

ARTICLE 1200 - ADMINISTRATIVE PROCEDURES

Specific Intent

It is the purpose of these regulations to prescribe the procedures by which the administration of this Ordinance shall take place. Nothing contained within this Section shall be interpreted as limiting the adoption of administrative regulations which do not supersede required stated procedures.

SECTION 1201 ADMINISTRATION AND ENFORCEMENT

1201.1 Administration

The Borough Building Inspector shall serve as Zoning Officer and shall have the duty of administering and enforcing the provisions of this Ordinance. The Zoning Officer shall have all the powers and duties conferred on him by this Ordinance and the Pennsylvania Municipalities Planning Code.

The Zoning Officer shall be appointed by Borough Council and shall hold no elective office in the Borough. 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.

a. Duties

The duties of the Zoning Officer shall be:

1. To enforce the provisions of this Ordinance;
2. To examine all applications for permits;
3. To issue permits only for construction and uses which are in accordance with the regulations of this Ordinance and other applicable ordinances as may be subsequently amended;
4. To record and file all applications for permits with the accompanying plans including records of all decisions affecting such applications as a public record in the Borough;
5. To issue permits for uses by special exception only after such uses are approved by the Zoning Hearing Board;
6. To issue permits for conditional uses only after such uses are approved by Borough Council;

7. To receive all required fees and issue all necessary stop orders and notices of violation;
8. To institute Civil enforcement proceedings as a means of enforcement when acting within the scope of his/her employment.
9. To inspect nonconforming uses, structures and signs and to keep a filed record of such nonconforming uses as a public record provided for in Section 1105 of this Ordinance;
10. Upon request of the Planning Commission or Zoning Hearing Board, present such facts, records or similar information on specific applications or requests to assist these bodies in reaching their decisions; and
11. To be responsible for keeping this Ordinance and the accompanying Zoning District Map up to date and available for public inspection.

b. Appeal

Any appeal from a decision or action of the Zoning Officer shall be made directly to the Zoning Hearing Board.

c. Notification of Violation

If the Zoning Officer shall find that any of the provisions of this Ordinance are being violated, he shall notify, in writing, the person responsible for such violation and order the necessary action to correct the violation as provided for in Subsection 1201.3. The Zoning Officer shall order discontinuance of any illegal use of land or structure; removal of any illegal structures or additions, alterations or structural changes thereto; discontinuance of any other illegal activity or construction; or take any other action authorized by this Ordinance or the laws of the Commonwealth to insure compliance with the provisions of this Ordinance.

1201.2 Enforcement

This Ordinance shall be enforced by the Zoning Officer of the Borough of Jefferson Hills. No permit of any kind as provided for in this Ordinance shall be granted for any purpose except in compliance with the provisions of this Ordinance or a decision of the Zoning Hearing Board or an Order of the Court.

a. **Complaints Regarding Violations**

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person must file a written complaint stating fully the causes and basis of the complaint with the Zoning Officer. The Zoning Officer shall record the complaint immediately and investigate it promptly and take any necessary action as provided by this Ordinance. The Zoning Officer shall notify the complainant of the results of his investigation and any action taken.

1201.3 **Enforcement Notice**

The Enforcement Notice shall contain the following information:

- a. The name of the owner of record and any other person against whom the municipality intends to take action.
- b. The location of the property in violation.
- c. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Ordinance.
- d. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
- e. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in this Ordinance.
- f. 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.

1201.4 **Enforcement Remedies**

Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than five hundred dollars (\$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 be payable until the date of the determination of a violation by the District Justice. 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 District Justice, determining that there has been a violation, further determines that there was a good faith basis for the

person, partnership or corporation violating this Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one (1) such violation until the fifth (5th) day following the date of the determination of a violation by the District Justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this Ordinance shall be paid over to the Borough.

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.

Nothing contained in this Subsection 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 Subsection.

SECTION 1202 PERMITS

1202.1 Zoning Approval

No structure shall be erected, added to or structurally altered until zoning approval has been issued by the Zoning Officer.

It shall be unlawful to use or occupy any structure or lot or part thereof or change or extend a nonconforming use until zoning approval has been issued by the Zoning Officer. An application for zoning approval shall state the proposed use of the structure or lot and shall include such additional information required by the Zoning Officer to determine compliance with this Ordinance.

In approving an application for zoning approval, the Zoning Officer may require such changes in plans for construction, addition, structural alteration or use as may be necessary to assure compliance with this Ordinance.

If no application for a grading or building permit to undertake the work described in an application for zoning approval, if any, has been submitted within twelve (12) months of issuance of zoning approval or if a grading or building permit is not required, if a Certificate of Occupancy is not issued within six (6) months of issuance of zoning approval, said zoning approval shall expire automatically without written notice to the applicant, unless an extension of zoning approval is granted upon written request of the applicant submitted to the Zoning Officer prior to the expiration of the twelve (12) months.

The Zoning Officer shall act upon an application for zoning approval within thirty (30) days after receiving the application.

Failure to obtain zoning approval shall be a violation of this Ordinance and shall be subject to the penalties provided for in Subsection 1201.4.

1202.2 Requirements for Building Permits

A building permit shall be required prior to any excavation for foundation; prior to the erection, construction or alteration of any building, structure, or any portion thereof; prior to the moving of a building into the Borough or from one place in the Borough to another.

1202.3 Permit Exemptions

No building permit shall be required for the nonstructural alteration of an existing completed building or other structure where such alteration is accomplished at a total material cost not exceeding five hundred (\$500.00). In ascertaining material costs, the actual cost or the fair value of all materials used shall be computed, whichever is greater.

1202.4 Application for Permits

Applications for permits shall be made in writing to the Building Inspector on such forms as may be furnished by the Borough. Such application shall include: building and plot plans of a satisfactory nature, in duplicate, drawn to scale showing the land involved; the location of all existing and proposed buildings and other structures thereon; the location of all abutting streets, roads and alleys; the location of all existing buildings on abutting land within one hundred and twenty (120) feet of the side and rear lot lines of the land involved; and such other information as is necessary for the Building Inspector to ascertain whether the proposed erection, alteration, use or change in use, complies with the provisions of this Ordinance. No permit shall be considered complete or permanently effective until the Building Inspector has certified that the work meets all the requirements of the Borough Code.

Before accepting for filing any application for a building permit, the Building Inspector shall charge and collect from the applicant a fee in accordance with a schedule fixed from time to time by Resolution of Borough Council, which schedule shall be available to the public at the office of the Building Inspector.

1202.5 Issuance of Permits

No building permit shall be issued except in conformity with the regulations of this Ordinance or after written order from the Zoning Hearing Board or the Courts.

The Building Inspector shall, within ninety (90) days after the filing of an application in the proper form, make and file his written decision as to whether or not the proposed excavation, erection, construction, structural alteration, occupancy, use and/or change in use will comply with the provisions of this Ordinance and shall, within such period, deliver a copy of his decision, together with a copy of the building permit, if any, issued pursuant to such decision, to the applicant in person or by registered mail, directed to the applicant's address as stated in the application.

1202.6 Revocation of Permit

Zoning approval for any structure or use may be revoked and withdrawn by the Zoning Officer if the holder of the zoning approval has failed to comply with the requirements of this Ordinance or with any conditions attached to the issuance of zoning approval. The holder of zoning approval may be subject to penalties for violation as provided in Subsection 1201.4.

Any building permit may be revoked and withdrawn by the Building Inspector, if the holder of the building permit has failed to comply with the requirements of the Borough Building Code or with any of the conditions attached to the issuance of building permit, or, if zoning approval has been revoked and withdrawn.

1202.7 Expiration of Permits

No permit for the excavation, erection, demolition, alteration or removal of buildings or structures shall be valid or effective after six (6) months from the date of issuance thereof, and shall thereafter be void unless the work authorized by such permit shall have been substantially commenced within six (6) months from the date of issuance and proceeded with, with due diligence. If, however, the applicant has been delayed in proceeding with the work for which the permit was granted by virtue of any reasonable cause and not due to his own negligence, the permit may be renewed without additional cost to the applicant.

If, after commencement of construction, the work is discontinued for a period of three (3) months, such permits shall be void and work may not be commenced until a new permit shall have been issued.

1202.8 Certificate of Occupancy

Upon completion of the erection or alteration or change in use of any building or structure or portion thereof authorized by any permit, and prior to the occupancy or use, the holder of such permit shall notify the Building Inspector of completion of work. No permit shall be considered complete or permanently effective nor shall any building be occupied or lot used until said official has issued a Certificate of Occupancy certifying that any work performed has been inspected and is approved as being in conformity with the permit and the provisions of this Ordinance and other applicable ordinances. The Building Inspector shall inspect the premises and, if he shall determine that such erection, alteration or change in use is in accordance with the building permit and zoning approval, he shall issue to the applicant a Certificate of Occupancy stating that the structure or part thereof covered by the application and the proposed use thereof complies with the provisions of this Ordinance.

In Commercial and Industrial Zoning Districts in which Performance Standards of Sections 904 and 905 of this Ordinance apply, no Certificate of Occupancy shall become permanent until thirty (30) days after the facility is fully operating, when, upon reinspection by the Building Inspector, it is determined that the facility is complying with all performance standards.

Certificates of Occupancy shall be granted or denied within ten (10) days from the date of application.

1202.9 Permits for Temporary Structures

During the time of construction of a structure for which zoning approval has been granted and a building permit has been issued, the Zoning Officer may issue zoning approval for occupancy and use of a temporary structure for a period not to exceed twelve (12) months. Zoning approval for temporary structures accessory to existing uses may also be authorized for a period not to exceed twelve (12) months. Zoning approval for a temporary structure may be extended upon reapplication, at the discretion of the Zoning Officer, if extension is warranted for reasonable circumstances. Zoning approval for temporary structures shall be canceled upon written notice by the Zoning Officer, if construction of the permanent structure is not diligently pursued.

All temporary structures shall be located at least ten (10) feet from any lot line and in the case of construction of a permanent structure during use of a temporary structure, the temporary structure shall be located at least fifty (50) feet from the construction entrance and at least fifty (50) feet from the foundation of the permanent structure under construction.

Temporary structures such as construction offices or trailers, model homes or sales offices shall be permitted in any Zoning District, subject to the requirements of this Section. A minimum of four (4) parking spaces shall be provided for any of the foregoing temporary structures which are accessible to the public.

Permits for any other temporary structures such as bleachers, reviewing stands, air-supported structures over swimming pools or tennis courts, seasonal display areas, tents and similar temporary structures shall not be issued until the Zoning Hearing Board grants approval of the temporary structure as a use by special exception, including the specific time period for which the structure is authorized. The use of such structures shall be limited to the principal or accessory uses authorized in the Zoning District in which the temporary structure is proposed.

Reasonable Accommodation Procedure and Criteria

- A. Persons with a claim for a reasonable accommodation under the Fair Housing Act Amendments or the Americans with Disabilities Act shall submit their request in writing to the Zoning Officer on an application form that requires the following information and such other information as may be reasonably needed to process the request.
1. Specific citation of the Zoning Ordinance provision from which reasonable accommodation is requested.
 2. The name and address of the applicants;
 3. The specific description of the reasonable accommodation sought and the particulars, including exact dimensions of any structural or locational accommodation;
 4. The condition of the applicants for which reasonable accommodation is sought;
 5. A description of the hardship, if any, that the applicants will incur without the reasonable accommodation requested.
 6. A description of any alternative methods of relieving the claimed hardship that have been considered and the reason, if any, why the applicants have rejected such alternatives;
 7. A statement describing why the requested accommodation is necessary to afford the applicants an opportunity equal to a non-handicapped or non-disabled person to use and enjoy the property in question;
 8. A description of the manner in which the accommodation, if granted, will be terminated or removed if no longer required to afford equal housing or employment opportunity to the handicapped or disabled persons; and
 9. A statement of any facts indicating whether or not non-handicapped or non-disabled persons would be permitted to utilize the property in question in a manner similar to that sought by the applicants.

B. A request for reasonable accommodation shall be directed in the first instance to the Zoning Officer. In considering a request for reasonable accommodation, the Zoning Officer shall, with the advice and counsel of the Borough Solicitor, apply the following criteria:

1. Whether the applicants are handicapped or disabled within the meaning of the Federal Fair Housing Act Amendments or the Americans with Disabilities Act;
2. The degree to which the accommodation sought is related to the handicap or disability of the applicants;
3. A description of the hardship, if any, that the applicants will incur without the reasonable accommodation requested;
4. The extent to which the requested accommodation is necessary to afford the applicants an opportunity equal to a non-handicapped or non-disabled person to use and enjoy the property in question;
5. The extent to which the proposed accommodation may impact property owners in the same vicinity;
6. The extent to which the requested accommodation may be consistent with or contrary to the zoning purposes promoted by the Zoning Ordinance, the Borough's Comprehensive Plan and the community development objectives set forth in the Zoning Ordinance;
7. The extent to which the requested accommodation would impose financial and administrative burdens on the Borough;
8. The extent to which the requested accommodation would impose an undue hardship on the Borough;
9. The extent to which the requested accommodation would require a fundamental alteration in the nature of the Borough's regulatory policies, objectives and regulations;
10. The extent to which the requested accommodation would result in a subsidy, privilege or benefit not available to non-handicapped or non-disabled persons;

11. The permanency of the requested accommodation and the conditions under which such accommodation will be removed, terminated or discontinued when no longer needed to provide handicapped or disabled persons with equal opportunity to use and enjoy the property in question; and
 12. The extent to which the requested accommodation will increase the value of the property during and after its occupancy by the applicants.
- C. The Zoning Officer may hold any meetings and/or hearings necessary in his or her discretion to elicit information or argument pertinent to the request for accommodation.
 - D. The Zoning Officer's decision shall be in writing and shall state the reasons for the decision.
 - E. The Zoning Officer shall issue his or her decision to the applicants and the Borough Solicitor within thirty (30) days of filing of the request for reasonable accommodation.

1202.11 Causes of Action

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure, or land is used in violation of this Ordinance or of any ordinance or other regulation made supplementing this Ordinance, the proper authorities of the Borough of Jefferson Hills, in addition to the other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alterations, repairs, conversion, maintenance, or use, to restrain, correct or abate such violation, or to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct, business or use in or about such premises.

SECTION 1203 SCHEDULE OF FEES

1203.1 Determination of Fees

Borough Council shall determine a schedule of fees, charges and expenses, as well as a collection procedure, for applications for zoning approval, building permits, variances, conditional uses, uses by special exception and other matters pertaining to this Ordinance. Said schedule of fees shall be posted in the Office of the Building Inspector.

Borough Council shall be empowered to reevaluate the fee schedule and make necessary alterations to it. Such alterations shall not be considered an amendment to this Ordinance and may be adopted at any public meeting of Borough Council by Resolution.

A public hearing on an application for a zoning amendment shall not be advertised until the fee required by Subsection 1204.4 has been paid.

Special exceptions and variances shall be considered only after fees have been paid in full and the Zoning Hearing Board shall take no action on appeals until preliminary charges have been paid in full.

Applications for conditional use and Planned Residential Development shall not be considered to be complete until the required application fees have been paid in full.

SECTION 1204 AMENDMENTS

1204.1 Power to Amend

The regulations, restrictions, boundaries, and requirements set forth in this Ordinance may, from time to time, be amended, supplemented, changed, or repealed through amendment, by the Borough Council.

1204.2 Procedure for Amendment

The following requirements shall be observed in making any amendment to this Ordinance:

- a. Borough Council, upon its own initiative, upon application by a landowner or, upon petition signed by more than fifty percent (50%) of the property owners of a street or road frontage in any area or portion thereof wherein a change of zoning regulations is sought, may prepare an ordinance amending, supplementing or changing the district boundaries or the regulations herein established. It shall be the duty of Borough Council to hold a public hearing thereon and cause notice to be given thereof in the manner prescribed in Subsection 1204.3 of this Ordinance.
- b. Proposed amendments, supplements, or changes or a proposal to repeal this Ordinance of any part thereof, shall be submitted to the Borough Planning Commission for their review at least thirty (30) days prior to the public hearing thereon. The Planning Commission shall make a preliminary report and may hold a public hearing thereon before submitting its final report, in writing, to Borough Council with any recommendations with respect thereto that it may deem appropriate.
- c. The proposed amendment shall be submitted to the Allegheny County Department of Economic Development for review at least thirty (30) days prior to Borough Council's public hearing. Borough Council shall not act on the proposed amendment until comments are received from the County or the thirty (30) day period for comment has passed.

- d. Borough Council shall not hold its public hearings or take action until it has received the final report from the Planning Commission. Such written report shall be given at or before the public hearing and a copy or copies thereof shall be made available at such public hearing by the Borough Council for public inspection, provided, however, that the validity of any action by Borough Council shall, in no way, be affected by any failure of the Planning Commission to submit recommendations in accordance with the provisions of this Section and this Section shall not be construed as imposing any obligation on Borough Council to accept or reject any recommendation of the Planning Commission.
- e. No action to amend or change this Ordinance shall become effective until after public hearing thereon at which time interested parties and citizens shall have an opportunity to be heard.
- f. In case of a protest against such change signed by the owners of thirty-three and one-third percent (33 1/3%) or more, either of the area of the lot included in such proposed change or of those owners immediately adjacent to the property to the side or rear thereof extending one hundred (100) feet therefrom, or of those directly opposite thereto, extending one hundred (100) feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of two-thirds (2/3) of all members of Borough Council.

1204.3 Notice

Borough Council shall fix, by Resolution, adopted at a stated meeting, the time and place of a public hearing on the proposed amendment, supplement, change, modification or repeal and cause notice thereof to be given as follows:

- a. By giving public notice, as defined in this Ordinance.
- b. In the case where a proposed amendment involves a zoning map change, 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 for all real property located within three hundred (300) feet of the boundaries of the area being considered for a change in zoning classification and five (5) public notices shall be posted on and around the affected property for a minimum of seven (7) days prior to the date of the public hearing.
- c. By mailing or delivering a notice thereof to the Planning Commission and the Zoning Hearing Board and to every resident or association of residents of the Borough who shall have registered their names and addresses for this purpose with the Planning Commission or the Borough Secretary.

- d. Such notice shall state the time and the place of the hearing and the particular nature of the matter to be considered at the hearing.

1204.4 Fees

The person or persons requesting the changes shall pay the appropriate fees as fixed by Council in the manner authorized in Subsection 1203.1 of this Ordinance.

1204.5 Filing Amendment with County Planning Agency

Within thirty (30) days after enactment, a copy of the amendment to this Ordinance shall be forwarded to the Allegheny County Department of Economic Development.

SECTION 1205 LANDOWNER CURATIVE AMENDMENTS

Any landowner who wishes to challenge, on substantive grounds, the validity of this Ordinance or Map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest, may prepare and submit a curative amendment to Borough Council, in the form he proposes it to be adopted, together with a written request that his challenge and proposed amendment be heard and decided as provided in Section 916.1 of the Pennsylvania Municipalities Planning Code. Borough Council shall commence a public hearing, pursuant to public notice, on the matter within sixty (60) days of the request.

1205.1 Referral to Planning Commission

The curative amendment and challenge shall be referred to the Borough Planning Commission and County planning agency at least thirty (30) days prior to the public hearing for review and comment.

1205.2 Public Hearing by Borough Council

Borough Council shall conduct the hearing in accordance with the procedure stipulated in Section 908 of the Pennsylvania Municipalities Planning Code and all references therein to the Zoning Hearing Board shall, for the purposes of this Subsection, be to Borough Council, provided, however, that the deemed approval provisions of Section 908 shall not apply and the provisions of Section 916.1 of the Pennsylvania Municipalities Planning Code shall control.

If Borough Council determines that a validity challenge has merit, Borough Council may accept the landowner's curative amendment, with or without revisions, or may adopt an alternative amendment which will cure the alleged defects.

1205.3 Declaration of Invalidity By the Court

If the Borough does not accept a landowner's curative amendment brought in accordance with this Section and a court subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for this entire Ordinance, but only for those provisions which specifically relate to the landowner's curative amendment and challenge.

1205.4 Evaluation of Merits of Curative Amendment

If Borough Council determines that a validity challenge has merit, Borough Council may accept a landowner's curative amendment, with or without revision, or may adopt an alternative amendment which will cure the challenged defects. Borough Council shall consider the curative amendments, plans and explanatory material submitted by the landowner and shall also consider:

- 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 to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of this Ordinance or Map;
- c. The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, 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, 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
- e. The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

SECTION 1206 PROCEDURE FOR SPECIAL EXCEPTIONS, CONDITIONAL USES AND VARIANCES

1206.1 Procedure for Special Exceptions

The Zoning Hearing Board shall hear and decide requests for uses by special exception in accordance with the provisions of this Ordinance; however, the Board shall not approve a use by special exception unless and until:

- a. A written application for use by special exception is submitted to the Zoning Officer indicating the Section of this Ordinance under which the use by special exception is sought and stating the grounds upon which it is applied for.
- b. The required application fees are paid.
- c. All applications for uses in the Commercial, Industrial, Office Park and Business Park Districts are referred to the Borough Planning Commission for review of the land development plan and written recommendation.
- d. A public hearing is held in conformance with the requirements of Section 1302.

In considering any use by special exception, the Zoning Hearing Board may prescribe appropriate conditions and safeguards in conformity with the spirit and intent of this Ordinance. A violation of such conditions and safeguards, when made part of the terms under which the use by special exception is granted, shall be deemed a violation of this Ordinance.

If the Zoning Hearing Board determines that the application for use by special exception meets all requirements of this Ordinance and receives assurances that any additional conditions deemed necessary shall be fulfilled and that the application is in conformity with the spirit and intent of this Ordinance, it shall direct the Zoning Officer to issue zoning approval for the use by special exception.

1206.2 Procedure for Conditional Uses

Borough Council shall hear and decide requests for conditional uses in accordance with the provisions of this Ordinance; however, it shall not approve a conditional use unless and until:

- a. A written application for conditional use approval is submitted to the Zoning Officer at least thirty (30) days prior to the regular monthly meeting of the Planning Commission. The application shall include a Plan, as defined in Subsection 102.2 and shall indicate the Section of this Ordinance under which conditional use approval is sought and shall state the grounds upon which it is requested.
- b. The required application fees are paid.
- c. A written recommendation from the Planning Commission is received or at least thirty (30) days has passed from the date of the Planning Commission meeting at which the application is first considered as complete and properly filed.

- d. A public hearing is commenced by Borough Council, pursuant to public notice, within sixty (60) days of the applicant's request for a hearing and the hearing is completed within one hundred (100) days after the completion of the applicant's case in chief, unless extended for good cause upon application to the Court of Common Pleas or unless the applicant agrees in writing or on the record to an extension of time.
- e. Borough Council shall render a written decision, or where no decision is called, make written findings on the conditional use application within forty-five (45) days after the last hearing before Borough Council. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefor, including a reference to the regulation or ordinance provision relied upon and the reasons why the conclusion is deemed appropriate in light of the facts found.

In considering the application for conditional use approval, Borough Council may prescribe appropriate conditions and safeguards in conformity with the spirit and intent of this Ordinance. Borough Council may establish time limits on the grant of conditional use approval, as warranted, in its sole discretion. A violation of any conditions and safeguards attached to the grant of conditional use approval, when made a part of the terms under which the conditional use is granted, shall be deemed a violation of this Ordinance.

If Borough Council determines that the application for conditional use approval meets all requirements of this Ordinance and receives assurances that any additional conditions deemed necessary shall be fulfilled and that the application is in conformity with the spirit and intent of this Ordinance, it shall direct the Zoning Officer in writing to issue zoning approval for such conditional use.

1206.3 Additional Requirements for Conditional Use Applications for Surface Mining

In addition to the requirements of Subsection 1206.2, above, applications for conditional use approval of surface mining shall include the following information:

- a. The name and address of the applicant and the source of the applicant's right to remove the mineral deposit and whether the applicant is an owner, lessee, licensee or permittee. In all cases where an applicant is not the owner, the written consent of the owner in a form acceptable to the Borough Solicitor must be attached.
- b. The purpose of the proposed mineral removal;
- c. The amount of mineral proposed to be removed and the area of land to be affected by the removal and the type of equipment proposed to be used on the site;

- d. A legal description of the area from which the mineral is proposed to be removed;
- e. The anticipated depth of excavations;
- f. The depth of any existing water table;
- g. A statement from a registered professional engineer regarding the probable effect of the proposed mining on the following environmental features:
 - 1. Existing water table;
 - 2. Established water quality of surface and underground waters;
 - 3. Landslide-prone or flood-prone areas;
- h. The nature and content of the overburden to be removed during the mining and the underlying strata in which the minerals to be mined are located;
- i. Qualified evidence regarding the probable effect of excavation methods on existing uses in the area surrounding the proposed mining site;
- j. It is presumed that the applicant does not intend to blast, however, if blasting is proposed, the applicant shall show:
 - 1. Evidence of approval of the required State permit;
 - 2. Qualified evidence regarding the probable effect of blasting on existing properties, uses and structures in the area surrounding the proposed mining site; and
 - 3. Evidence of adequate indemnity insurance to save the Borough harmless from any claims.
- k. Proposed hours of operation, frequency of blasting if any, and number of on-site employees;
- l. The duration of the surface mining operation, including removal of overburden, removal of the mineral and restoration of the site;
- m. The Borough, County and State roads to be utilized in the transportation of the mineral and equipment and the weight restrictions on those roads; the approximate number of truckloads per day, whether by operator or contract hauler, and the size of the average load in tons.

- n. The amount and type of performance bond to be posted by the operator for maintenance of Borough roads which may be required by the transportation of said mineral and the amount and type of performance bond to be posted in accordance with the requirements for the Federal and State permits pertaining to environmental protection and reclamation of the site.
- o. Previous experience by the applicant in surface mining, including activities under any other company or corporate names, stating the number of operations, location and present status of those operations and explanation of reasons for forfeiture of performance bonds, if any;
- p. A map or maps of the proposed site to be mined at a scale no greater than 1" = 100' showing:
 1. A perimeter survey of the entire property;
 2. The dimensions of the area proposed to be mined;
 3. Topography at 5' contour intervals;
 4. The location of the proposed mining operation with respect to all dwellings, public, semi-public and commercial uses, historic structures, cemeteries, streams, flood-plains, landslide-prone areas, protected watersheds and public roads in the immediate vicinity of the site;
 5. The location of all access and haulage roads and their intersection with all existing public roads; and
- q. The names and addresses of all property owners within 500 feet of the entire perimeter of the site. (Exception: applications for restricted surface mining operations limited to the right-of-way of roads and buildable area of lots in approved subdivisions or planned residential developments.)

1206.4

Procedure for Variances

A variance from the terms of this Ordinance shall not be granted by the Zoning Hearing Board unless and until:

- a. A written application for a variance is submitted to the Zoning Officer demonstrating that special conditions and circumstances exist which are peculiar to the lot, structure or use involved and which meet the criteria specified in Subsection 1303.2.
- b. The required application fees are paid.

- c. A hearing is conducted in accordance with Section 1302.
- d. The Zoning Hearing Board has made written findings that the requirements of Subsection 1303.2 have been met or not met by the applicant.

In granting any variance, the Zoning Hearing Board may prescribe appropriate conditions and safeguards in conformity with the spirit and intent of this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance.