirmation of the validity of this chapter; Provided, however, if after the date of declaration and proposal there is a substantially new duty imposed upon the Borough by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, the Borough may utilize the provisions of this section to propose a curative amendment to this chapter to fulfill said duty or obligation.

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