

ARTICLE XXVIII. ZONING HEARING BOARD; ADMINISTRATIVE PROCEEDINGS

SECTION 2801. ESTABLISHMENT OF ZONING HEARING BOARD; MEMBERSHIP; TERMS; VACANCIES

There is hereby created a Zoning Hearing Board which shall, for the purpose of this ordinance, be referred to as the "Board." The membership of the Board shall consist of five (5) residents of the Township appointed by resolution of the Board of Commissioners. Members of the Board shall hold no other office in the Township. The terms of office of the Board members shall be five (5) years and shall be so fixed that the term of office of one (1) member of the Board shall expire each year. Appointments to fill vacancies shall be only for the unexpired portion of the term.

SECTION 2802. ORGANIZATION OF ZONING HEARING BOARD

The Board shall adopt such rules and regulations to govern its procedures as it may deem necessary. The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. Meetings of the Board shall be at the call of the Chairman and at such other times as the Board may determine. The Chairman or, in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board, but the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf, and the parties may waive further action by the Board. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact. The Board shall keep full public records of its business, which shall be the property of the Township, and shall submit a report of its activities to the Board of Commissioners once a year.

SECTION 2803. HEARINGS

The Board shall conduct hearings and make decisions in accordance with the following requirements:

1. Public notice shall be given and written notice shall be given to the applicant, the Zoning Officer, and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by rules of the Board. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing.
2. The hearing shall be held within sixty (60) days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time.
3. The hearings shall be conducted by the Board, or the Board may appoint any member as a hearing officer. The decision or, where no decision is called for, the findings shall be made by the Board; however, the appellant or the applicant, as the case may be, in addition to the Township, may, prior to the decision of the hearing, waive the decision or findings by the Board and accept the decision or findings of the hearing officer as final.

4. 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 Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.
5. The Chairman or Acting Chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
6. 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.
7. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
8. The Board or hearing officer, as the case may be, shall record the proceedings stenographically; however, stenographic recording of the proceedings may be waived by written consent of all parties, in which case the proceedings shall be taken by a mechanical recording device. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer or shall be paid by the person appealing from the decision of the Board if such appeal is made, and, in either event, the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof.
9. The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their Solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings with any party or his representative unless all parties are given an opportunity to be present.
10. The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before the Board or hearing officer. Each decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefore, when required by law. Conclusions based on any provisions of law 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 a hearing officer and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within forty (45) days, and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than thirty (30) days after the report of the hearing officer.

11. When the Board fails to render the decision within the period required by this section, or fails to hold the required hearing within sixty (60) days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as herein provided, the Board shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided in Section 2803.1. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.
12. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than five (5) days following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide, by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

SECTION 2804. JURISDICTION OF ZONING HEARING BOARD

The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

1. Substantive challenges to the validity of any land use ordinance, except those brought before the Board of Commissioners pursuant to Sections 609.1 and 916.1(a)(2) of the Pennsylvania Municipalities Planning Code (Act 247, as amended).
2. 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 thirty (30) days after the effective date of said ordinance.
3. 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.
4. Appeals from a determination by the Township Engineer or the Zoning Officer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance.
5. Applications for variances from the terms of this ordinance and flood hazard ordinance or such provisions within a land use ordinance.
6. Applications for special exceptions under this ordinance or floodplain or flood hazard ordinance or such provisions within a land use ordinance.
7. Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of this ordinance.
8. Appeals from the Zoning Officer's determination under Section 916.2 of Act 247, as

amended.

9. 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 stormwater management insofar as the same relate to development not involving applications of Articles V or VII of Act 247, as amended.
10. Nothing contained herein shall be construed to give the Zoning Hearing Board jurisdiction to hear appeals from the decisions of the Board of Commissioners.

SECTION 2805. VARIANCES; SPECIAL EXCEPTIONS

1. Variances.
 - A. The Board shall hear requests for variances where it is alleged that the provisions of this ordinance inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the Zoning Officer. The Board may grant a variance, provided that all of the following findings are made where relevant in a given case:
 - (1) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this 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 this 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, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
 - (5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
 - B. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this ordinance. In rendering its decision, the Zoning Hearing Board shall consider the following.
2. Special exceptions.
 - A. Where the Township Commissioners, in this ordinance, have stated special exceptions to be granted or denied by the Zoning Hearing Board pursuant to expressed standards and criteria, the Board shall hear and decide requests for such

special exceptions in accordance with such standards and criteria.

- B. The applicant shall have the burden of proving compliance with the following:
 - (1) The suitability of the property for the use desired.
 - (2) That the proposed use will not have a substantial adverse effect upon congestion of streets and highways or upon traffic levels of service or any hazards arising therefrom. The Board may require the applicant to submit a traffic study prepared by a qualified traffic engineer to satisfy this requirement.
 - (3) That the proposed use will not have a substantial adverse effect on the availability of parking in the immediate area.
 - (4) That the proposed use will not have a substantial adverse effect on existing or proposed public water, public sewer, public transportation, police and fire protection, public recreation, school facilities, and other public organizations and systems.
 - (5) That the proposed use will not have a substantial adverse effect on the health and safety of the citizens of the Township when such use may present a danger from fire, explosion, electrocution, pollution, asphyxiation, or other similar dangers.
 - (6) That the proposed use will not have a substantial adverse effect upon adjacent properties. Among any other effects on adjacent properties, proposed uses shall not injure or detract from the use or enjoyment or value of the adjacent properties.
 - (7) The compatibility of the proposed use with the appearance and general character of the immediate vicinity.
 - (8) The compatibility of the proposed use with the Township Comprehensive Plan.
 - (9) The proposed use shall be in the best interest of the Township and for the convenience of the community and shall not adversely affect the general welfare of the community.
- C. The Board shall impose such reasonable conditions as it deems necessary to effect the intent and purpose of this ordinance and to protect the health, safety, and welfare of the citizens of the Township, especially those citizens most directly affected by the proposed use. These conditions may include but are not limited to the following:
 - (1) Any promises or representations by the applicant with respect to its use or development of the property involved.
 - (2) Hours of operation.
 - (3) Special or additional screening or buffering, including that for solid waste storage areas.
 - (4) The design and location of buildings and other structures.

- (5) Restrictions on noise levels, lighting levels, odor, and other potentially noxious effects.
- (6) Restrictions on the distances of the proposed use from adjacent properties and between buildings and structures.
- (7) Restrictions on parking with respect to both number and location of vehicles or spaces.
- (8) Public safety.
- (9) Safeguarding of uses on adjacent properties.
- (10) Health and sanitation.
- (11) Hours for loading and unloading.
- (12) Traffic, street and highway improvements and controls.

SECTION 2806. PARTIES APPELLANT BEFORE BOARD

- 1. Appeals may be filed with the Board in writing by the landowner affected, any officer or agency of the Township, or any person aggrieved.
- 2. Requests for a variance and for special exception may be filed with the Board by any landowner or any tenant with the permission of such landowner.

SECTION 2807. TIME LIMITATIONS

- 1. No person shall be allowed to file any proceeding with the Board later than thirty (30) days after an application for development, preliminary or final, which is within the jurisdiction of the Board as set forth in Section 2804 hereof, has been approved by an appropriate Township officer, agency, or body if such proceeding is designed to secure reversal or to limit the approval in any manner, unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan or from an adverse decision by the Zoning Officer on a challenge to the validity of this ordinance or the map shall preclude an appeal from a final approval, except in the case where the final submission substantially deviates from the approved tentative approval.
- 2. All appeals from determinations adverse to the landowners shall be filed by the landowner within thirty (30) days after notice of the determination is issued.

SECTION 2808. EFFECT OF BOARD'S DECISION

- 1. If the variance or special exception is granted or the issuance of a permit is finally approved, or other action by the appellant is authorized, the necessary permit shall be secured and the authorized action begun within one (1) year after the date when the variance or special exception is finally approved or the other action by the appellant is authorized, and the building or alteration, as the case may be, shall be completed within two (2) years of said date. For good cause, the Board may, upon application in writing

stating the reasons therefore, extend either the one (1) year or two (2) year period.

2. Should the appellant or applicant fail to obtain the necessary permits within said one (1) year period or, having obtained the permit, should he fail to commence work thereunder within such one (1) year period, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn, or abandoned his appeal or his application, and all provisions, variances, and permits granted to him shall be deemed automatically rescinded by the Board.
3. Should the appellant or applicant commence construction or alteration within said one (1) year period but fail to complete such construction or alteration within said two (2) year period, the Board may, upon ten (10) days' notice in writing, rescind or revoke the granted variance or the issuance of the permit or permits or any other action authorized to the appellant or applicant, if the Board finds that no good cause appears for the failure to complete such construction or alteration within said two (2) year period and if the Board further finds that conditions have so altered or changed in the interval since the granting of the variance, permit, or action that revocation or recession of the action is justified.

SECTION 2809. STAY OF PROCEEDINGS

1. Upon filing of any proceeding and during its pendency before the 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 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 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 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 Board.
2. After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court.
3. The question whether or not such petition should be granted and the amount of the bond shall be within the sound 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.
4. 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 2810. JURISDICTION OF BOARD OF COMMISSIONERS

The Board of Commissioners shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

1. All applications for approvals of planned residential developments.
2. All applications for approval of subdivisions or land developments. Any provision in a subdivision and land development ordinance requiring that final action concerning subdivision and land development applications be taken by a planning agency rather than the Board of Commissioners shall vest exclusive jurisdiction in the planning agency in lieu of the Board of Commissioners for purposes of the provisions of this subsection.
3. Applications for conditional uses.
 - A. Where the Board of Commissioners has stated conditional uses to be granted or denied pursuant to expressed standards and criteria, the Board shall hold hearings on and decide requests for such conditional uses in accordance with such standards and criteria.
 - B. The applicant shall have the burden of proving compliance with the following:
 - (1) The suitability of the property for the use desired.
 - (2) That the proposed use will not have a substantial adverse effect upon congestion of streets and highways or upon traffic levels of service or any hazards arising therefrom. The Board may require the applicant to submit a traffic study prepared by a qualified traffic engineer to satisfy this requirement.
 - (3) That the proposed use will not have a substantial adverse effect on the availability of parking in the immediate area.
 - (4) That the proposed use will not have a substantial adverse effect on existing or proposed public water, public sewer, public transportation, police and fire protection, public recreation, school facilities, and other public organizations and systems.
 - (5) That the proposed use will not have a substantial adverse effect on the health and safety of the citizens of the Township when such use may present a danger from fire, explosion, electrocution, pollution, asphyxiation, or other similar dangers.
 - (6) That the proposed use will not have a substantial adverse effect upon adjacent properties. Among any other effects on adjacent properties, proposed uses shall not injure or detract from the use or enjoyment or value of the adjacent properties.

- (7) The compatibility of the proposed use with the appearance and general character of the immediate vicinity.
- (8) The compatibility of the proposed use with the Township Comprehensive Plan.
- (9) The proposed use shall be in the best interest of the Township and for the convenience of the community and shall not adversely affect the general welfare of the community.

C. The Board shall impose such reasonable conditions as it deems necessary to effect the intent and purpose of this ordinance and to protect the health, safety and welfare of the citizens of the Township, especially those citizens most directly affected by the proposed use. These conditions may include but are not limited to the following:

- (1) Any promise or representations by the applicant with respect to its use or development of the property involved.
- (2) Hours of operation.
- (3) Special or additional screening or buffering, including solid waste storage areas.
- (4) The design and location of buildings and other structures.
- (5) Restrictions on noise levels, lighting levels, odor, and other potentially noxious effects.
- (6) Restrictions on distances of the proposed use from adjacent properties and between buildings and other structures.
- (7) Restrictions on parking with respect to both number and location of vehicles or spaces.
- (8) Public safety.
- (9) Safeguarding of uses on adjacent properties.
- (10) Health and sanitation.
- (11) Hours for loading and unloading.
- (12) Traffic, street, and highway improvements and controls.

4. Applications for curative amendments to this ordinance.

5. All petitions for amendments to land use ordinances. Any action on such petitions shall be deemed legislative acts, provided that nothing contained in this subsection shall be deemed to enlarge or diminish existing law with reference to appeals to court.

6. Appeals from the determination of the Zoning Officer or the Township Engineer in the administration of any land use ordinance or provisions thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to application for land development. Where the applicable land use ordinance vests jurisdiction for final administration of subdivision and land development applications in the planning agency, all appeals from determinations under this subsection shall be to the

planning agency and all appeals from the decision of the planning agency shall be to court.

SECTION 2811. CHALLENGES TO VALIDITY OF ORDINANCE

1. A landowner who, on substantive grounds, desires to challenge the validity of this ordinance or the map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest shall submit the challenge either to the Zoning Hearing Board or to the Board of Commissioners, together with a request for a curative amendment.
2. Persons aggrieved by a use or development permitted on the land of another by this ordinance or the map, or any provision thereof, who desire to challenge its validity on substantive grounds shall first submit their challenge to the Zoning Hearing Board for a decision thereon.
3. The submissions referred to in Section 2811.1 and Section 2811.2 shall be governed by the following:
 - A. In challenges before the Zoning Hearing Board, the challenging party shall make a written request to the Board that it hold a hearing on its challenge. The request shall contain the reasons for the challenge. Where the landowner desires to challenge the validity of such ordinance and elects to proceed by curative amendment, his application to the Board of Commissioners shall contain, in addition to the requirements of the written request hereof, the plans and explanatory materials describing the use or development proposed by the landowner in lieu of the use or development permitted by the challenged ordinance or map. Such plans or other materials shall not be required to meet the standards prescribed for preliminary, tentative, or final approval or for the issuance of a permit, so long as they provide reasonable notice of the proposed use or development and a sufficient basis for evaluating the challenged ordinance or map in light thereof. Nothing herein contained shall preclude the landowner from first seeking a final approval before submitting his challenge.
 - B. If the submission is made by the landowner to the Board of Commissioners, the request also shall be accompanied by an amendment or amendments to this ordinance proposed by the landowner to cure the alleged defects therein.
 - C. If the submission is made to the Board of Commissioners, the Township Solicitor shall represent and advise it at the hearing or hearings.
 - D. The Board of Commissioners may retain an independent attorney to present the defense of the challenged ordinance or map on its behalf and to present witnesses on its behalf.
 - E. Based upon the testimony presented at the hearing or hearings, the Board of Commissioners or the Zoning Board, as the case may be, shall determine whether the challenged ordinance or map is defective, as alleged by the landowner. If a challenge heard by the Board of Commissioners is found to have merit, the Board of Commissioners shall proceed. If a challenge heard by a Zoning Hearing Board is found to have merit, the decision of the Zoning Hearing Board shall include

recommended amendments to the challenged ordinance which will cure the defects found. In reaching its decision, the Zoning Hearing Board shall consider the amendments, plans, and explanatory material submitted by the landowner and shall also consider the following:

- (1) The impact of the proposal upon roads, sewer facilities, water supplies, schools, and other public service facilities.
- (2) If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of this ordinance or map.
- (3) The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources and other natural features.
- (4) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources, and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development, and any adverse environmental impacts.
- (5) The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

F. The Board of Commissioners or the Zoning Hearing Board, as the case may be, shall render its decision within 45 days after the conclusion of the last hearing.

G. If the Board of Commissioners or the Zoning Board, as the case may be, fails to act on the landowner's request within the time limits, a denial of the request is deemed to have occurred on the 46th day after the close of the last hearing.

4. The Zoning Hearing Board or Board of Commissioners, as the case may be, shall commence its hearings within sixty (60) days after the request is filed, unless the landowner requests or consents to an extension of time.
5. Public notice of the hearing shall include notice that the validity of this ordinance 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.
6. The challenge shall be deemed denied when one of the following occurs:
 - A. The Zoning Hearing Board or Board of Commissioners, as the case may be, fails to commence the hearing within the time limits set forth.
 - B. The Board of Commissioners notifies the landowner that it will not adopt the curative amendment.
 - C. The Board of Commissioners adopts another curative amendment which is unacceptable to the landowner.

- D. The Zoning Hearing Board or Board of Commissioners, as the case may be, fails to act on the request forty (45) days after the close of the last hearing on the request, unless the time is extended by mutual consent by the landowner and municipality.
- 7. Where a curative amendment proposal is approved by the grant of a curative amendment application by the Board of Commissioners or a validity challenge is sustained by the Zoning Hearing Board or the court acts finally on appeal from denial of a curative amendment proposal or a validity challenge, and the proposal or challenge so approved requires a further application for subdivision or land development, the developer shall have two years from the date of such approval to file an application for preliminary or tentative approval. Within the two (2) year period, no subsequent change or amendment in the zoning, subdivision, or other governing ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge. Where the proposal appended to the curative amendment application or the validity challenge is approved but does not require further application under any subdivision or land development ordinance, the developer shall have one (1) year within which to file for a building permit. Within the one (1) year period, no subsequent change or amendment in the zoning, subdivision, or other governing ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge. During these protected periods, the court shall retain or assume jurisdiction for the purpose of awarding such supplemental relief as may be necessary.

SECTION 2812. PROCEDURE TO OBTAIN PRELIMINARY OPINION

In order not to delay unreasonably the time when a landowner may secure assurance that this ordinance or map under which he proposes to build is free from challenge, and recognizing that the procedure for preliminary approval of his development may be too cumbersome or may be unavailable, the landowner may advance the date from which time for any challenge to this ordinance or map will run by the following procedure:

- 1. The landowner may submit plans and other materials describing his proposed use or development to the Zoning Officer for a preliminary opinion as to their compliance with the applicable ordinances and maps. 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 use or development and a sufficient basis for a preliminary opinion as to its compliance.
- 2. If the Zoning Officer's preliminary opinion is that the use or development complies with this ordinance or map, notice thereof shall be published once each week for two (2) successive weeks in a newspaper of general circulation. 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 and the time therein specified for commencing a proceeding with the Board shall run from the time when the second notice thereof has been published.

SECTION 2813. APPEALS TO COURT

All appeals from all land use decisions rendered pursuant to any proceeding under this ordinance

shall be taken to the Court of Common Pleas of Lancaster County and shall be filed within thirty (30) days after entry of the decision or, in the case of a deemed decision, within thirty (30) days after the date upon which notice of said deemed decision is given.

SECTION 2814. AMENDMENTS

The Board of Commissioners may from time to time, after public notice and hearing as hereinafter prescribed, amend, supplement, change, or repeal this ordinance, including the Zoning Map. Any amendment, supplement, change, or repeal may be initiated by the Township Planning Commission, the Board of Commissioners, or by a petition to the Board of Commissioners. Such amendment, supplement, change, or repeal shall be submitted to the Township Planning Commission for its recommendations and shall be specifically found by the Board of Commissioners to be in accordance with the spirit and intent of the formally adopted portions of the Comprehensive Plan before final action shall be taken by the Board of Commissioners.

1. Amendments initiated by the Township Planning Commission. When an amendment, supplement, change, or repeal is initiated by the Township Planning Commission, the proposal shall be presented to the Board of Commissioners, who shall then proceed in the same manner as with a petition to the Board of Commissioners, which has already been reviewed by the Township Planning Commission.
2. Amendment initiated by the Board of Commissioners. When an amendment, supplement, change, or repeal is initiated by the Board of Commissioners, it shall submit the proposal to the Township Planning Commission for review and recommendations.
3. Procedure for petition. The petition for amendment, supplement, change, or repeal shall contain as fully as possible all the information requested by the Zoning Officer and shall 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 the 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.
4. Referral to Township and Lancaster County Planning Commissions.
 - A. After receipt of the petition by the Board of Commissioners, said petition shall be presented to the Township Planning Commission for review and recommendations at least thirty (30) days prior to the public hearing. A report of said review, together with any recommendations, shall be given to the Board of Commissioners in writing within thirty (30) days from the date of said referral. If the Township Planning Commission shall fail to file such a report within the time and manner specified, it shall be conclusively presumed that the Township Planning Commission has approved the proposed amendment, supplement, change, or repeal.
 - B. The proposed ordinance shall also be referred to the Lancaster County Planning Commission for recommendations in accordance with Section 609 of the Pennsylvania Municipalities Planning Code, Act 247, as amended.
5. Public hearing.

- A. The Board of Commissioners shall fix a time and place for a public hearing at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in one newspaper of general circulation in the Township once each week for two (2) successive weeks, not more than sixty (60) days and not less than seven (7) days prior to the date of said hearings.
- B. In addition, if the proposed amendment involves a Zoning Map change, notice of said public hearing shall be conspicuously posted by the Township at points deemed sufficient by the Township along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one (1) week prior to the date of the hearing.

6. Action by the Board of Commissioners.

- A. 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 governing body shall hold another public hearing, pursuant to public notice. Notice of the proposed amendment must also be published at least ten (10) days prior to enactment.
- B. Within thirty (30) days of enactment, a copy of the amendment shall be forwarded to the Lancaster County Planning Commission.

7. Authentication of Official Zoning Map. Whenever there has been a change in the boundary of a zoning district or a reclassification of the zoning district adopted in accordance with the above, the change on the Official Map shall be made and shall be duly certified by the Township Manager-Secretary and shall thereafter be refiled as part of the permanent records of the Township.