

ARTICLE XI. ZONING HEARING BOARD AND OTHER ADMINISTRATIVE PROCEEDINGS

Section 1100 Establishment of Zoning Hearing Board

A Zoning Hearing Board is established in order that the objectives of this Ordinance may be more fully and equitably achieved and a means for competent interpretation of this Ordinance provided.

Section 1101 Membership, Terms of Office of Zoning Hearing Board.

- a. The Zoning Hearing Board shall consist of three (3) residents of the municipality appointed by resolution by the Governing Body. The terms of office shall be three (3) years and shall be so fixed that the term of office of one member shall expire each year. The Zoning Hearing Board shall promptly notify the Governing Body 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 municipality.
- b. Alternate Members. The Governing Body may appoint by resolution at least one (1) but not more than three (3) residents of the municipality to serve as alternate members of the Zoning Hearing Board, subject to the following provisions:
 - (1) The term of office of an alternate member shall be three (3) years.
 - (2) Alternate members shall hold no other office in the municipality.
 - (3) Any alternate member may participate in any proceeding or discussion of the Zoning Hearing Board but shall not be entitled to vote as a member of the Zoning Hearing Board nor receive any compensation (if such compensation exists) unless designated as a voting alternate member.
 - (4) If, by reason of absence or disqualification of a Zoning Hearing Board member, a quorum is not reached, the Chairman of the Zoning Hearing Board shall designate as many alternate members of the Zoning Hearing Board to sit on the Zoning Hearing Board as may be needed to provide a quorum. Any alternate member of the Zoning Hearing Board shall continue to serve on the Zoning Hearing Board in all proceedings involving the matter or case for which the alternate member was initially appointed until the Zoning Hearing Board has made a final determination of the matter or case. Designation of an alternate member shall be made on a case-by-case basis in rotation according to declining seniority among all alternates.

Section 1102 Removal of Member of Zoning Hearing Board

Any Zoning Hearing Board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the Governing Body, taken after 15 days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

Section 1103 Organization of Zoning Hearing Board

- a. Officers: The Zoning Hearing Board shall elect a chairman from its membership, and shall appoint a secretary. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

- b. Procedures: The Zoning Hearing Board may make, alter and rescind rules and forms for its procedures, consistent with ordinances of the municipality and laws of the Commonwealth.
- c. Meetings: Meetings shall be open to the public and shall be at the call of the Chairman and at such other times as the Zoning Hearing Board shall specify in its rules of procedure. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all members of the Zoning Hearing Board.
- d. Records and Decisions: The Zoning Hearing 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; and shall keep records of its examinations and other official actions, all of which shall be the property of the municipality and shall be a public record. The Zoning Hearing Board shall submit a report of its activities to the Governing Body as requested by the Governing Body.

Section 1104 Expenditures for Services of Zoning Hearing Board

- a. The Governing Body shall fix per-meeting compensation for the members of the Zoning Hearing Board according to a schedule adopted by resolution of the Governing Body upon enactment of this Ordinance or as such schedule may be amended from time to time. Such compensation shall not exceed the rate of compensation authorized to be paid to the members of the Governing Body.
- b. Alternate members may receive compensation for the performance of their duties when designated as voting alternate members pursuant to Section 1101.b of this Ordinance. Such compensation shall be in accordance with subsection a. hereof.

Section 1105 Jurisdiction of Zoning Hearing Board and Governing Body

- a. 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 Governing Body pursuant to Section 1111.a(2) of this Ordinance.
 - (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 therefor, 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 a municipal engineer or the zoning officer with reference to the administration of any flood plain provision.
 - (5) Applications for variances pursuant to Section 1106 of this Ordinance.
 - (6) Applications for special exceptions pursuant to Section 1107 of this Ordinance.

- (7) Appeals from the determination of the Zoning Officer or municipal 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 an application for a subdivision, land development or planned residential development.
- b. The Governing Body shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
- (1) All applications for approval of Planned Residential Developments under Article VII of this Ordinance.
 - (2) All applications for subdivisions and land developments pursuant to the Subdivision and Land Development Ordinance. Any provision in the Subdivision and Land Development Ordinance requiring that final action concerning subdivision and land development applications be taken by the Planning Commission rather than the Governing Body shall vest exclusive jurisdiction in the Planning Commission in lieu of the Governing Body for purposes of the provisions of this paragraph.
 - (3) Applications for conditional uses pursuant to Section 1108 of this Ordinance.
 - (4) Applications for curative amendments pursuant to Section 1111 of this Ordinance.
 - (5) All petitions for amendments to land use ordinances pursuant to Article XII of this Ordinance.
 - (6) Appeals from the determination of the zoning officer or the municipal engineer in the administration of any land use ordinance or provisions thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to an application for a subdivision, land development or planned residential development.

Section 1106 Zoning Hearing Board: Powers and Duties - Variances

- a. **Applicability.** Upon appeal from a determination by the Zoning Officer, the Zoning Hearing Board shall have the power to vary or adapt the strict application of any of the requirements of this Ordinance, where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of this Ordinance or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition on such piece of property, the strict application of any regulation enacted under this Ordinance would result in peculiar and exceptional and undue hardship upon the owner of such property, but in no other case.
- b. **Condition.** In general, the power to authorize a variance from the terms of this Ordinance shall be sparingly exercised and only under peculiar and exceptional circumstances.
- c. **Requirements and Standards.** No variance in the strict application of the provisions of this Ordinance shall be granted by the Zoning Hearing Board unless the Zoning Hearing Board finds that the requirements and standards are satisfied.

The applicant must prove that the variance will not be contrary to the public interest and that practical difficulty and unnecessary hardship will result if it is not

granted. In particular, the applicant shall establish and substantiate that the appeal for the variance is in conformance with the following requirements and standards listed below:

- (1) That the granting of the variance shall be in harmony with the general purpose and intent of this Ordinance, and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- (2) That the granting of the variance will not permit the establishment within a District of any use which is not permitted in that District.
- (3) There must be proof of unique circumstances. That there are special circumstances or conditions, fully described in the findings, applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or building and do not apply generally to land or buildings in the neighborhood, and that said circumstances or conditions are such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of such land or building.
- (4) There must be proof of unnecessary hardship. It is not sufficient proof of hardship to show that greater profit would result if the variance were granted. Furthermore, hardship complained of cannot be self-created; it cannot be claimed by one who purchases with or without knowledge of restrictions; it must result from the application of this Ordinance; it must be suffered directly by the property in question; and evidence of a variance granted under similar circumstances shall not be considered.
- (5) That the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Zoning Hearing Board is the minimum variance that will accomplish this purpose.

The Zoning Hearing Board may impose whatever conditions and safeguards it deems necessary to insure that any proposed development or use will secure substantially the objectives of this Ordinance.

- d. Administration. The Zoning Hearing Board shall conduct hearings and make decisions in accordance with the procedures and standards set forth in Section 1109.

Section 1107 Zoning Hearing Board: Powers and Duties - Special Exceptions

- a. Applicability. The Zoning Hearing Board shall have the power to approve special exceptions when this Ordinance specifically requires the obtaining of such approval and for no other use or purpose.
- b. Conditions and Standards. In granting a special exception, the Zoning Hearing Board shall make findings of fact consistent with the provisions of this Ordinance. The Zoning Hearing Board shall not approve a special exception except in conformance with the conditions and standards outlined in this Ordinance.
- c. General Requirements and Standards Applicable to All Special Exceptions. The Zoning Hearing Board shall grant a special exception only if it finds adequate evidence that any proposed development submitted will meet all of the following general requirements listed herein as well as any specific requirements and standards for the proposed use. The Zoning Hearing Board shall among other things require that any proposed use and location be:

- (1) In accordance with the Quakertown Area Comprehensive Plan and Section 105 of this Ordinance and consistent with the spirit, purposes, and the intent of this Ordinance;
- (2) In the best interests of the Municipality, the convenience of the community, the public welfare, and be a substantial improvement to the property in the immediate vicinity;
- (3) Suitable for the property in question, and designed, constructed, operated, and maintained so as to be in harmony with and appropriate in appearance to the existing or intended character of the general vicinity,
- (4) In conformance with all applicable requirements of this Ordinance and all municipal ordinances;
- (5) Suitable in terms of effects on highway traffic and safety with adequate access arrangements to protect streets from undue congestion and hazard; and
- (6) In accordance with sound standards of subdivision and land development practice where applicable.

The Zoning Hearing Board may impose whatever conditions and safeguards it deems necessary to insure that any proposed development or use will secure substantially the objectives of this Ordinance.

- d. Express Standards and Criteria Applicable to Specific Special Exceptions. In addition to the requirements specified in subsection c. above and the other requirements of this Ordinance, the applicant shall provide the additional information required below and any other information necessary for the Zoning Hearing Board to make its evaluation:

- (1) Use A7 Agricultural Retail
 - (a) the applicant will provide certification that all products sold are grown, produced or raised on the property and that all plants, produce and nursery stock were raised from seed or starter plants on the property;
 - (b) the hours of operation to determine if they are appropriate for the neighborhood;
 - (c) access shall have appropriate sight distance;
 - (d) evaluate the need for additional buffering improvements.
- (2) Use B3 Rooming or Boarding House
 - (a) ensure the number of sleeping rooms does not exceed the requirements of Section 404.B3.a.;
 - (b) evaluate the required off-street parking spaces under Section 404.B3.e.;
 - (c) evaluate the need for additional buffering improvements;
 - (d) evaluate the adequacy of sewer service or on-site septic and consistency with the municipal sewerage facilities plan.

(3) Use C6 Recreational Facility and C8 Private Club

- (a) specify the types of uses, activities, structures and accessory uses that will be located or take place on the property;
- (b) evaluate the adequacy of sewer service or on-site septic and consistency with the municipal sewerage facilities plan;
- (c) evaluate the need for additional buffering improvements;
- (d) evaluate measures to abate noise which would constitute a public nuisance;
- (e) evaluate measures to ensure the safety of participants, neighbors and the public;
- (f) for quasi-military operations, games, activities and training,
 - (i) ensure the requirements of Section 404.C6.f. shall be met;
 - (ii) evaluate the compliance with this Ordinance prior to approval of tournaments;
 - (iii) evaluate the rules of conduct;
 - (iv) evaluate the need for liability insurance;
 - (v) ensure the nuisance requirements of this Ordinance will be met;
 - (vi) prepare an agreement to hold harmless the Township and its agents and employees from any and all liability related to this use and activity.
- (g) for a rifle range, ensure the requirements of Section 404.C6.e. shall be met.

(4) Use C7 Golf Course

- (a) specify the types of uses, activities and accessory uses that will be located or take place on the property;
- (b) evaluate the adequacy of parking and access;
- (c) provide transportation impact, water, sewer and environmental impact statements, as specified in Section 1205;
- (d) indicate how parking areas will be screened from view of adjacent residential properties;
- (e) evaluate the need for additional buffering improvements;
- (f) evaluate the hours of operation and lighting improvements to determine if they are appropriate for the general area.

(5) Use C10 Day Care Center

- (a) specify the types of uses, activities, structures and accessory uses that will be located or take place on the property;
- (b) access shall be evaluated for proper sight distance;
- (c) evaluate the hours of operation to determine if they are appropriate for the neighborhood;
- (d) sufficient drop-off/pick-up area shall be provided;
- (e) evaluate the need for additional buffering.

(6) Use C17 Recreational Cabin/Cottage Development

- (a) a transportation impact statement shall be provided, as specified in Section 1205;
- (b) specify the types and location of accessory outdoor recreation uses and/or activities;
- (c) evaluate the need for additional buffering improvements;
- (d) ensure all requirements of Section 404.C17 will be met.

(7) Use E22 Multiple Commercial Use (Shopping Center) - Other Permitted Uses

Under Section 404.E22.e., determine if proposed uses, other than those specified in Section 404.E22.d., are of the same general character and specify reasonable restrictions for such uses.

(8) Use E28 Auction House

- (a) specify the types of goods to be sold at auction;
- (b) ensure that proper disposal of animal waste will be provided for animal auctions;
- (c) a transportation impact statement shall be provided, as specified in Section 1205;
- (d) evaluate the adequacy of parking improvements;
- (e) evaluate stormwater management improvements;
- (f) evaluate the hours of operating and lighting improvements to determine if they are appropriate for the general area;
- (g) evaluate the need for additional buffering improvements.

(9) Use F1 Utilities

- (a) specify the types of uses, activities, operations, structures and accessory uses that will be located or take place on the property;
- (b) evaluate the need for additional buffering improvements.

(10) Use F3 Terminal

Evaluate the compatibility of the proposed use with existing and potential conditions and uses in the Extraction District.

(11) Use F4 Airport or Heliport

- (a) evaluate proposed accessory uses for compatibility with the principal airport/heliport and the surrounding area;
- (b) if accessory office, commercial or industrial uses are proposed, a transportation impact statement shall be provided;
- (c) evaluate the impact on surrounding land uses;
- (d) evaluate the need for additional buffering improvements.

(12) Use G11 Fuel Storage and Distribution

- (a) specify the types of uses, activities, operations, structures and accessory uses that will be located or take place on the property;
- (b) designate the location of all buildings and their uses and all areas for the storage of fuels, materials and equipment;
- (c) access shall be evaluated for proper sight distance;
- (d) provide a plan for containing fuel spills and other emergencies;
- (e) evaluate the need for additional buffering improvements.

(13) Use G14 Extractive Operations, Mining

- (a) water, transportation impact and environmental impact statements shall be submitted, as specified in Section 1205;
- (b) ensure all requirements, studies, plans and improvements, as specified in Section 404.G14, will be satisfied;
- (c) evaluate the need for a bond to be posted for rehabilitation as noted in Section 404.G14.d.

(14) Use G15 Resource Recovery Facility and Use G16 Solid Waste Landfill

- (a) specify the types of uses, activities, operations, structures and accessory uses that will be located or take place on the property;

- (b) designate the proposed locations of all buildings and their uses and all areas for the storage of materials, refuse and equipment;
 - (c) provide transportation, water, sewage and environmental impact studies, as specified in Section 1205;
 - (d) ensure all requirements, studies, plans and improvements, as specified in Section 404.G15 or Section 404.G16 for the respective uses, will be satisfied.
- (15) Use H1a Accessory Professional Office, Use H1b Accessory Personal Service, Use H1g Accessory Repair Service and Other Home Occupations
 - (a) specify the type of service, office, repair service or other activity to be conducted on the premises;
 - (b) if employees are permitted, specify the number of employees, the number of nonresident employees and the number of nonfamily employees;
 - (c) indicate the areas of the property and structure to be used for the activity and for parking;
 - (d) evaluate the need for additional buffering improvements.
- (16) H7 Outside Storage and Display - Larger Area

Evaluate the impacts of an area greater than specified in Section 404.H7.b. and ensure the provisions of Section 404.H7.e. shall be met.
- (17) H8 Temporary Structure or Use - Time Extensions

If a longer time is requested than is specified in Section 404.H8.a., the following conditions will be addressed by the applicant:

 - (a) provide information on the permanent structure, building or use;
 - (b) ensure that, financially, the project can be completed;
 - (c) specify the time for completion of the permanent structure, building or use;
 - (d) specify the time for removal of the temporary structure, building or use;
 - (e) provide a written agreement that the temporary structure, building or use will be removed within thirty days of the expiration of the permit or the issuance of an occupancy permit for the permanent structure, building or use, whichever occurs first.
- (18) Use H10 Air Landing Field
 - (a) ensure all requirements of Section 404.H10 will be met;

- (b) evaluate the proposed times of operation and specify any limitations;
- (c) evaluate the need for additional buffering improvements in all areas including warm-up ramps and areas, parking areas, tie-down areas and hangers.

(19) Flood Plain Regulations

- (a) evaluate the expansion of an existing structure or use in flood plain areas and ensure the flood plain regulations, Section 507.h., will be met;
- (b) evaluate any development in flood plain areas to ensure the provisions of Section 507.i. will be met.

(20) Parking Performance Standards

- (a) evaluate a proposed reduction of off-street parking facilities under the provisions of Section 516.d;
- (b) evaluate proposed joint use of parking facilities or the establishment of common parking facilities under the provisions of Section 516.e.

(21) Off-Street Loading - Reduction of Facilities

Evaluate a proposed reduction of off-street loading facilities under the provisions of Section 519.h.

(22) Nonconforming Uses

- (a) evaluate a proposed extension of a nonconforming use under the provisions of Section 804;
- (b) evaluate a proposed change of a nonconforming use under the provisions of Section 808;
- (c) in the evaluation of an extension of a nonconforming use or a change of nonconforming use, the need for additional parking, buffering or access improvements shall be determined.

- e. Review by the Planning Commission. The Zoning Hearing Board shall request an advisory opinion from the Planning Commission on any application for a Special Exception; the Planning Commission is to submit a report of such advisory opinion prior to the date of the public hearing held by the Zoning Hearing Board on an application.
- f. Review by the QAPC. The Zoning Hearing Board shall request an advisory opinion from the Quakertown Area Planning Committee on any application for a Special Exception involving a development of more than five (5) acres as required in Section 1402.c.
- g. Administration. The Zoning Hearing Board shall conduct hearings and make decisions in accordance with the procedures and standards set forth in Section 1109.

Section 1108 Governing Body: Powers and Duties - Conditional Uses

- a. Applicability. The Governing Body shall have the power to approve conditional uses when this Ordinance specifically requires the obtaining of such approval and for no other use or purpose.
- b. Conditions and Standards. In granting a conditional use, the Governing Body shall make findings of fact consistent with the provisions of this Ordinance. The Governing Body shall not approve a conditional use except in conformance with the conditions and standards outlined in this Ordinance.
- c. General Requirement and Standards Applicable to All Conditional Uses. The Governing Body shall grant a conditional use only if it finds adequate evidence that any proposed development submitted will meet all of the following general requirements as well as any specific requirements and standards listed in subsection d for the proposed use and those contained in Articles IV and V. The Governing Body shall among other things require that any proposed use and location be:
 - (1) In accordance with the Quakertown Area Comprehensive Plan and Section 105 of this Ordinance and consistent with the spirit, purposes, and the intent of this Ordinance;
 - (2) In the best interests of the Municipality, the convenience of the community, the public welfare, and be a substantial improvement to the property in the immediate vicinity;
 - (3) Suitable for the property in question, and designed, constructed, operated, and maintained so as to be in harmony with and appropriate in appearance to the existing or intended character of the general vicinity;
 - (4) In conformance with all applicable requirements of this Ordinance and all municipal ordinances;
 - (5) Suitable in terms of effects on highway traffic and safety with adequate access arrangements to protect streets from undue congestion and hazard; and
 - (6) In accordance with sound standards of subdivision and land development practice where applicable.
- d. Specific Requirements and Standards. The Governing Body shall:
 - (1) Determine that the proposal provides for adequate access to public roads without creating hazardous conditions. In making this determination, the Governing Body may impose conditions requiring:
 - (a) access to be limited, or combined with that of adjoining properties;
 - (b) improvement of vertical or horizontal alignment adjoining the site or off-site if access to the site would be restricted or hazardous as a result of the alignment problem.
 - (c) widen or replace a bridge if said bridge restricts access to the site, or where the nature of the traffic generated by the proposed use would create a hazardous or restrictive situation.

- (2) Examine the use and its relationship to existing land uses to insure that the proposed use does not adversely alter the character of stable neighborhoods and to protect adjoining residents from uses which are objectionable. To this end, the Governing Body may impose conditions requiring:
 - (a) special buffer planting, buffer yards, or planted berms;
 - (b) planting or walls to screen intrusive uses such as parking lots, loading docks, mechanical plants, etc;
 - (c) control of location of intrusive uses so that they are sited in the least disruptive manner;
 - (d) special design of lighting and signs to avoid disrupting existing developments or conflicting with the vision of motorists, particularly near intersections;
 - (e) ensure that the requirements of Section 404 for the respective use shall be met.
- (3) The natural resources listed in Section 501 shall be mapped and presented to provide evidence that the performance standards in Section 504 can be met. Drawings and calculations shall be provided to illustrate and indicate the percentage of intrusion for each natural resource so that each standard in Section 504 may be evaluated.
- (4) Many conditional uses are so classified because of their potential for nuisance and negative impact on the community or neighboring properties. The following additional conditions shall apply to these uses:
 - (a) Use A1 General Farming - CC District
 - (1) for general farming in the CC District, ensure that the requirements of Section 404.A1 will be met;
 - (2) prepare an agreement that, if activities change, there will be additional submissions for conditional use review and approval.
 - (b) Use A3 Intensive Agriculture; A5 Riding Academy; A6 Commercial Kennel
 - (1) specify the types of activities or operations to be conducted on the property;
 - (2) designate the location of all buildings and their proposed uses, feed lots, pens, confinement areas, storage and processing areas;
 - (3) designate measures to be taken to prevent surface water and groundwater contamination from fertilizers, herbicides, pesticides and animal waste;
 - (4) for the raising or training of guard dogs or attack dogs, specify measures for animal control and the safety of the neighborhood.

- (c) Use A4 Forestry
 - (1) evaluate the Forest Management Plan under the provisions of Section 404.A.4.;
 - (2) determine the need for and the amount of a bond to be posted for reforestation and potential damages caused by the forestry operation.
- (d) Use A9 Farm Support Facility
 - (1) evaluate the hours of operation to determine if they are appropriate for the area;
 - (2) evaluate access for appropriate sight distance;
 - (3) evaluate the location of loading and unloading areas to determine if they are appropriate for the neighborhood.
- (e) Use B10 Life Care Facility

Ensure the provisions of Section 404.B10 will be met.
- (f) Use C3 Commercial School
 - (1) the type of school and instruction will be specified;
 - (2) the number of teachers, instructors, staff and students will be specified;
 - (3) evaluate the hours of operation;
 - (4) determine the adequacy of parking and access.
- (g) Use C11 Hospital; Use C12 Nursing Home
 - (1) describe and locate the principal use, all accessory uses, structures and activities to be conducted or located on the property;
 - (2) provide transportation, water and sewage facilities impact studies as specified in Section 1205;
 - (3) evaluate emergency access and parking.
- (h) Use C13 Halfway House
 - (1) describe the types of security measures and supervision that will be provided to protect nearby residents from disruptive behavior;
 - (2) describe the types of residents and their related problems who will reside in the facility.

(i) Use C15 Recreational Camping Park

- (1) provide a means to ensure that the lengths of occupants' stay do not exceed the requirements of Section 404.C15.b.;
- (2) provide a plan for emergency vehicles to have adequate access throughout the development;
- (3) provide transportation, water and sewage facilities impact statements as specified in Section 1205;
- (4) specify the types of uses, activities, structures and accessory uses that will be located or take place on the property.

(j) Use D1 Office; Use D2 Medical Office; Use D3 Office Park; Use E1 Retail Shop; Use E3 Service Business; Use E4 Financial Establishment; Use E5 Eating Place; Use E7 Repair Shop; Use E8 Funeral Home or Mortuary; Use E15 Veterinary Office or Clinic

- (1) specify the types of practice, goods for sale, service to be provided or items to be repaired and all structures and accessory uses to be located or to take place on the property;
- (2) if located in a village district or a residential district, evaluate access and its impact on adjacent properties and the road system;
- (3) if the proposed use would generate two hundred fifty (250) or more trips per day, a transportation impact study shall be submitted as specified in Section 1205;
- (4) evaluate the hours of operation to determine if they are appropriate for the area;
- (5) if a veterinary office is proposed, specify if animals will be boarded on the premises, what impacts could affect the area and what measures will be taken to abate animal noise.

(k) Use E6 Drive-Ins and Other Eating Places; Use E13 Tavern

- (1) evaluate the adequacy of parking/access and internal circulation;
- (2) evaluate the hours of operation and methods to abate impacts on surrounding properties;
- (3) if the proposed use would generate two hundred fifty (250) or more trips per day, a transportation impact study shall be submitted as specified in Section 1205.

(l) Use E12 Outdoor Entertainment

- (1) specify the types of uses, activities, structures and accessory uses that will be located or take place on the property;
- (2) evaluate the adequacy of sewer services or on-site septic and consistency with the municipal sewage facilities plan;
- (3) for quasi-military operations, games, activities and training,
 - a) ensure the requirements of Section 404.E12.c. will be met,
 - b) evaluate the compliance with the ordinance prior to approval of tournaments,
 - c) evaluate the rules of conduct,
 - d) evaluate the need for liability insurance,
 - e) prepare an agreement to hold harmless the Township and its agents and employees from any and all liability related to this use and activity,
 - f) ensure the nuisance requirements of this Ordinance will be met.

(m) Use E14 Lumber Yard

- (1) evaluate potential impacts on adjacent land uses;
- (2) evaluate access;
- (3) provide information on methods to abate nuisances as required by this Ordinance.

(n) Use E16 Service Station; Use E18 Automotive Sales; Use E19 Automotive Repair

- (1) provide assurances that vehicles will not be parked on the street;
- (2) evaluate access;
- (3) evaluate outdoor lighting improvements;
- (4) provide information on methods to abate nuisances as required by this Ordinance.

(o) Use E22 Multiple Use Commercial

- (1) evaluate access;

- (2) evaluate outdoor lighting improvements;
 - (3) provide transportation, water and sewage facilities impact statements as specified in Section 1205.
- (p) Use E23 Adult Commercial
 - (1) specify the types of uses and activities that will be located or take place on the property;
 - (2) evaluate the hours of operation to determine if they are appropriate for the area.
- (q) Use E24 Outdoor Motion Picture Establishment
 - (1) evaluate access;
 - (2) evaluate outdoor lighting improvements.
- (r) Use E25 Vehicular Track or Course
 - (1) demonstrate compliance with the noise standards of this Ordinance;
 - (2) evaluate access;
 - (3) evaluate outdoor lighting improvements.
- (s) Use E26 Flea Market
 - (1) evaluate the days and hours of operation to determine if they are appropriate for the area;
 - (2) evaluate parking improvements;
 - (3) evaluate access;
 - (4) evaluate the physical delineation of the outdoor sales area as required by Section 404.E26.h.;
 - (5) evaluate provisions for emergency vehicle access.
- (t) Use F2 Emergency Services
 - (1) specify the types of uses and activities that will be located or take place on the property;
 - (2) evaluate access;
 - (3) evaluate outdoor lighting improvements.
- (u) Use G2 Research

For research uses in the CC district, identify activities involving hazardous chemicals, gases or explosive products and provide

methods to ensure the safety of adjacent properties and the general area.

(v) Use G3 Wholesale Business, Wholesale Storage, Warehousing;
Use G4 Mini-Warehouse

- (1) specify the types of uses and activities that will be located or take place on the property;
- (2) identify activities involving hazardous chemicals, gases or explosive products and provide methods to ensure the safety of adjacent properties and the general area;
- (3) evaluate access;
- (4) evaluate outdoor lighting improvements;
- (5) the conversion of any such use to another use must comply with the use, area, dimensional and other requirements and standards of this Ordinance.

(w) Use G8 Crafts

- (1) specify the types of uses and activities that will be located or take place on the property;
- (2) specify area for the storage of materials, waste and parking to determine impacts on adjacent properties;
- (3) evaluate outdoor lighting improvements.

(x) Use G13 Junk Yard

- (1) specify the types of uses, activities and materials that will be located or take place on the property;
- (2) specify methods to contain petroleum, distillates and other liquids that may leak from vehicles and describe methods to protect surface water and groundwater resources;
- (3) evaluate outdoor lighting improvements;
- (4) provide an environmental impact statement as specified in Section 1205.

(y) Use H5 Dormitory

- (1) determine the adequacy of off-street parking improvements under Section 404.H5.d.;
- (2) specify types of uses, activities, recreation facilities and other accessory uses that will be located or take place on the property;

- (3) specify the types of supervision that will take place, if the Governing Body determines that supervision of the residents is warranted;
 - (4) evaluate access;
 - (5) evaluate outdoor lighting improvements;
 - (6) specify the types of security service that will be provided, if the Governing Body determines that security service for the residents is warranted.
- (z) Use H9 Temporary Community Event
 - (1) specify the type of event, uses, activities, facilities and accessory uses that will be located or take place on the property;
 - (2) specify the duration of the event;
 - (3) evaluate signs to advertise the event;
 - (4) evaluate the aspects specified in Section 404.H9.c.
- (aa) Reduction of Non-Residential Parking Requirements

Evaluate a proposed reduction of non-residential parking requirements under the provisions of Section 517.
- (bb) Village Expansion (Overlay) District

Evaluate a proposal to employ the village expansion overlay district provisions in compliance with the standards of this Ordinance, compatibility with the existing village character and street pattern and compliance with the design guidelines specified in Section 606.
- (cc) Arterial Corridor (Overlay) District

Evaluate a proposal to employ the arterial corridor overlay district provisions in compliance with the standards of this Ordinance and the provisions of Sections 610 through 615.
- (dd) Wetlands Delineation

Evaluate a wetlands delineation study under the provisions of Section 504.i.
- (5) VC-1 and VC-2 Districts - Those uses listed in the Table of Use Regulations as permitted by conditional use in the VC-1 and VC-2 Districts shall meet the following regulations:
 - (a) No building shall exceed a gross floor area of five thousand (5,000) square feet, except Uses B10 and C12.

- (b) The length of any building wall that fronts on a street shall not exceed 2.5 times the height of the building.
 - (c) The distance at the closest point between any two buildings or groups of attached buildings shall not be less than twenty (20) feet.
 - (d) If there is an existing building on the lot, every effort must be made to preserve the building. If any alterations of the building's facade or any expansion of the building is proposed, every attempt should be made to match the scale and building materials of the existing building.
 - (e) If new buildings are proposed, whether on vacant lots or sharing a lot with an existing building, every attempt should be made to provide a design that is compatible with the size, scale, general appearance, and building materials of surrounding buildings. In addition, new buildings should be oriented towards the village to provide continuity and to strengthen the village character.
- e. The Governing Body may impose whatever conditions and safeguards it deems necessary to insure that any proposed development or use will secure substantially the objectives of this Ordinance.
- f. Review by Planning Commission. The Governing Body shall request an advisory opinion from the Planning Commission on any application for a Conditional Use; the Planning Commission is to submit a report of such advisory opinion prior to the date of the public hearing held by the Governing Body on an application.
- g. The Governing Body shall request an advisory opinion from the Quakertown Area Planning Committee on any application for a Conditional Use involving a development of more than five (5) acres as required in Section 1402.c.
- h. Conditional use applications shall be governed by the following:
 - (1) The applicant shall make a written request to the Governing Body that it hold a hearing on his application. The request shall contain a statement reasonably informing the Governing Body of the matters that are in issue.
 - (2) The application shall be accompanied by plans and other material describing the use or development proposed. Such plans and other materials shall provide a sufficient basis for evaluating the applicant's request. Information required by this Ordinance shall accompany the application.
 - (3) The Governing Body shall hold a hearing pursuant to public notice upon the request, commencing not later than 60 days after the request is filed, unless the applicant requests or consents in writing to an extension of time. In addition, the Governing Body shall render a written decision within forty-five (45) days after the last hearing.
- i. Administration. The Governing Body shall conduct hearings and make decisions in accordance with the procedures and standards set forth in Section 1109.
- j. Fees. The applicant for any hearing on a conditional use request before the Governing Body shall at the time of making application, pay a fee in accordance with a fee schedule adopted by resolution of the Governing Body or as such

schedule may be amended from time to time. In addition, an escrow deposit may be required, as established by resolution of the Governing Body.

Section 1109 Hearings

Hearings pursuant to this Ordinance shall be held by the Zoning Hearing Board or the Governing Body, in matters relating to curative amendments or conditional uses, in accordance with the following requirements. The Zoning Hearing Board or the Governing Body are herein denominated as the Board.

- a. 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 time and in such manner as shall be prescribed by Ordinance or, in the absence of Ordinance provision, by rules of the Governing Body or the Zoning Hearing 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.
- b. The Governing Body may prescribe reasonable fees by resolution with respect to hearings. Fees for said hearings may include compensation for the secretary and members of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Board, expenses for engineering, architectural or other technical consultants or expert witness costs.
- c. 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.
- d. The hearings shall be conducted by the Board. The decision, or, where no decision is called for, the findings shall be made by the Board.
- e. 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.
- f. The Chairman or Acting Chairman of the Board 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.
- g. 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.
- h. Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
- i. The Board shall keep a stenographic record of the proceedings. 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 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.

j. The Board shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and where all parties have opportunity to participate. The Board shall not take notice of any communication, report, 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.

k. The Board shall render a written decision or, where no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before the Board. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefor. Conclusions based on the provisions of any Act of the Commonwealth, or any Ordinance, rule or regulation shall contain a reference to the provision relied upon and the reasons why the conclusion is deemed appropriate in light of the facts found.

Where the Board fails to render its decision within forty-five (45) days 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 above 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 subsection a of this section. 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.

l. 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 the day 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 1110 Parties Appellant Before the Zoning Hearing Board

Appeals under Section 1105.a(1), (2), (3), (4) and (7) of this Ordinance may be filed with the Zoning Hearing Board in writing by the landowner affected, any officer or agency of the municipality, or any person aggrieved. Requests for a variance under Section 1106 and for a special exception under Section 1107 of this Ordinance may be filed with the Zoning Hearing Board by any landowner or any tenant with the permission of such landowner.

Section 1111 Validity of Ordinance: Substantive Questions

a. A landowner who, on substantive grounds, desires to challenge the validity of an Ordinance or 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:

- (1) To the Zoning Hearing Board under Section 1105.a of this Ordinance; or
- (2) To the Governing Body under Section 1105.b(4) of this Ordinance, together with a request for a curative amendment.

- b. Persons aggrieved by a use or development permitted on the land of another by an Ordinance or map, or any provision thereof, who desires to challenge its validity on substantive grounds shall first submit their challenge to the Zoning Hearing Board for a decision thereon under Section 1105.a(1) of this Ordinance.
- c. The submissions referred to in subsections a and b above shall be governed by the following:
 - (1) In challenges before the Zoning Hearing Board, the challenging party shall make a written request to the Zoning Hearing 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 Governing Body 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 shall preclude the landowner from first seeking a final approval before submitting his challenge.
 - (2) If the submission is made by the landowner to the Governing Body under subsection a(2) hereof, the request also shall be accompanied by an amendment or amendments to the Ordinance proposed by the landowner to cure the alleged defects therein.
 - (3) If the submission is made to the Governing Body, the municipal solicitor shall represent and advise it at the hearing or hearings.
 - (4) The Governing Body may retain an independent attorney to present the defense of the challenged Ordinance or map on its behalf and to present their witnesses on its behalf.
 - (5) Based upon the testimony presented at the hearing or hearings, the Governing Body or the Zoning Hearing 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 Governing Body is found to have merit, the Governing Body may accept a landowner's curative amendment, with or without revision, or may adopt an alternative amendment which will cure the challenged defects. If a challenge heard by the 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 or the Governing Body, as the case may be, shall consider the amendments, plans and explanatory material submitted by the landowner and shall also consider:
 - (a) the impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;
 - (b) if the proposal is for a residential use, the impact of the proposal upon regional housing needs and 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 the Ordinance or map;

- (c) the suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features;
 - (d) the impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.
- (6) The Governing Body or the Zoning Hearing Board, as the case may be, shall render its decision within forty-five (45) days after the conclusion of the last hearing.
- (7) If the Governing body or the Zoning Hearing Board, as the case may be, fails to act on the landowner's request within the time limits referred to in subsection (6), a denial of the request is deemed to have occurred on the forty-sixth (46) day after the close of the last hearing.
- d. The Zoning Hearing Board or Governing Body, 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.
- e. Public notice of the hearing shall include notice that the validity of the 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.
- f. The challenge shall be deemed denied when:
 - (1) The Zoning Hearing Board or Governing Body, as the case may be, fails to commence the hearing within the time limits set forth in subsection d;
 - (2) The Governing Body notifies the landowner that it will not adopt the curative amendment;
 - (3) The Governing Body adopts another curative amendment which is unacceptable to the landowner; or
 - (4) The Zoning Hearing Board or Governing Body, as the case may be, fails to act on the request forty-five (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.
- g. Where, after the effective date of this Ordinance, a curative amendment proposal is approved by the grant of a curative amendment application by the Governing Body pursuant to Section 1105.b(4) of this Ordinance or a validity challenge is sustained by the Zoning Hearing Board pursuant to Section 1105.a(1) of this Ordinance 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 pursuant to the Subdivision and Land Development Ordinance or Article VII of this Ordinance. Within the two-year period, no subsequent change or amendment in the zoning, subdivision and land development 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-year within which to file for a building permit. Within the one year period, no subsequent change or amendment in the zoning, subdivision and land development 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.

- h. If a municipality does not accept a landowner's curative amendment 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 zoning ordinance and map, but only for those provisions which specifically relate to the landowner's curative amendment and challenge.

Section 1112 Court Appeals

All appeals from all land use decisions rendered pursuant to this Article shall be taken to the Court of Common Pleas of the judicial district wherein the land is located 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 notice of said deemed decision is given as set forth in Section 1109.k of this Ordinance.