

Article 24

ENFORCEMENT. ADMINISTRATION. ZONING HEARING BOARD AND AMENDMENTS

Section 2401. ZONING OFFICER APPOINTMENT, POWERS AND DUTIES.

A. Appointment

For the administration of this Zoning Ordinance, a Zoning Officer, who shall not hold any elective office in the Township, shall be appointed by the Board of Commissioners. The Zoning Officer shall administer the zoning ordinance 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 the zoning ordinance. The Zoning Officer shall meet the qualifications established by the Township and shall be able to demonstrate to the satisfaction of the Township a working knowledge of municipal zoning.

B. Enforcement

It shall be the duty of the Zoning Officer or his/her duly appointed representative, and he/she is hereby given the necessary power and authority, to enforce the provisions of this ordinance. The Zoning Officer shall examine all applications for permits, issue permits for construction and uses which are in accordance with the requirements of this ordinance, record and file all applications for permits with accompanying plans and documents, and make such reports as the Board of Commissioners may require. Permits for construction and uses which are a special exception or a variance to requirements of this ordinance shall be issued only upon written order of the Zoning Hearing Board. If violations of this Ordinance are found, the Zoning Officer shall notify the person responsible for such violations in accordance with the procedures outlined in Section 2408 of this Ordinance.

C. Inspection

It shall be the duty of the Zoning Officer or his duly appointed representative to make the following minimum number of inspections of property for which a permit has been issued:

1. At the beginning of construction, a record shall be made indicating the time and date of the inspection and the findings in regard to conformance of the construction with plans submitted with the application for the building or other permit.
2. If the actual construction does not conform to the application, a written notice of a violation shall be issued by the Zoning Officer, or his duly appointed representative, and construction shall be discontinued. Upon proper correction of the violation and receipt of written notice from the Zoning Officer, or his duly appointed representative, construction may proceed.

D. At the completion of construction, a record shall be made indicating the time and date of the inspection, and the findings of the Zoning Officer, or his duly appointed representative, in regard to the issuance of a Certificate of Zoning Compliance.

Section 2402. ZONING PERMITS.

A. Requirement of Permits

It shall be a violation of this Ordinance for any person or property owner to commence work for the erection or alteration of any building, fence, or structure, or the change of any land use until a zoning permit has been duly issued. No such permit shall be required in the case of normal maintenance activities, minor repairs, or alterations which do not alter the structure of the building. A zoning permit shall be required prior to any of the following activities:

1. The erection, alteration, enlargement or relocation of any building, structure, land, or portion thereof;
2. The use of or change in the use of a building, structure or land. Such a permit will be known as a Certificate of Use;
3. The alteration or expansion of a nonconforming use, building or structure;
4. The issuance of a building permit, if required;
5. The erection, placement, installation, alteration, relocation or replacement of a sign as specified in Article 20-Signs of this Ordinance;
6. The construction of any driveway or parking areas; or
7. The placement of temporary construction or office trailers.

B. Applications for Permits

All applications for permits shall be accompanied by site improvement plans and, if necessary, grading plans, in duplicate, drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the exact size and location of any buildings existing on the lot, the lines within which the proposed building or structure shall be erected or altered, the existing and intended use of each building, the number of families or dwelling units the building is designed to accommodate, and such other information as may be necessary to determine compliance with this ordinance and all other pertinent ordinances. One copy of the plans shall be returned to the owner when the plans are approved by the Zoning Officer or other appropriate person or body. All applications with accompanying plans and documents shall become a public record after a permit is issued or denied.

- C. Suspension or revocation. The Zoning Officer or his or her designee is authorized to suspend or revoke a permit issued on the basis of incorrect, inaccurate or incomplete information or in violation of any code, ordinance, regulation or provision of this Ordinance.
- D. Placement of permit. The Zoning/Building permit or copy thereof shall be kept on the site of the work visible from the public right of way until completion of the project.
- E. Responsibility. It shall be the duty of every person and or property owner who performs work for installation or repair which this ordinance is applicable, to comply with this ordinance or its amendments.

Section 2403. CERTIFICATE OF ZONING COMPLIANCE.

- A. A Certificate of Zoning Compliance shall be a written statement issued by the Zoning Officer, or his duly appointed representative, setting forth either that a building, structure or parcel of land complies with the provisions of this ordinance, or that a building or structure

lawfully may be employed for specified uses under the provisions of this ordinance, or both.

- B. No vacant land shall be occupied, used or changed in use, and no building or structure or part of a building or structure, hereafter erected or structurally altered, shall be occupied, used or changed in use, until a Certificate of Zoning Compliance shall have been regularly issued therefore by the Zoning Officer, or his duly appointed representative.
- C. A Certificate of Zoning Compliance, either for the whole or for a part of a new building or for the alteration of an existing building, shall be applied for coincident with the application for a building permit, and shall be issued within fifteen (15) days after the erection or alteration of such building or part shall have been completed in conformity with the provisions of this ordinance.
- D. A Certificate of Zoning Compliance for the use or occupancy of vacant land or for a change in the use of the land, or for a change in the use of an existing building, shall be applied for and issued before any such land shall be occupied or used, or such land or building changed in use, and shall be issued within fifteen (15) days after application has been made, provided such proposed use is in conformity with the provisions of this ordinance.
- E. A record of all certificates of zoning compliance shall be kept on file in the office of the Zoning Officer, or his duly appointed representative, and a copy shall be furnished on request to any person having a proprietary or tenancy interest in the building or land affected.

Section 2404. CERTIFICATE OF NONCONFORMANCE.

A Certificate of Nonconformance as prescribed in Section 2208 shall be issued by the Zoning Officer to the owner of any property which, at the time of the effective date of this Ordinance, is identified as containing a nonconforming use, or structure. The owner's property and the issuance date of such certificate shall be registered in the records of the Township as follows:

- A. The Certificate of Nonconformance shall set forth in detail all of the nonconforming conditions of said property.
- B. A copy of the Certificate of Nonconformance shall be retained and filed by the Zoning Officer for the municipal registration.
- C. The Certificate shall be for the purposes of insuring the owner, his heirs, successors and assigns the right to continue a nonconforming use in accordance with the regulations of this Ordinance.
- D. A Certificate of Zoning Compliance for changing or extending a nonconforming use shall be applied for and issued before any such nonconforming use shall be changed or extended. Such certificate shall be issued within fifteen (15) days after application has been made, provided such proposed change or extension is in conformity with the provisions of this ordinance.

Section 2405. CONDITIONAL USES.

- A. Conditional uses such as provided herein shall be allowed or denied by the Township Board of Commissioners pursuant to public notice and hearing, and pursuant to the standards set forth in this ordinance. Applications for a conditional use specified in this Ordinance shall be submitted to the Zoning Officer with the information required in Article 23-Conditional Uses.
- B. A conditional use application will be returned to the applicant for re-submission if the forms

provided by the Township and information required in this section and Article 23-Conditional Uses, Section 2302 is not properly completed at the time of submission.

- C. Unless otherwise specified or extended by the Board of Commissioners, a conditional use authorized by the Board of Commissioners will expire if the applicant fails to obtain, where required to do so, a building permit or Certificate of Zoning Compliance and occupancy within two (2) years of the date of the authorization of the conditional use (See Section 2308).

- D. Referral to the Planning Commission

All conditional use applications shall be reviewed by the Planning Commission prior to the public hearing before the Board of Commissioners.

- E. Standards and Criteria for Conditional Use Approval

A conditional use may be granted by the Board of Commissioners when the applicant demonstrates compliance with the general and specific standards for conditional uses provided in Sections 2303 and 2304 of this Ordinance. The applicant for conditional use shall have the burden of proof, which shall include the burden of going forward with the evidence, and the burden of persuasions on all questions of fact which are to be determined by the Board of Commissioners.

- F. Site Development Plan Approval

1. Any site development plan presented in support of the conditional use pursuant to Section 2302.B shall become part of the official record for the said conditional use. Approval of the conditional use shall bind the use in accordance with the site development plan. Should a change in the site plan be required as part of the approval of the conditional use, the applicant shall revise the site plan prior to the issuance of a building permit or Certificate of Zoning Compliance.
2. Any subsequent change to the use on the subject property shall not reflect on the originally approved site plan, and shall require another conditional use approval.

- G. Conditional Use Public Hearing Procedures

1. Before voting on the approval or denial of a conditional use, the Board of Commissioners shall hold a public hearing, pursuant to public notice. The Board of Commissioners shall submit each such application to the Planning Commission at least 30 days prior to the hearing on such application to provide the Planning Commission an opportunity to submit recommendations. If, after any public hearing held upon an application, the proposed conditional use is revised, the Board of Commissioners shall hold another public hearing, pursuant to public notice, before proceeding to vote on the conditional use application.
2. All public hearings shall be conducted in accordance with the requirements outlined in Section 2413.C except that any reference to the "Zoning Hearing Board" shall be replaced with "Board of Commissioners" and any reference to "special exception" shall be replaced with "conditional use."

Section 2406. SPECIAL EXCEPTIONS.

Applications for any special exception specified in this ordinance shall be made to the Zoning Hearing Board through the Zoning Officer. The general criteria and standards set forth in Section 2303 and 2304 of this Ordinance, and any other specific standards and criteria set forth in this ordinance, shall be

used by the Zoning Hearing Board in acting upon the application for special exception.

Section 2407. FEES.

The Township Board of Commissioners shall establish a schedule of fees, charges and expenses, as well as a collection procedure for zoning permits, certificates of occupancy, appeals, variances, conditional uses, special exceptions, amendments, bonds and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the Township building, and may be amended only by the Township Board of Commissioners. Such fees shall be payable to the Township and until all applicable fees, charges and expenses have been paid in full, the application shall be considered incomplete and no action shall be taken on any applications or appeal.

A. Zoning Permit/Certificate of Use

The fee for a zoning permit shall be payable at the office of the Zoning Officer upon making application for permit. No permit shall be issued until the fee is paid.

B. Certificate of Zoning Compliance

A fee shall be payable at the time of application for a Certificate of Zoning Compliance.

C. Certification of Nonconformance

A fee shall be paid to the Zoning Officer upon making application for a certificate of nonconformance.

D. Appeals and Applications to Zoning Hearing Board

A fee, payable in advance, shall be required for each appeal or application to the Zoning Hearing Board for a special exception or variance to cover advertisement cost, costs of mailing notices, and charges of the stenographer for taking notes of the testimony.

E. Changes or Amendment in the Zoning Ordinance and/or Zoning Map

A fee payable in advance shall be required for each application for a change or amendment in the Zoning Ordinance and/or Zoning Map.

F. Conditional Use Application Fee

A fee payable in advance shall be required for each conditional use application to the Township Board of Commissioners to cover advertisement cost, costs of mailing notices, and charges of the stenographer for taking notes of the testimony during the conditional use hearing.

G. Home Occupation Renewal Fee.

A fee, payable at the time of permit renewal shall be paid to the Township.

H. Telecommunications Signal Facilities Permit Fee

A Telecommunications Signal Facilities Permit Fee for telecommunications towers and telecommunications antennas greater than twenty (20) feet in height must be renewed annually on January 31st of each year thereafter from when the Conditional Use Application was approved by the Board of Commissioners.

I. Sign Permit Fee

A fee payable in advance shall be required for each sign which is placed, constructed, installed or altered.

Section 2408. VIOLATIONS.

Failure to comply with any provision of this ordinance, failure to secure any required permit or Zoning Hearing Board approval prior to erection, construction, extension, or addition to a building, and failure to secure a Certificate of Zoning Compliance, shall be violations of this ordinance. When written notice of a violation of any of the provisions of this ordinance has been served by the Zoning Officer, or his duly appointed representative, on the owner, agent, occupant, contractor, or is posted on the building, such violation shall be discontinued immediately.

A. Enforcement Notice

1. When written notice of a violation of any of the provisions of this Ordinance has been served by the Zoning Officer on the owner, agent or occupant, or contractor, such violation shall be discontinued immediately.
2. The enforcement notice prepared by the Zoning Officer shall state the following and include maps and other supporting documentation as necessary:
 - a. Name of the owner of record and any other person against whom the Township intends to take action;
 - b. The location of the property in violation
 - c. The specific violation and a description of the requirements which have not been met, citing in each instance the applicable provisions of the Zoning Ordinance;
 - d. The date before which the steps for compliance must be commenced and the date before which the steps must be completed;
 - e. A statement 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 the procedures set forth herein; and
 - f. A statement that failure to comply with the notice within the time specified in Section 2408.A.2.d, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly defined.
3. All appeals from determinations by the Zoning Officer under this section shall be made by the landowner to the Zoning Hearing Board within thirty (30) days after the enforcement notice has been issued.

B. Causes of Action

In case any building, structure, or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted maintained, or used in violation of this Ordinance, the proper officer of the Township, 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 of 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 Township at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the Township Board of Commissioners. No such action may be maintained until such notice has been given.

C. Enforcement Remedies

1. 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 therefore in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$500.00 plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof, or any maximum allowed by the MPC, Act 247. No judgment shall commence or be imposed, levied or 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 Township 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 the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth 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 shall be paid over to East Pennsboro Township.
2. 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.
3. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Township the right to commence any action for enforcement pursuant to this section.

Section 2409. ZONING HEARING BOARD.

The East Pennsboro Township Board of Commissioners shall appoint a Zoning Hearing Board, which shall have the number of members, terms, such duties, powers, jurisdiction and authority as set forth in Article IX of the Pennsylvania Municipalities Planning Code (Act 247 of 1968), as enacted or amended. The Zoning Hearing Board shall promptly notify the Board of Commissioners of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Zoning Hearing Board shall hold no other office in the Township.

The Board of Commissioners may appoint by resolution at least one (1) but no more than three (3) residents of the Township to serve as alternate members of the Board. Alternates shall serve on the Zoning Hearing Board only pursuant to the requirements set forth in Article IX, Section 903. (b), of the Municipalities Planning Code, Act 247, as amended.

Section 2410. ORGANIZATION OF THE ZONING HEARING BOARD.

- A. The Zoning Hearing Board shall elect from its own members its officers, who shall serve annual terms as such and may succeed themselves. For the conduct on 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 Zoning Hearing 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 Zoning Hearing Board as provided in Section 2413.C.4.

- B. If by reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Zoning Hearing Board shall designate as many alternate members of the board to sit on the Zoning Hearing Board as may be necessary to provide a quorum. Any alternate member of the Zoning Hearing Board shall continue to serve on the board in all proceedings involving the matter or case for which the alternate was initially appointed until the board has made a final determination of the matter or case. Designation of an alternate pursuant to Section 2410 and the MPC, Act 247, as amended, shall be made on a case by case basis in rotation according to declining seniority among all alternates.
- C. The Zoning Hearing Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the municipality and laws of the Commonwealth. The board shall keep full public records of its business, which records shall be the property of the municipality, and shall submit a report of its activities to the governing body as requested by the governing body.

Section 2411. EXPENDITURE OF SERVICES.

Within limits of funds appropriated by the governing body, the Zoning Hearing Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Zoning Hearing Board may receive compensation for the performance of their duties, as may be fixed by the governing body, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the governing body. Alternate members of the Zoning Hearing Board designated pursuant to this Section 2411 and the MPC, Act 247, as amended, may receive compensation, as may be fixed by the governing body, for the performance of their duties, but in no case shall such compensation exceed the rate of compensation authorized to be paid to the members of the governing body.

Section 2412. JURISDICTION OF THE ZONING HEARING BOARD.

The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters, as set forth in the Municipalities Planning Code, Act 247, as amended.

- A. Substantive challenges to the validity of any land use ordinance, except those brought before the governing body pursuant to Sections 609.1 and 916.1 (a)(2) of the Municipalities Planning Code, Act 247, as amended.
- B. Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within 30 days after the effective date of said ordinance.
- C. Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefore, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.
- D. Appeals from a determination by the Township Engineer or the Zoning Officer with reference to the administration of any flood plain or flood hazard ordinance or such provisions within a land use ordinance.
- E. Applications for variances from the terms of the zoning ordinance and flood hazard ordinance or such provisions within a land use ordinance, pursuant to Section 910.2, of the Municipalities Planning Code, Act 247, as amended.
- F. Applications for special exceptions under the zoning ordinance or flood hazard ordinance or such provisions within a land use ordinance, pursuant to Section 912.1, of the Municipalities Planning Code, Act 247.

- G. Appeals from the determination of any officer or agency charged with the administration of any transfer of development rights or performance density provisions of the zoning ordinance.
- H. Appeals from the Zoning Officer's determination under Section 916.2, Procedure to Obtain Preliminary Decision, of the Municipalities Planning Code, Act 247.
- I. Appeals from the determination of the Zoning Officer or Township Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving applications under Article V or VII of the Municipalities Planning Code, Act 247, as amended.

Section 2413. DUTIES OF THE ZONING HEARING BOARD.

The duly established Zoning Hearing Board shall have the following functions:

A. Variances

The Board shall hear requests for variances where it is alleged that the provisions of the Zoning Ordinance inflict unnecessary hardship upon the applicant. The Board shall by rule prescribe the form of application and require preliminary application to the Zoning Officer. The Board may grant a variance, provided 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 the Zoning Ordinance 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 the Zoning Ordinance 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 appellant
4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, or substantially or permanently impair the appropriate use or development of adjacent property, or be detrimental to the public welfare; and
5. That the variance, if authorized, will represent the minimum variance which will afford relief and represent the least possible modification of the regulation in issue.
6. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Zoning Ordinance and of the Municipalities Planning Code, Act 247, as amended.

B. Special Exceptions

Special exceptions may be granted or denied by the Zoning Hearing Board pursuant to expressed standards and criteria set forth in this ordinance. The Zoning Hearing Board

shall hear and decide requests for such special exceptions in accordance with such standards and criteria. In granting a special exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards, in addition to those expressed in this ordinance, as it may deem necessary to implement the purposes of Section 2303 and 2304 of this ordinance and of the Municipalities Planning Code, Act 247, as amended.

The Zoning Hearing Board shall employ the following procedure:

1. The Zoning Hearing Board's decision to grant a permit for special exception use shall be made only after public notice and hearing. Such permit shall apply specifically to the application and plans submitted and presented at said public hearing. Any subsequent amendments or additions shall be subject to the provisions of this Section 2413.B.
2. No permit shall be granted by the Zoning Hearing Board for any special exception use until said Board has first received and considered an advisory report thereon from the Planning Commission with respect to the location of such use in relation to the needs and growth pattern of the Township, and, where appropriate, with reference to the adequacy of the site area and the arrangement of buildings, driveways, parking areas, off street truck loading spaces and other pertinent features of the site plan. The Planning Commission shall have 30 days from the date of its receipt of the application within which to file its report thereon. In the event that said Commission shall fail to file its report within 30 days, such application shall be deemed to have been approved by said Planning Commission. The Planning Commission may have representation at the public hearing held by the Zoning Hearing Board on such application.
3. After receipt of the Planning Commission's report the Zoning Hearing Board shall hear the application in the same manner and under the same procedure as it is empowered by law and ordinance to hear cases and make exceptions to the provisions of this Ordinance. The Zoning Hearing Board may thereafter direct the Zoning Officer to issue a permit if, in its judgment, the request will not be detrimental to the health, safety and general welfare of the Township and meets the criteria of Section 2303 and if applicable 2304.
4. A special exception use for which a permit is granted by the Zoning Hearing Board pursuant to the provisions of this section shall constitute a conforming use.

C. Hearings

The Zoning Hearing Board shall conduct hearings and make decisions in accordance with Section 908 of the Pennsylvania Municipalities Planning Code, as amended.

1. Public Notice

Public notice shall be given and written notice shall be given to the applicant, the zoning officer, such other persons as the governing body shall designate by ordinance and to any person who has made timely request for the same. Written notices shall be given at such a time and in such a manner as shall be prescribed by ordinance or, in the absence of ordinance provisions, 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.

2. Zoning Hearing Fees

The Township Board of Commissioners may establish reasonable fees with respect to hearings before the Zoning Hearing Board. Fees for said hearings may include compensation for the secretary and members of the Zoning Hearing Board, notice and advertising costs and necessary overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other technical consultants or expert witness costs.

3. Timing of Hearings

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.

4. Hearing Decisions

The hearing 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 municipality, may, prior to the decision of the hearing, waive decision or findings by the board and accept the decision or findings of the hearing officer as final.

5. Parties Before the Zoning Hearing Board

The parties to the hearing shall be the municipality, 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 Zoning Hearing Board shall have the 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.

6. Issuance of Subpoenas

The chairman or acting chairman of the Zoning Hearing 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.

7. Representation by Counsel

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.

8. Rules of Evidence

Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

9. Stenographic Record of Hearings

The Zoning Hearing 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 Zoning Hearing Board. The cost of the original transcript shall be paid by the Zoning Hearing Board if the transcript is

ordered by the Zoning Hearing 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.

10. Communication with Parties

The Zoning Hearing Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representative 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.

11. Hearing Decisions

The Zoning Hearing 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 therefore. Conclusions based on any provisions of the Municipalities Planning Code, Act 247, as amended, or of any 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 the hearing officer, and there has been no stipulation that his decision or findings are final, the Zoning Hearing Board shall make his report and recommendation available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the Zoning Hearing Board prior to final decision or entry of findings, and the Zoning Hearing Board's decision shall be entered no later than 30 days after the report of the hearing officer.

Where the Zoning Hearing Board fails to render a decision within the period required by this subsection, or fails to hold the required hearing within 60 days 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 Zoning Hearing Board to meet or render a decision as hereinabove provided, the Zoning Hearing Board shall give public notice of said decision within 10 days from the last day it could have met to render a decision in the same manner as prescribed in this Section (2413.C. 11). If the Zoning Hearing Board shall fail to provide such notice, the applicant may do so. Nothing in this section shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

12. Decision Notification

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 no later than the day following its date. To all other persons who have filed their name and address with the Zoning Hearing Board not later than the last day of the hearing, the Zoning Hearing 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.

D. Time Limitations

1. No person shall be allowed to file any proceeding with the Zoning Hearing Board later than thirty (30) days after an application for development, preliminary or final, has been approved by the Township if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he failed to receive adequate notice of such approval. If such person has succeeded to his interest after such approval, adequate notice to his predecessor in interest shall be deemed adequate notice to him.
2. 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 Ordinance 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.
3. No issue of alleged defect in the process of enactment of any ordinance or map or any amendment thereto shall be raised in any proceeding filed with the Zoning Hearing Board later than thirty (30) days from the time such ordinance, map or amendment takes effect, unless the person raising such issues alleges and proves that he failed to receive adequate notice of the enactment or amendment. If such person has succeeded to his interest after the enactment of the ordinances, adequate notice to his predecessor in interest shall be deemed adequate notice to him.
4. All appeals from determinations adverse to the landowner shall be filed by the landowner within thirty (30) days after notice of the determination is issued.

Section 2414. STAY OF PROCEEDINGS.

- A. Upon filing of any appeal proceeding before the Zoning Hearing Board and during its pendency before the Zoning Hearing Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder, shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Zoning Hearing Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Hearing Board or by the court having jurisdiction of zoning appeals, on petition, after notice to the Zoning Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Zoning Hearing Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Zoning Hearing Board.
- B. The question whether or not such petition should be granted and the amount of the bond shall be within the sole discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the responding party to post a bond shall be interlocutory.
- C. If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond and the appellate court sustains the order of the court below to post a bond, the respondent to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals,

shall be liable for all reasonable costs, expenses, and attorney fees incurred by the petitioner.

Section 2415. PROCEDURE TO OBTAIN PRELIMINARY OPINION.

- A. In order not to unreasonably delay the time when a landowner may secure assurance that the ordinance or zoning map under which he proposes to build is free from challenge, and recognizing the procedure for preliminary approval of his development may be too cumbersome or may be unavailable, the land owner may advance the date from which time for any challenge to the ordinance or map will run under Section 2413.D by the following procedure:
1. The land owner may submit plans and other materials describing the proposed development or use to the Zoning Officer for a preliminary opinion as to their compliance with the Zoning Ordinance and Zoning Map. Such plans and other materials shall not be required to meet the standards prescribed for preliminary, tentative or final approval or for the issuance of a building permit so long as they provide reasonable notice of the proposed development or use and a sufficient basis for a preliminary opinion as to its compliance with the Ordinance.
 2. If the Zoning Officer's preliminary opinion is that the development or use complies with the Ordinance and/or Zoning Map, notice thereof shall be published once each week for two successive weeks in a newspaper of general circulation in the Township. Such notice shall include a general description of the proposed use or development and its location, by some readily identifiable directive, and the place and times where the plans and other materials may be examined by the public. The favorable preliminary approval under Section 2413D and in the time therein specified for commencing a proceeding with the Zoning Hearing Board shall run from the time when the second notice thereof has been published.

Section 2416. APPEALS AND APPLICATIONS.

- A. An appeal from the terms of this Ordinance or application for a special exception or variance from the terms of this ordinance, may be filed with the Zoning Officer, or his duly appointed representative, and shall state:
1. The name and address of the applicant;
 2. The name and address of the owner of the real estate to be affected by such appeal or application;
 3. A brief description and location of the real estate to be affected by such appeal or application;
 4. A statement of the present zoning classification of the real estate in question, the improvements thereon, and the present use thereof;
 5. A statement of the section of this ordinance under which the appeal is being filed;
 6. A reasonably accurate description of the present improvements, and the additions intended to be made under this application, indicating the size of such proposed improvements, material, and general construction thereof. In addition, there shall be attached a plot plan of the real estate to be affected, which plan shall indicate the location and size of the lot, the size of the improvements now existing and proposed to be erected thereon, and any other information required to be shown on plot plans accompanying applications for building permits;

7. The signature of the applicant and the owner; and the date the application was signed.

B. Zoning Appeal Fee

A filing fee, established by the Board of Commissioners by resolution, shall accompany the application. The application shall not be processed until the filing fee has been paid in full.

Section 2417. ZONING APPEALS TO COURT.

Nothing contained in this Article shall be construed to deny the appellant the right to appeal a Zoning Hearing Board decision to higher court authority. Any person, taxpayer, or Township aggrieved by any decision of the Zoning Hearing Board may within 30 days after such decision of the Zoning Hearing Board seek review by the Court of Common Pleas of such decision in the manner provided by the law of the Commonwealth of Pennsylvania and Article X-A of the Municipalities Planning Code, Act 247, as amended.

Section 2418. ZONING ORDINANCE AMENDMENTS.

- A. The Board of Commissioners shall have final authority to enact by ordinance, any zoning change application, amendment, supplement or repeal any of the regulations and provisions of this Ordinance and the East Pennsboro Township Zoning Map. Any amendment, supplement, change, or repeal may be initiated by the Planning Commission, or by petition to the Board of Commissioners by any interested party.

B. Public Hearing and Procedures for Zoning Amendments

Before hearing and enacting Zoning Ordinance and/or Zoning Map amendments, the Board of Commissioners shall conduct a public hearing to inform the general public of the nature of the amendment, and to obtain public comments. Such public hearing shall be conducted after public notice has been given. Public notice for a zoning amendment shall be provided as follows:

1. Notice shall be published once each week for 2 successive weeks in a newspaper of general circulation in the Township. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days, and the second publication shall not be less than 7 days from the date of the hearing.
2. Publication of the proposed amendment shall include either the full text thereof or the title and brief summary setting forth all the provisions in reasonable detail. If the full text is not included, the full text may be supplied to a newspaper of general circulation in the municipality at the time the public notice is published.
3. In Zoning Map amendments, the notice of public hearing shall also be conspicuously posted by the Township at points deemed sufficient by the Township along the perimeter of the tract to notify potentially interested citizens. The affected tract shall be posted at least 1 week prior to the date of the hearing.
4. For curative amendments, public notice shall also indicate that the validity of the Ordinance and/or map is in question, and shall give the place where and the times when a copy of the request including any plans, explanatory material or proposed amendments may be examined by the public.
5. 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

Board of Commissioners shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment. 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 the perimeter of the tract to notify potentially interested citizens. The affected tract shall be posted at least one week prior to the date of the public hearing.

C. Enactment Notice - Publication, Advertisement and Availability of Ordinances

1. In addition to the public notice requirements for a public hearing defined herein, the Board of Commissioners shall publish a reference to the time and place of the meeting at which passage of the zoning ordinance amendment will occur.
2. Proposed zoning ordinances and amendments shall not be enacted unless notice of proposed enactment is given in the manner set forth in this section, and shall include the time and place of the meeting at which passage will be considered, a reference to a place within the Township where copies of the proposed ordinance or amendment may be examined without charge or obtained for a charge not greater than the cost thereof. The Township Commissioners shall publish the proposed ordinance or amendment once in one newspaper of general circulation in the Township not more than sixty (60) days nor less than seven (7) days prior to passage. Publication of the proposed ordinance or amendment shall include either the full text thereof or the title and a brief summary, prepared by the Township Solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:
 - a. A copy thereof shall be supplied to a newspaper of general circulation in the Township at the time the public notice is published.
 - b. An attested copy of the proposed ordinance shall be filed in the Cumberland County Law Library or other county office designated by the County Commissioners, who may impose a fee no greater than that necessary to cover the actual costs of storing said ordinances.
3. In the event substantial amendments are made in the proposed ordinance or amendment, before voting on enactment, the governing body shall, at least ten days prior to enactment, re-advertise, in one newspaper of general circulation in the municipality, a brief summary setting forth all provisions in reasonable detail together with a summary of amendments.
4. Zoning ordinances and amendments may be incorporated into official ordinance books by reference with the same force and effects as if duly recorded therein.

D. Township Planning Commission Comments

1. When an amendment is proposed by parties other than the Planning Commission, the Board of Commissioners shall submit each amendment to the Planning Commission for comments. The amendment application shall be submitted at least 30 days prior to the public hearing on such amendment.
2. A report of the review by the Planning Commission, together with any recommendations, may be given to the Board of Commissioners within thirty (30) days from the date the amendments were received. The recommendation of the Township Planning Commission may include a specific statement as to whether the proposed action is consistent with the intent of the Ordinance and the Township's officially adopted Comprehensive Plan.

E. Cumberland County Planning Commission Comments

1. At least thirty (30) days prior to the hearing on the Ordinance amendment by the Township Commissioners, the Township shall submit the proposed ordinance or amendments to the Cumberland County Planning Commission for recommendations. Within thirty (30) days after enactment, a copy of the zoning amendment shall be forwarded to the Cumberland County Planning Commission. Amendment procedures shall be in compliance with Section 609 of the Pennsylvania Municipalities Planning Code, Act 247, as amended.

F. Amendments Initiated by the Board of Commissioners

When an amendment, supplement, change, or repeal is initiated by the Board of Commissioners, such amendment shall follow the procedure for a petition under Section 2418.

G. Amendments Initiated by the Planning Commission

When an amendment, supplement, change, or repeal is initiated by the Planning Commission, a proposal shall be presented to the Board of Commissioners, which shall then proceed with the amendment process in accordance with Section 2418.

H. Amendments Initiated by a Petition from an Interested Party

A petition for amendment, supplement, change, or repeal for a portion of this Ordinance shall include an accurate legal description and surveyed plan of any land to be rezoned and/or text amended, and a narrative describing all of the reasons supporting the petition to be considered. The petition shall also be signed by at least one record owner of the property in question whose signature shall be notarized attesting to the truth and correctness of all facts and information presented in the petition. A fee to be established by the Board of Commissioners shall be paid upon the filing of such petition for change and for the purpose of defraying the costs of the proceedings prescribed herein. The Board of Commissioners may require duplicate sets of petition materials.

I. Enactment

Within 30 days after enactment, a copy of the amendment to the zoning ordinance shall be forwarded to the Cumberland County Planning Commission.

J. Provisions for rezoning request

A request to change the zoning of a tract of land shall be made in writing by the owner of the land to the Board of Commissioners of East Pennsboro Township. The written request shall include the following information:

1. Name and address of land owner
2. Name and address of land owner's Attorney
3. Address and tax parcel number of tracts or parcel of land to be considered for rezoning.
4. Current zoning district
5. Requested zoning district

6. The existing use of the land and/or buildings
7. The proposed use of the land and/or buildings
8. Plot plan (attached to request) showing the following:
 - a. Property lines
 - b. Existing buildings
 - c. Proposed buildings
 - d. Building setback lines
 - e. Off-street parking areas and access to public street(s)
 - f. Existing use of properties abutting or opposite the subject property.
 - g. Current zoning of properties abutting or opposite the subject property
9. A narrative describing all of the reasons supporting the request to rezone.

The procedure for rezoning requests shall be in accordance with the requirements of the Pennsylvania Municipalities Planning Code, Act 247, Section 609, as amended.

Section 2419. PROCEDURE UPON CURATIVE AMENDMENTS.

The procedure upon curative amendments shall be in accordance with the requirements of the Pennsylvania Municipalities Planning Code, Act 247, as amended, Section 609.1 and Section 6024-18