

**ARTICLE 14
AMENDMENTS**

SECTION 1401 AMENDMENT PROCEDURE

The provisions of this Ordinance and the boundaries of the zoning districts as set forth upon the Zoning Map, may from time to time be amended by the Borough Council in accordance with the provisions as set forth in the Pennsylvania Municipalities Planning Code, Act 247, as amended. Prior to adopting any amendment to this Ordinance or to the Zoning Map, the following procedures shall be met:

- (A) Any proposed amendment, not initiated by the Borough Planning Commission, shall be referred to the Borough Planning Commission not less than thirty (30) days prior to a public hearing before the Borough Council to provide the Borough Planning Commission an opportunity to submit any comments or recommendations regarding the proposed amendment.
- (B) Prior to voting on the enactment of any proposed amendment, the Borough Council shall hold a public hearing pursuant to public notice. If, after any public hearing held upon a proposed amendment, said amendment is substantially changed, or is revised to include land not previously affected by the proposed amendment, the Borough Council shall hold another public hearing before proceeding to vote on the amendment.
- (C) Any recommendation of the Borough Planning Commission shall be submitted to the Borough Council in writing.
- (D) Not less than thirty (30) days prior to the public hearing, the Borough Council shall submit the proposed amendment to the Luzerne County Planning Commission for its comments and recommendation. In addition to the proposed amendment, the Borough Council shall submit any required fees charged by the Luzerne County Planning Commission for their review.
- (E) Proposed action shall not be taken until the Borough Planning Commission and the Luzerne County Planning Commission comments and recommendations are submitted to the Borough Council. If either Commission fails to act within thirty (30) days, from its receipt of the proposed amendment, the Borough Council may proceed without such recommendation.
- (F) When a proposed amendment involves a Zoning Map change, the following procedures shall be applicable:
 - 1. Notice of the public hearing shall be conspicuously posted by Borough Borough at points deemed sufficient along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted not less than one (1) week prior to the date of the public hearing.
 - 2. Notice of the public hearing shall be mailed by the Borough, at least thirty (30) days prior to the date of the public hearing, by first class mail to the addresses to which real estate tax bills are sent to property owners whose properties:

- are located within the property or area proposed to be rezoned.
- have a common property boundary with the property or area proposed to be rezoned.
- are located within a distance of two hundred (200) feet of any property boundary line of the property or area proposed to be rezoned.

The above information shall be based upon current tax records within the Luzerne County Tax Assessment Office. The party requesting the zoning boundary amendment shall be responsible for securing such information and providing the same to the Borough. The notice shall include the location, time and date of the public hearing. A good faith effort and substantial compliance shall be deemed to satisfy this requirement. While it shall be the intent of the Borough Council to provide written notice to such owners, failure to do so shall not invalidate an otherwise duly enacted ordinance that amends in the Zoning Map.

3. The above requirement shall not apply when the rezoning constitutes a comprehensive rezoning.

SECTION 1402 APPLICATIONS FOR AMENDMENTS TO THE TEXT OR MAP

The application for a proposed amendment, which is not submitted as a curative amendment, to the text of this Ordinance or to the Zoning Map, shall be submitted in writing to the Zoning Officer, who shall process said application in accordance with Section 1401 of this Ordinance. An application shall contain the following information as applicable:

- (A) The applicant's name and address and/or the name and address of his authorized agent or the equitable owner.
- (B) A copy of the deed to the property, and when the applicant is not the owner of the property, appropriate documentation to establish the applicant's standing as the equitable owner.
- (C) A signed statement by the owner of record, or applicant as the case may be, attesting to the truth of the facts of all information contained within the application.
- (D) A scaled plan of the area proposed to be rezoned, which indicates abutting streets, the zone classification of adjoining properties and the names and addresses of the true and correct owners of record within the area proposed to be rezoned and physically bordering the area to be rezoned as evidenced by tax records within the Luzerne County Tax Assessor's Office.
- (E) Plans, drawings and explanatory material, which describes in detail the applicant's proposed use and/or development of the property.
- (F) Specify those Sections of this Ordinance or areas upon the Zoning Map which will be affected by the proposed amendment.

SECTION 1403 CURATIVE AMENDMENTS

1403.1 INITIATED BY LANDOWNER

A landowner who desires to challenge on substantive grounds the validity of this Ordinance 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 to cure the alleged defect, be heard and decided by the Borough Council. In addition to the written request and proposed amendment, the landowner shall also submit plans, drawings and explanatory material, which describes in detail his proposed use or development. The Borough Council shall commence a public hearing pursuant to public notice within sixty (60) days of the landowner's request. The sixty (60) day period shall not commence until all required information and material is submitted, along with all related fees. Failure to convene a public hearing within sixty (60) days of the landowner's request shall not result in a deemed approval.

The curative amendment and supporting information shall be referred to the Borough Planning Commission and the Luzerne County Planning Commission for its review and comment not less than thirty (30) days prior to the public hearing.

The public hearing before the Borough Council shall be conducted in accordance with the applicable procedures contained in Section 1506 of this Ordinance and all references therein to the Zoning Hearing Board shall, for the purposes of this Section, be references to the Borough Council. Public notice of the required public hearing shall include notice of the validity of those particular provisions of this Ordinance and/or the Zoning Map which are in question, along with the place where the proposed amendment, plans, drawings, explanatory material and any other pertinent information may be examined by the public.

If the Borough Council determines that a validity challenge has merit, it may accept a landowner's curative amendment, with or without revisions, or it may adopt an alternative amendment which will cure the challenged defects. The Borough Council shall consider in addition to the landowner's proposed curative amendment, plans, drawings and explanatory material the following items:

- (A) The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities.
- (B) 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 and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of this Ordinance and/or Zoning Map.
- (C) The suitability of the site for the intensity of use proposed in relationship to the site's soils, slopes, woodlands, flood plains, aquifers, natural resources and other natural features.
- (D) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features, in relationship to the degree to which these are protected or destroyed, the tolerance of the resources to

development and any adverse environmental impacts.

- (E) The impact of the proposal on the preservation of agriculture and any other land uses which are essential to the public health and welfare.

The proposed curative amendment shall be deemed denied in accordance with any of the following:

- (A) Failure to commence the public hearing within sixty (60) days of the landowner's request.
- (B) When the Borough Council notifies the landowner that it will not adopt the curative amendment.
- (C) When the Borough Council adopts another curative amendment which is unacceptable to the landowner.
- (D) When the Borough Council fails to act on the request within forty-five (45) days after the close of the last public hearing on the request, unless the time is extended by mutual consent by the landowner and the Borough Council

1403.2 INITIATED BY THE BOROUGH

If the Borough Council determines this Ordinance or the Official Zoning Map, or any portion thereof, to be substantially invalid, it shall declare such by a formal action and propose to prepare a curative amendment to overcome such invalidity. Within thirty (30) days following said declaration, the Borough Council shall by resolution make specific findings setting forth the declared invalidity which may include:

- (A) References to specific uses which are either not permitted or not permitted in sufficient quantity.
- (B) Reference to a class of use or uses which require revision.
- (C) Reference to the entire Ordinance and/or Map which requires revisions.

Within one hundred eighty (180) days from the date of the declaration and proposal as set forth in this Section, the Borough Council shall enact a curative amendment to correct those portions deemed invalid or reaffirm the validity of those portions initially deemed to be invalid. Upon the initiation of procedures as set forth in this Section, the Borough Council shall not be required to entertain or consider any landowner's curative amendment, nor shall the Zoning Hearing Board be required to consider a substantive challenge to the validity of the Zoning Ordinance or Zoning Map, pursuant to Section 1508 (A) of this Ordinance, based upon grounds identical to or substantially similar to those specified in the Borough Council resolution.

The Borough Council, having utilized the procedures as set forth in this Section, may not again utilize said procedure for a thirty-six (36) month period following the date of the enactment of a curative amendment or reaffirmation of the validity of this Ordinance and/or Zoning Map. However, if after the date of declaration and proposal, there is a

substantially new duty or obligation imposed upon Borough by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, Borough may utilize the provisions of this Section to prepare a curative amendment to fulfill said duty or obligation.

SECTION 1404 ENACTMENT OF AMENDMENTS

A proposed amendment to this Ordinance or to the Zoning Map shall be enacted in conformance with the following:

- (A) The Borough Council shall conduct a public hearing pursuant to public notice and in accordance with the procedures as contained within Section 1401 of this Ordinance.
- (B) Public notice shall include the time, place and date of the meeting at which enactment will be considered and a place within Borough where copies of the proposed amendment may be examined without charge or obtained for a charge not greater than the cost thereof.
- (C) Public notice shall include either the full text of the amendment or the title and a brief summary of the amendment as prepared by the municipal solicitor. If the full text is not included, then a copy of such shall be supplied to the newspaper in which the public notice is published, and an attested copy to the County Law Library.
- (D) In the event substantial changes are made to the proposed amendment, before voting upon enactment, the Borough Council shall, not less than ten days prior to enactment, readvertise in one newspaper of general circulation in Borough, a brief summary setting forth all the provisions in reasonable detail together with a summary of the changes.

SECTION 1405 NOTIFICATION TO COUNTY

Within thirty (30) days after the enactment of an amendment to this Ordinance or to the Zoning Map, a copy of the amendment shall be forwarded to the Luzerne County Planning Commission.