

ARTICLE 15 Amendments and Conditional Uses - Board of Supervisors

15.1 Amendments to Zoning Ordinance or Map

The Township Board of Supervisors may on its own motion or by petition amend, supplement, change, modify or repeal this Ordinance, including the Zoning Map, by proceeding in the following manner. For Curative Amendments, see Section 609.1 Procedure for Landowner Curative Amendments, under Article VI of the Pennsylvania Municipalities Planning Code, Act of 1968, P.L. 805, No. 247, as reenacted and amended.

15.1.1 Review by Planning Agency – Every such proposed amendment or change, whether initiated by the Township Board of Supervisors or by petition, shall be referred to the Township Planning Agency and the County Planning Commission at least 30 days before the public hearing thereon. If the Planning Commission(s) fails to file such report before the public hearing, it shall be presumed that the Planning Commission(s) have no comments or concerns regarding the proposed amendment, supplement or change.

15.1.2 Public Hearing – Before voting on the enactment of an amendment, the Township Board of Supervisors shall hold a public hearing thereon, pursuant to public notice. In addition, if the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by the Township at points deemed sufficient by the Township along with property description to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing.

In addition to the requirement that notice be posted as required above, where the proposed amendment involves a zoning map change, notice of the public hearing shall be mailed by first class mail to all real estate taxpayers within the area being rezoned, as evidenced by tax records within the possession of the Township. The notice shall include the location, date and time of the public hearing. A good faith effort and substantial compliance shall satisfy the requirements of the subsection.

15.1.3 Opportunity to be Heard – At the public hearing, full opportunity to be heard shall be given to any citizen and all parties in interest.

15.1.4 Notice of Enactment – Prior to acting on the amendment, the Township Supervisors shall give notice of proposed enactment by publishing the entire amendment or the title and a summary once in a newspaper of general circulation in the locale. Such notice shall be published one time, not more than 60 days nor less than seven (7) days prior to passage.

15.1.5 Enactment of Amendment – The adoption of an amendment shall be by simple majority vote of the Township Board of Supervisors. The vote of the Supervisors shall be within 90 days after the last public hearing. The vote of the Supervisors shall be within 90 days after the last public hearing. If the Supervisors fail to act within 90 days, the proposed amendment shall be deemed to have been denied. Within 30 days after the enactment, a copy of the amendment shall be forwarded to the County Planning Commission.

15.1.6 Landowner Curative Amendments – A landowner who desires to challenge on substantive grounds the validity of a zoning ordinance or map or any provisions thereof, which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the governing body. The proposed amendment shall be heard and decided as provided in Section 609.1 of the Pennsylvania Municipalities Planning Code.

15.1.7 Municipal Curative Amendment – If a municipality determines that its zoning ordinance or any portion thereof is substantially invalid, it shall prepare a curative amendment to overcome such invalidity in accordance with Section 609.2 of the Pennsylvania Municipalities Planning Code.

15.2 Conditional Uses

The Township Supervisors may grant Conditional Use approval for only those instances specified in this Ordinance. In addition, the Supervisors may attach such reasonable conditions and safeguards as they deem appropriate to protect the public welfare and implement the purpose of this Ordinance.

15.2.1 Application Procedure – Applications for any Conditional Use permitted by this Ordinance shall be made to the Zoning Officer who shall refer such application to the Secretary of the Township Supervisors. Upon receipt of a Conditional Use application, the Secretary of the Township Supervisors shall forward a copy of the application to the Township Planning Agency for their review and recommendation. The Planning Commission shall conduct its review and make recommendations within 45 days of receipt of such a request.

15.2.2 Written Statement – All applications for Conditional Uses shall include a written statement describing the tract of land and its intended use. Such a statement should include the following information:

15.2.2.1 – the location of the tract of land;

15.2.2.2 – the present use of the tract for which the conditional use is requested;

15.2.2.3 – the present use of adjoining tracts;

15.2.2.4 – the type of conditional use for which the application is made;

15.2.2.5 – a brief description of the type and extent of the proposed activities;

15.2.2.6 – an estimate of the total development cost of the conditional use; and

15.2.2.7 – the names of the applicant, the owner of the tract, the developer of the conditional use and the person or organization who will operate the conditional use.

15.2.3 Site Plan – All applications for Conditional Uses shall include a site plan of the proposed development as set forth below. The site plan shall be drawn to a scale not exceeding 50 feet to the inch and shall be placed on a sheet no smaller than 18x24". If the site plan is drawn in two (2) or more sections, a key map showing the section locations shall be placed on each sheet. The site plan shall include:

15.2.3.1 – title block containing the name of the developer or landowner, date, scale, north arrow and the name and profession of the preparer of the plan;

15.2.3.2 – tract boundaries showing bearings and distances;

15.2.3.3 – existing significant natural or man-made features of the site;

15.2.3.4 – existing and proposed streets, rights-of-way, easements, means of access and setback lines;

15.2.3.5 – existing buildings, sewers, water mains, culverts, transmission lines, and fire hydrants on or adjacent to the site;

15.2.3.6 – existing contours at vertical intervals of five (5) feet or less and the datum to which the elevations refer;

15.2.3.7 – proposed grading and drainage plan;

15.2.3.8 – proposed plan of any landscaping of the tract showing all paved and planted areas, screens or fences and erosion control measures;

15.2.3.9 – plans of any proposed sanitary sewer or storm sewer systems and water supply systems; and

15.2.3.10 – location, size and floor plan of all proposed buildings or structures and proposed use of all buildings or structures and open or unenclosed areas of the tract.

In cases where minor site improvement or development is required or proposed for a Conditional Use, the Township Supervisors may, upon recommendation of the Township Planning Agency, waive the requirement for submission of certain information that is deemed unnecessary for review for the application. In all cases, however, the information submitted shall be adequate for review of the Conditional Use request.

15.2.4 Hearing Requirements – Within 60 days of the date of the applicant's request for a Conditional Use, the Supervisors shall select a date, advertise pursuant to Public Notice, and hold a public hearing on the proposal. The burden of presentation of the Conditional Use request at the hearing shall rest with the applicant.

15.2.5 Criteria for Review and Approval of Conditional Use – The Supervisors shall, in making decisions on each application for a Conditional Use, consider the following general criteria, in addition to the special criteria established elsewhere in this Ordinance.

15.2.5.1 – the purpose of the zone in which the requested conditional use is to be located and the compatibility of the requested conditional use with existing and potential land uses on adjacent tracts of ground;

15.2.5.2 – whether the specific site is an appropriate location for the use, structure or condition;

15.2.5.3 – whether the use developed will adversely affect the neighborhood;

15.2.5.4 – whether the use will create undue nuisance or serious hazard to vehicles or pedestrians;

15.2.5.5 – whether adequate and appropriate facilities and services will be provided to ensure the proper operation of the proposed use;

15.2.5.6 – the economic, noise, glare, or odor effects of the conditional use on adjoining properties and properties generally in the district; and

15.2.5.7 – whether satisfactory provision and arrangement has been made concerning the following:

- ingress and egress to the property and structure therein with particular reference to automotive and pedestrian safety and convenience, traffic flow, control and access in case of fire or another emergency;
- off-street parking and loading areas;
- waste collection, storage or disposal;
- utilities, with reference to location, availability and compatibility;
- screening and buffering with reference to type, dimensions and character;
- signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district; and
- required yards and open spaces.

15.2.6 Decisions – The Supervisors shall render a decision or, when no decision is called for, make written findings on the Conditional Use application within 45 days after their last hearing on the proposal. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusion based thereon, together with any reasons, therefore. Conclusions based on any provisions of the Pennsylvania Municipalities Planning Code, this Ordinance, or other ordinance, rule or regulation shall contain a reference to the provisions relied upon and the reason why the conclusion is deemed appropriate considering the facts found. A copy of the final decision or, where no decision is called for, the findings shall be delivered to the applicant personally or mailed to him no later than the day following its date.

15.2.7 Failure to Hold Required Hearing or Render Decision – Where the Township Supervisors fail to hold the required hearing or fail to render a decision within the time periods specified in Section 15.2.4 and 15.2.6 above, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing on the record to an extension of time. When a decision has been rendered in favor of the applicant because of a violation of the prescribed time periods, the Township Supervisors shall give public notice in the same manner as is done for the public hearing of the decision within ten (10) days from the last day they could have met to render a timely decision. If the Supervisors fail to provide such notice, the applicant may do so.

15.2.8 Expiration of Decision – Unless otherwise specified by the Supervisors at the time of their action, a Conditional Use authorization shall expire if the applicant fails to obtain any necessary Building/Zoning Permits or comply with the conditions of said authorization within six (6) months from the date of authorization.

15.2.9 Appeals – Nothing in this Section shall prejudice the right of any party opposing the application to appeal the decision in litigation.