

# 9 Cellular Communication Facilities

## 900 Compliance required

Anything else to the contrary in this chapter notwithstanding, no cellular antenna, communications equipment buildings or communications towers shall be erected, installed, constructed or used except in compliance with this article.

## 901 Permitted use by right

Notwithstanding anything contained in this chapter to the contrary, communications antennas mounted on an existing public utility transmission tower, building or other structure, communications towers and communications equipment buildings shall be permitted uses by right on any municipal-owned property.

## 902 Permitted uses by special exception

1. Communications antennas mounted on an existing public utility transmission tower, building or other structure shall be permitted by special exception in the CBD Central Business District, the BAM Baltimore Avenue Mixed Use District and the GB General Business District, provided that the applicant shall otherwise comply with this article and any building or structure which is proposed for mounting of a communications antenna shall otherwise comply with the bulk and setback requirements of the zoning district, subject to the applicable standards for communications antennas, communications towers and communications equipment buildings as special exceptions set forth in Section 903 of this chapter and the standards for special exception set forth in Section 1002 1. of this Ordinance:
2. Communications towers and communications equipment buildings shall be permitted by special exception in the GB General Business District, subject to the applicable standards for communications antennas, communications towers and communications equipment buildings as special exceptions set forth in Section 903 of this chapter and the standards for special exception set forth in Section 1002 1. of this Ordinance:
3. Communications antennas, if the communications antenna and any equipment accessory to the communications antenna is completely enclosed inside a steeple, dome, bell tower or other existing building feature, shall be permitted in any zoning district, subject to the applicable standards for communications antennas, communications towers and communications equipment buildings as special exceptions set forth in Section 903 of this chapter and the standards for special exception set forth in Section 1002 1. of this Ordinance:

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### 903 Standards for communications antennas, communications towers and communications equipment buildings as special exceptions

The Zoning Hearing Board may grant a special exception under this chapter only if the applicant has otherwise complied with all of the requirements of this chapter and after the Board finds that the request complies with the following applicable standards and criteria, as well as the standards for a special exception set forth in Section 1002 1. of this Ordinance:

1. Building-mounted communications antennas shall not be located on any single-family dwelling or two-unit multifamily dwelling.
2. Building-mounted communications antennas shall be permitted to exceed the height limitations of the applicable zoning district by no more than 15 feet. Omnidirectional or whip communications antennas shall not exceed 15 feet in height and seven inches in diameter.
3. Directional or panel communications antennas shall not exceed five feet in height and three feet in width.
4. Any applicant proposing communications antennas to be mounted on a building or other structure shall submit evidence from a Pennsylvania-registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the building or other structure, considering wind and other loads associated with the antenna location.
5. Any applicant proposing communications antennas to be mounted on a building or other structure shall submit detailed construction and elevation drawings indicating how the antennas will be mounted on the structure for review by the Codes Department of Lansdowne Borough for compliance with the Borough of Lansdowne's Building Code and other applicable law.
6. Any applicant proposing communications antennas to be mounted on a building or other structure shall submit evidence of agreements and/or easements necessary to provide access to the building or structure on which the antennas are to be mounted so that installation and maintenance of the antennas and communications equipment building can be accomplished.
7. Communications antennas shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
8. Communications antennas shall not cause radio frequency interference with other communications facilities located in the Borough of Lansdowne.

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9. A communications equipment building shall be subject to the setback requirements of the applicable zoning district for an accessory structure. A communications equipment building shall not exceed 15 feet in height.
10. The applicant shall demonstrate that it is licensed by the Federal Communications Commission to operate a communications tower, if applicable, and communications antennas.
11. The applicant shall demonstrate that the proposed communications tower and communications antennas proposed to be mounted thereon comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
12. Communications towers shall comply with all applicable Federal Aviation Administration and Commonwealth Bureau of Aviation regulations.
13. Any applicant proposing construction of a new communications tower shall demonstrate that a good faith effort has been made to obtain permission to mount the communications antennas on an existing building, structure or communications tower. A good faith effort shall require that all owners of potentially suitable buildings, structures or communications towers within a radius of 1/2 mile of the proposed communications tower site be contacted and that one or more of the following reasons for not selecting such structure apply:
  - (a) The proposed antennas and related equipment would exceed the structural capacity of the existing structure, and its reinforcement cannot be accomplished at a reasonable cost;
  - (b) The proposed antennas and related equipment would cause radio frequency interference with other existing equipment for that existing structure, and the interference cannot be prevented at a reasonable cost;
  - (c) Such existing structures do not have adequate location, space, access or height to accommodate the proposed equipment or to allow it to perform its intended function;
  - (d) Addition of the proposed antennas and related equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation; or
  - (e) A commercially reasonable agreement could not be reached with the owners of such structures.
14. A communications tower may be located on a lot occupied by other principal structures and may occupy a leased parcel within a lot meeting the minimum lot size requirements for the zoning district.

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15. The applicant shall demonstrate that the proposed height of the communications tower is the minimum height necessary to perform its function.
16. The foundation and base of any communications tower shall be set back from a property line (not lease line) a distance equal to the height of the tower.
17. The base of a communications tower shall be landscaped so as to screen the foundation and base and the communications equipment building from abutting properties.
18. The applicant shall submit certification from a Pennsylvania-registered professional engineer that a proposed communications tower will be designed and constructed in accordance with the current Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, published by the Electrical Industrial Association/Telecommunications Industry Association, and applicable requirements of the Borough of Lansdowne's building Code.
19. The applicant shall submit a copy of its current Federal Communications Commission license; the name, address and emergency telephone number for the operator of the communications tower; and a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the communications tower and communications antennas.
20. All guy wires associated with guyed communications towers shall be clearly marked so as to be visible at all times and shall be located within a fenced enclosure.
21. Notwithstanding any other regulations regarding fences in this Zoning Code, the site of a communications tower shall be secured by a stockade fence with a height of eight feet to limit accessibility by the general public.
22. No signs or lights shall be mounted on a communications tower, except as may be required by the Federal Communications Commission, Federal Aviation Administration or other governmental agency that has jurisdiction.
23. Communications towers shall be protected and maintained in accordance with the requirements of the Borough of Lansdowne's building Code and Property Maintenance Code.
24. If a communications tower remains unused for a period of 12 consecutive months, the owner or operator shall dismantle and remove the communications tower within six months of the expiration of such twelve-month period. The owner or operator of any communications tower shall post a bond with the Borough for the costs of removing such communications tower prior to construction of the communications tower.

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25. If a communications tower is to be located on a property that abuts any other property located within a residential district, the setback from the property line of such abutting residential district shall be 200% of the height of the communications tower, including the antenna.
26. A communications antenna and any equipment accessory to the communications antenna to be completely enclosed inside a steeple, dome, bell tower or other existing building feature shall be permitted only if:
  - (a) The communications antenna is not the primary use on the property;
  - (b) The existing building in which the communications antenna is proposed to be located is not used for residential purposes but rather is used for commercial, institutional, religious, school or other similar purposes;
  - (c) The lot on which such communications antenna is proposed to be located has an area of at least one acre; and
  - (d) The steeple, dome, bell tower or other existing building feature, together with the existing structure, shall not exceed 60 feet in height, notwithstanding any other height limitation applicable in the zoning district in which the facility is proposed to be located.

# 10 Nonconforming Uses, Structures and Lots

## 1000 Purpose

Within the districts established by this Ordinance or amendments thereto, there exist certain uses, structures and lots which were lawful before this Ordinance was enacted or amended but which do not conform to the provisions of this Ordinance or amendment thereto. These uses, structures or lots are referred to as nonconformities. The regulations governing existing nonconforming uses, structures and lots are set forth in this Article and are intended to provide a gradual remedy for the undesirable conditions resulting from such nonconformities. While such nonconformities are generally permitted to continue, these regulations are intended to restrict further investment in such nonconformities and to bring about their gradual reduction.

## 1001 Continuation

All structures, lots, uses of structures and uses of land that do not conform to the regulations of the district in which they are located after the effective date of this Ordinance or amendment thereto shall be regarded as nonconforming and may be continued so long as they remain otherwise lawful, including subsequent sales of property. Such uses must comply with all safety related and other applicable regulations.

## 1002 Enlargement

1. A nonconforming use or structure may be extended, enlarged or altered when so authorized as a special exception use, provided that the following conditions are met and a permit is obtained as per Article 5:
  - (a) It is clear that such enlargement or extension is not materially detrimental to the health, safety and welfare of the surrounding area.
  - (b) The proposed enlargement or extension only occurs on the tract where the nonconformity is currently located.
  - (c) The area devoted to the nonconforming use shall not be increased by more than twenty-five (25) percent. The nonconforming structure shall not be increased by more than twenty-five (25) percent of its cubic content.
  - (d) Any extension or enlargement of a building shall conform to the area, height and setback regulations of the district in which it is located. In determining cubic content, that portion of a stack or projection above the highest point of the principle building shall be excluded from the calculation.

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- (e) Not more than one (1) extension or enlargement to a nonconforming use or structure shall be granted.

### 1003 Change of Use

Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use. A nonconforming use may be changed to another equally restrictive or more restrictive nonconforming use, when so determined by the Zoning Hearing Board, subject to the following conditions:

1. The applicant shall show that the nonconforming use cannot be reasonably changed to a conforming use.
2. The applicant shall show that the proposed change will be no more objectionable in external effects than the existing nonconforming use or will be more appropriate than the existing nonconforming use with regard to:
  - (a) Traffic generation and congestion.
  - (b) Parking.
  - (c) Noise, smoke, dust, fumes, vapors, gases, heat, odor, glare or vibration.
  - (d) Outdoor storage.
  - (e) Sanitary sewage disposal.
3. A permit is obtained from the Borough.

### 1004 Enclosure

Where a nonconforming use is conducted entirely on unenclosed premises, no structure to house or enclose such use, whether or not such structure would otherwise conform to zoning regulations, shall be permitted to be erected on the premises.

### 1005 Abandonment

If a nonconforming use of a building or land is abandoned for six (6) consecutive months or more, whereby the owner discontinues the use, the subsequent use of such a building or land shall conform with the regulations of the district in which it is located, unless another nonconforming use is approved by the Borough Council. Such approved use shall be initiated within one hundred twenty (120) days after the approval of Council.

### 1006 Reconstruction

1. A nonconforming structure, a conforming structure devoted to a nonconforming use or a

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structure that has been legally condemned or destroyed by fire or other cause to less than seventy-five (75) percent of the current value of the structure may be reconstructed and used for the same nonconforming use provided that:

- (a) The reconstructed structure shall not exceed the height, area and volume of the building destroyed or condemned.
- (b) Reconstruction of the structure shall commence within twelve (12) months from the date the structure was destroyed or condemned, unless the Borough Council shall authorize a conditional use for an extension of this time limit. However an extension may be granted if delays related to permitting delay construction.

### 1007 Repairs and Maintenance

1. On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of six (6) consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, provided that the cubic content existing when it became nonconforming shall not be increased.
2. If a nonconforming structure becomes physically unsafe due to lack of repairs and maintenance and is declared by the Zoning Officer to be unsafe by reason of physical condition, it shall not thereafter be restored or repaired except to conform to the regulations of the district in which it is located.
3. Nothing in this Ordinance shall be construed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by the Zoning Officer.

### 1008 Displacement

No nonconforming use shall displace a conforming use.

### 1009 Nonconforming Lots

1. A lot held in single and separate ownership on the effective date of this Ordinance which does not contain the required minimum area or width may be used for the construction, alteration or reconstruction of a building or may be otherwise used if the construction, alteration, reconstruction or other use is in compliance with the use, yard and setback provisions of this Ordinance.
2. The owner of two or more adjacent lots may not sell or otherwise transfer ownership of either of the lots if it or the remaining lots is by itself nonconforming; provided, however, that the owner may sell or transfer a nonconforming lot to an adjacent landowner if the effect is to create only conforming lots.

### 1010 Reduction of Lot Area

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No lot area shall be so reduced that the area of the lot or the dimensions of the open space shall be smaller than herein prescribed.

### **1011 Nonconforming Signs**

Regulations for nonconforming signs are in Article 7 relating to signs.

### **1012 Registration of Nonconforming Uses**

Every five (5) years, the Zoning Officer may prepare, or cause to be prepared, a complete list of all nonconforming uses, structures, lots and signs in the Borough.

### **1013 Ownership**

Whenever a lot is sold to a new owner, a previously lawful nonconforming use shall be continued by the new owner.

### **1014 Violations**

A nonconforming structure altered or a nonconforming use created in violation of any previous provisions in this Article shall be regarded as continuing in such violation and shall not enjoy the privilege of legal continuance conferred by Section 1001 upon other nonconforming structures and uses.

# 11 Zoning Hearing Board

## 1100 Purpose

The purpose of this Article is to list and describe the powers, procedures, composition and standards for the Zoning Hearing Board, as required by the Pennsylvania Municipalities Planning Code, Act 247, as amended.

## 1101 Organization, Power and Duties of the Zoning Hearing Board

1. Appeals from any interpretation of the provisions of this chapter or challenges to its validity shall be heard by a Zoning Hearing Board appointed for this purpose by the Borough Council. Specifically, the Board shall be empowered to do the following, as provided for below:
  - (a) Hear and decide appeals from the decision of the Zoning Officer, subject to the provisions of the Municipalities Planning Code.
  - (b) Hear and decide requests for variances from the provisions of this chapter, subject to the provisions of the Municipalities Planning Code.
  - (c) Hear and decide requests for special exceptions to the provisions of this chapter, subject to the provisions of the Municipalities Planning Code.
  - (d) Hear and decide or make findings relative to challenges to the validity of this chapter or its map, subject to the provisions of the Municipalities Planning Code.
  - (e) Hear and decide or make findings relative to a unified appeal brought by an applicant who elects to challenge provisions of both this chapter and any other municipal ordinance as it relates to the same development plan or development. The Zoning Hearing Board shall not have the power to pass on the non-zoning matter but shall take evidence and make findings on all relevant issues of fact which shall become part of the record on appeal to the court.
2. Organization of the Zoning Hearing Board.
  - (a) The Zoning Hearing Board shall consist of three residents of Lansdowne, each appointed for a three-calendar-year term. The terms shall be arranged so that the term of one member shall expire each year.
  - (b) Members of the Zoning Hearing Board may hold no other office in the borough except that one member may also serve on the Planning Commission.
  - (c) The Zoning Hearing Board shall promptly notify the Borough Council whenever a

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vacancy occurs among its membership so that it may be promptly filled. The new appointment shall only be to fill the unexpired term of the member who has vacated his position.

- (d) The Zoning Hearing Board shall elect a Chair, Vice Chair and such other officers as it deems necessary from its own membership.
  - (e) A majority of the members shall constitute a quorum. A quorum shall be required to conduct hearings or to take any action; provided, however, that the Board may appoint one of its members to act as a hearing officer to hear a case and to render a decision or findings. The parties may agree to waive all rights to further action by the Zoning Hearing Board.
  - (f) The Zoning Hearing Board shall be bound by the regulations governing its conduct in this chapter, the Municipalities Planning Code and other applicable ordinances of the borough and laws of the commonwealth. It may make, alter and rescind rules of its own procedure which are not otherwise inconsistent with these ordinances and laws.
  - (g) The Zoning Hearing Board shall keep a permanent public record of its proceedings and shall report its activities to the Borough Council. Members may be compensated for their duties at a rate fixed by the Borough Council, but in no case shall that rate exceed the amount to which Council members are entitled.
  - (h) A member of the Zoning Hearing Board may be removed from the Board by the Borough Council for malfeasance, misfeasance or nonfeasance in office, or other just cause, subject to the following:
    - i. The member of the Zoning Hearing Board shall be given at least 15 days' notice of the charges to be brought and of the intent of the Council to vote on the question of removal.
    - ii. The member may request in writing that a hearing be held before the Council on the matter.
    - iii. Removal shall require a majority vote of the Borough Council.
3. Hearings shall be conducted within 60 days of the applicant's request for a hearing.
- (a) Hearings shall be conducted by the Board or by a member of the Board acting as a hearing officer as described above.
  - (b) The parties to the hearing shall be the borough, 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 may require that all persons wishing to be considered parties enter appearances in writing on forms provided by the Board for that purpose.

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- (c) The Chair, Acting Chair or hearing officer shall have the power to administer oaths and to issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
- (d) 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 relevant issues.
- (e) Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
- (f) The Board or hearing officer, as the case may be, shall keep a stenographic record of the proceedings. A transcript of the proceedings and copies of graphic or written material received in evidence shall be made available to any party at cost.
- (g) The Board or the hearing officer shall not:
  - i. Communicate, directly or indirectly, with any party or a representative of any party in connection with any issue involved except upon notice and opportunity for all parties to participate.
  - ii. Take notice of any communication, reports, staff memoranda or other materials unless the parties are afforded an opportunity to contest the material so noticed.
  - iii. Inspect the site or its surroundings after the commencement of hearings with any party or the representative of any party unless all parties are given an opportunity to be present.

### 4. Decisions

- (a) The Board or hearing officer, as the case may be, shall render a written decision or, where no decision is required, make written findings within 45 days after the last hearing.
- (b) Where the application is contested or denied, each decision shall be accompanied by findings of fact, conclusions based upon the findings of fact and the reasons for the action taken. References to provisions in this chapter or any other ordinance or law shall be given together with the reasons that the conclusion is deemed appropriate in light of the evidence presented.
- (c) If the hearing is conducted by a hearing officer and there is no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to all parties and the parties shall be entitled to make written representations thereon to the Board prior to the final decision or entry of findings and the Board's decision shall be entered no later than 45 days after the decision of the hearing officer.

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- (d) If the Board fails to conduct a hearing within 60 days of the date of application for a hearing or fails to render a decision within the period required, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing to an extension of time.
  - i. When a decision has been rendered in favor of the applicant because of a failure of the Board to meet or render a decision as herein provided, the borough shall give notice of the decision in the same manner as provided for in Subsection 1101-3 (a), above.
  - ii. Nothing herein shall prejudice the right of any party opposing the application to urge that such a decision is erroneous.
  - iii. 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. The Board shall also provide a brief notice of the decision or findings to all other persons who have filed their name with the Board for that purpose, together with the location of the place where the full decision may be examined.

### 1102 Standards for Action by the Zoning Hearing Board

- 1. Special exceptions. A special exception may be granted by the Zoning Hearing Board only in those instances where the potential for a special exception is specifically indicated by this chapter. A special exception may be granted only after the Board finds that the request complies with all applicable standards and criteria specified elsewhere in this chapter relating to special exception and in addition finds that the request is in accord with the general intent of the Zoning Ordinance, and;
  - (a) Is not harmful to the health, safety and general welfare of the neighborhood;
  - (b) Is 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 future character of the general vicinity;
  - (c) Is in conformity with all applicable requirements of this chapter without the need for additional variances;
  - (d) Does not create unreasonable traffic conditions or lead to undue congestion and not create street access that is inappropriate for the use intended;
  - (e) Is designed in such a manner as to be respectful of the natural environment and not cause avoidable environmental damage;
  - (f) Is suitable for the proposed location and does not place an undue burden upon public services, including police and fire protection, public water and sewers and public schools,

and;

(g) Is not based on financial hardship or conditions created by the applicant.

2. In granting a special exception the Board may attach any reasonable safeguards, conditions or restrictions which it may deem necessary to implement the purposes and conditions of this chapter.

### **1103 Duration and Effectiveness of Zoning Relief**

Any person obtaining a special exception or variance from the Zoning Hearing Board or by final, unappealable order of any court shall commence use or construction of the property for which such special exception or variance was obtained within one year following the date of the order of the Zoning Hearing Board or court, provided however, that the Zoning Officer may issue extension beyond the one year period if the Zoning Officer finds good cause therefor. If a landowner fails to comply with this timing requirement, the landowner shall not be permitted to use the premises or commence any construction or alterations in furtherance of such special exception or variance, and the Building Inspector may not issue a building permit in furtherance thereof, and it shall be necessary for the landowner to apply again to the Zoning Hearing Board for a special exception or variance the same as if no special exception or variance had been granted.

# 12 Administration and Enforcement

## 1200 Purpose

The purpose of this Article is to set forth procedures for the administration and enforcement of this Ordinance, in accordance with the Pennsylvania Municipalities Planning Code, Act 247, as amended.

## 1201 Enforcement by Zoning Officer

1. A Zoning Officer, who shall hold no elective office within the borough, shall be appointed by Council and may be removed at the will of Council. Council may designate an employee as the officer's deputy who shall exercise all the powers of the zoning officer during his absence or temporary disability.
2. The Zoning Officer shall administer this Ordinance in strict accordance with its literal terms and shall not interpret its provisions in any other way. In no case shall a permit be granted for construction, use, or change of use that does not conform to this Ordinance. The Zoning Officer is authorized to institute civil enforcement proceedings as a means of enforcement when acting within the scope of this Ordinance.
3. All appeals from decisions of the Zoning Officer shall be taken in the manner set forth in this Ordinance.

## 1202 Right of Entry

In the discharge of his duties, the Zoning Officer shall have the authority to enter, at any reasonable hour, any structure or land in the Borough to enforce the provisions of this Ordinance.

## 1203 Causes of Action

1. In case any building is proposed to be constructed or used in violation of this Ordinance, or if any land is proposed to be used in violation of this Ordinance, the appropriate action or private cause of action to prevent, restrain, correct, or abate such use may be taken by:
  - (a) Borough Council
  - (b) The Zoning Officer
  - (c) Any other official of the Borough designated by Borough Council
  - (d) Any aggrieved owner or tenant of real property who shows that his property or person will be affected substantially by the alleged violation.

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2. When any action is instituted by a landowner or tenant, notice of the action shall be given to Borough Council and the Zoning Officer at least 30 days prior to the time the action is begun by serving them a copy of the complaint. No action may be maintained until such notice has been given.

### 1202 Zoning Permits

1. Every person or corporation seeking to use land or a structure or to erect a structure in the Borough of Lansdowne shall submit an application for a zoning permit to the Zoning Officer on a form provided for that purpose, together with such plans, documents and fees as may be required.
2. No land or structure shall be used or structure erected unless a valid zoning permit has been issued.
3. A zoning permit shall be acted on within 90 days of submission except when the application involved a subdivision or land development, in which case the time limit for action on an application for a zoning permit shall be the same as that provided for plan review by the Municipalities Planning Code.
4. Any application for the use of land or a structure or the erection of a structure which does not strictly comply with the provisions of this chapter shall be denied. An appeal from the decision of the Zoning Officer may be taken to the Zoning Hearing Board if such appeal is taken within 30 days.
5. Zoning permits shall expire if either the use indicated or the erection of the proposed structure has not commenced within a period of 12 months from the date of the granting of the permit, provided, however that the Zoning Officer may issue extensions beyond the 12 months period for commencement of construction if the Zoning Officer finds good cause therefor.
  - (a) The permit shall remain valid so long as the use continues unchanged or the structure is completed as approved.
  - (b) The permit shall lapse if, subject to the provisions of Article 10, the use or structure has been changed in a manner which is not in accordance with the provisions of this chapter. The permit shall also expire if work on a structure which is not complete is stopped for a period of one year or longer.
6. Certificate of occupancy.
  - (a) Upon the completion of the erection or alteration of a structure or portion thereof, the holder of the zoning permit shall notify the Zoning Officer of this fact and apply for a post-construction inspection.
  - (b) The Zoning Officer shall inspect the structure to determine if it was constructed in

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accordance with plans submitted with the application for the zoning permit.

- (c) If the Zoning Officer determines that the structure or alteration thereto complies with the provisions of this chapter and all other relevant codes, the Officer shall within 30 days issue a certificate of occupancy.
- (d) It shall be unlawful to occupy or otherwise use any structure or alteration thereto until a certificate of occupancy has been issued.

### 1203 Fees and Finances

1. Reasonable fees may be levied for any activity required to administer this Ordinance. Where a fee is established, the activity shall not be executed or acted upon until the proper fee has been paid.
2. Fees shall be provided for by a separate fee schedule enacted by the Borough Council by resolution, from time to time.
3. The Borough Council may periodically review the fee schedule and amend it as appropriate at any public meeting without recourse to the public hearings and other procedures required to amend this Ordinance.
4. All fees paid in conjunction with the administration of this Ordinance shall be deposited to the borough's account for use in the general fund.
5. The Borough Council shall be authorized to appropriate from general funds such moneys as are necessary to finance the administration, amendment, enforcement and legal defense of this Ordinance.

### 1204 Enforcement Notice

1. If it appears that a violation of this chapter has occurred, the Borough Council or the Borough Zoning Officer, when authorized by the Council, may institute enforcement proceedings by sending a notice as herein provided.
2. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel and to any other person requested, in writing, by the owner of record.
3. The enforcement notice shall state at least the following:
  - (a) The name of the owner of record and any other person against whom the municipality intends to take action.
  - (b) The location of the property in violation.

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- (c) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this chapter.
- (d) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
- (e) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within 10 days of the date of the notice.
- (f) That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation with possible sanctions including but not limited to proceedings before the District Justice and judgment as set forth in Sections 617.1 and 617.2 of the Pennsylvania Municipalities Planning Code, or as that Code may be amended, copies of which sections shall be attached to the notices, and/or proceedings in the Court of Common Pleas to prevent, restrain, correct or abate such violation.

### 1205 Violations and Penalties

1. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the borough, pay a judgment of not more than \$1,000, plus all court costs, including reasonable attorney's fees incurred by the borough as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney's fees collected for the violation of this chapter shall be paid over to the borough.
2. The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
3. Nothing contained in this section shall be construed or interpreted to grant any person or entity other than the borough the right to commence any action for enforcement pursuant to this section.

# 13 Severability, Conflicts, Repealer

## 1300 Severability

1. This Ordinance, comprising various parts, sections, subsections, and clauses, are severable. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid, the Borough hereby declares that the remainder of this Ordinance shall not be affected.
2. If any such part is adjudged unconstitutional or invalid as applied to a particular property or structure, it is provided hereby that the application of such portion of this Ordinance to any other property, building, or structures shall not be affected.
3. Whenever any condition or limitation is included in an order authorizing any grading permit, zoning permit, certificate of occupancy, conditional use, or site plan approval, it shall be presumed conclusively that the authorizing officer or body considered such condition or limitation necessary:
  - (a) To carry out the spirit and purpose of this Ordinance, or
  - (b) The requirement of one of its provisions, and
  - (c) To protect the public health, safety, and welfare.
4. It shall further be presumed conclusively that the officer or body would not have granted the authorization to which the condition or limitation pertains, except in the belief that the condition or limitation was lawful.

## 1301 Conflict With Other Laws

Whenever any provisions set forth in this Ordinance are found to be in conflict with mandatory Commonwealth or Federal laws, such mandatory laws shall govern and this Ordinance shall be construed accordingly so that the conflict shall not affect the validity of this Ordinance.

## 1302 Conflicts between Main Ordinance and Appendix

In the case of any conflict between the main provisions of this ordinance and the appendix, the stricter sections shall control.

## 1303 Repealer

**Lansdowne Borough**

All Borough ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed, only to the extent of such inconsistency.

LANSDOWNE BOROUGH COUNCIL

By: \_\_\_\_\_  
Gene Wayne, Council President

APPROVED: This \_\_\_\_\_ day of \_\_\_\_\_, 2008

\_\_\_\_\_  
Jayne C. Young, Mayor

ATTEST:

\_\_\_\_\_  
Barbara A. Henry, Secretary