

ZONING

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Borough of Pottstown

APPENDIX A12 AMENDMENTS

SECTION A1200. Enactment of Zoning Ordinance Amendments.

Amendments may be prepared by or for the Planning Commission or by others. If an amendment to this Article is so substantial so as to warrant reenactment of the ordinance, as amended, still it shall be considered an amendment to the present ordinance and the procedures thereof shall be the same as those stipulated in the Pennsylvania Municipalities Planning Code and herein for the enactment of Zoning ordinance amendments.

1. Amendments Prepared by or for the Planning Commission.
 - A. In preparing an amendment proposed for this Article, the Planning Commission shall hold at least one public meeting pursuant to public notice and may hold additional public meetings upon such notice as it shall determine it to be advisable.
 - B. Upon completion of its work, the Planning Commission shall present to Borough Council the amendment proposed, together with recommendations and explanatory materials.
 - C. Before voting on the enactment of the amendment, Borough Council shall hold a public hearing thereon, pursuant to public notice and, if the amendment involves a zoning map change, shall give additional notice as stipulated in (D) immediately below.
 - D. If the amendment proposed involves a zoning map change, notice of said public hearing shall be posted conspicuously by the Borough at points deemed sufficient by the Borough along the perimeter of the tract or tracts affected, or, if the amendment involves wholesale map changes, shall post said notice conspicuously throughout the Borough as Borough Council deems necessary. Said notices shall be posted at least one week prior to the date of the hearing.
 - E. At least 30 days prior to the hearing by Borough Council, it shall submit the amendment to the Montgomery County Planning Commission for recommendations.
 - F. If, after any public hearing held upon an amendment, the amendment proposed is changed substantially, or is revised to include land previously not affected by it, Borough Council shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.

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- G. The vote by Borough Council on enactment, of the ordinance shall be within 90 days after the last public hearing.
 - H. Within 30 days after enactment, a copy of the amendment to this Article shall be forwarded to the Montgomery County Planning Commission.
2. Amendments Not Prepared by or for the Planning Commission. Amendments not prepared by the Planning Commission shall be subject to the provisions of subsection (1) immediately above with the following differences:
- A. The person preparing the amendment shall submit the same to Borough Council. In the event the amendment shall require the rezoning of land, the person shall submit an application fee which shall be set by Borough Council from time to time by resolution.
 - B. At least 30 days prior to the hearing on the amendment by Borough Council, it shall submit such amendment to both the Montgomery County and Pottstown Borough Planning Commissions for recommendations thereon.
 - C. Within the 30 day review period accorded, the Borough Planning Commission shall hold at least one public meeting pursuant to public notice.

SECTION A1201. Procedure for Landowner Curative Amendments.

- 1. A landowner who desires to challenge on substantive grounds the validity of this Article and map or any provision thereof, that prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to Borough Council with a written request that his challenge and proposed amendment be heard and decided as provided in Section A900.1. Borough Council shall commence a hearing thereon within 60 days of the request as provided in Section A900.1. The curative amendment and challenge shall be referred to the Borough Planning Commission as provided in Section A1200 and notice of the hearing thereon shall be given as provided in Section A1200 and in Section A900.1 and A904.
- 2. The hearing shall be conducted in accordance with Section A904 and A904.1, and all references therein to the Zoning Hearing Board shall, for purposes of this Section, be references to Borough Council. If Borough Council does not accept a landowner's curative amendment, brought in accordance with this subsection, and a court subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for the entire Article and map, but only for those provisions that relate specifically to the landowner's curative amendment and challenge.

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3. If Borough Council determines that a validity challenge has merit, it may accept a landowner's curative amendment, with or without revision, or may adopt an alternative amendment that will cure the challenged defects. Borough Council shall consider the curative amendments, plans, and explanatory material submitted by the landowner and shall consider also those concerns enumerated in Section A908.

SECTION A1202. Procedures for Municipal Curative Amendments.

If Borough Council determines this Article or portions thereof substantively invalid, it shall take the following steps:

1. Borough Council shall declare, by formal action, this Article or portions thereof substantively invalid and propose to prepare a curative amendment to overcome such invalidity. Within 30 days following such declaration and proposal, Borough Council shall:
 - A. By resolution, make specific findings setting forth the declared invalidity of this Article, which may include:
 1. References to specific uses that are either not permitted or not permitted in sufficient quantity;
 2. Reference to a class of use or uses that require revision; or
 3. Reference to the entire ordinance that requires revisions.
 - B. Begin to prepare and consider a curative amendment to the ordinance to correct the declared invalidity.
2. Within 180 days from the date of the declaration and proposal, Borough Council shall enact a curative amendment to validate, or reaffirm the validity of, this Article pursuant to the provisions required by Section A1200 to cure the declared invalidity of this Article.
3. Upon the initiation of the procedures, as set forth in (1) above, Borough Council shall not be required to entertain or consider any landowner's curative amendment filed under Section A1202 nor shall the Zoning Hearing Board be required to give a report requested under Section A900.1 or A908 subsequent to the declaration and proposal based upon the grounds identical or substantially similar to those specified in the resolution required in (1) above. Upon completion of the procedures set forth in (1) and (2) above, no rights to a cure pursuant to the provisions of Section A1202 and A908 shall, from the date of the declaration and proposal, accrue to any landowner on basis of the substantive invalidity of this unamended ordinance for which there has been a curative amendment pursuant to this Section.

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4. Borough Council, having utilized the procedures as set forth in (1) and (2) above may not again utilize said procedure for a 36 month period following the date of the enactment of a curative amendment, or reaffirmation of the validity of this Part, pursuant to (2); provided, however, if after the date of declaration and proposal there is a substantially new duty or obligation imposed upon the Borough by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, the Borough may utilize the provisions of this Section to prepare a curative amendment to this Part to fulfill said duty or obligation.

SECTION A1203. Publication, Advertisement and Availability of Ordinances.

1. 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 Borough where copies of the proposed ordinance or amendment may be examined without charge or obtained for a charge not greater than the cost thereof. Borough Council shall publish the proposed ordinance or amendment in one newspaper of general circulation in the Borough not more than 60 days nor less than seven 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 Borough 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 Borough at the time the public notice is published.
 - B. An attested copy of the proposed ordinance shall be filed in the Montgomery 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.
 - C. Zoning ordinances and amendments may be incorporated into official ordinances by reference with the same force and effect as if duly recorded therein.