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*Washington Township, Fayette County  
Zoning Manual of Procedures  
December 2019*

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# TABLE OF CONTENTS

**INTRODUCTION ..... 1**

**PART 1 - HOW TO GET A ZONING PERMIT ..... 2**

**PART 2 – THE DECISION-MAKERS ..... 7**

**PART 3 – COMMONLY ASKED QUESTIONS ..... 9**

# INTRODUCTION

This manual is intended to provide an overview and assist in the day-to-day administration of Washington Township's zoning approvals process in a format that is more "user friendly" than the enacted zoning ordinance. **The information found within this manual is a supplement to the Township's zoning ordinance – it should not be used as a substitute for this document.** Please consult the appropriate ordinance provisions prior to and during application and review.

Residents, applicants, municipal officials, staff and other interested persons can use the procedures manual as a guide to the zoning process. It includes both general information about planning and regulatory concepts. It also includes application submittal information, required forms and other useful resource information for applicants.

Copies of the zoning ordinance and other ordinances regulating land use are on file and available for public inspection during regular business hours at the Township Office (1390 Fayette Avenue).

The manual includes information that may change periodically without advance notice. Users of the manual should contact the Township to ensure they have the most recent version of the manual.

If there is a conflict between this document and other municipal ordinances, the enacted ordinances shall prevail and control.

# PART 1 – HOW TO GET A ZONING PERMIT

## When am I required to get a zoning permit?

Zoning is usually the first step in the development approval process. Each land use activity must demonstrate that it conforms to the municipality's zoning laws - whether it's simply a change in land use, a brand new construction project or a rehabilitation project. Zoning regulations ensure that the land use, site layout and building form on every parcel in the municipality are compatible with the surrounding context. Generally, a project will need a zoning permit if it involves:

- New construction or additions
- Changes of a use or occupancy of a property
- Change in use or expansion of a nonconforming structure
- Accessory structures (detached garages, sheds, fences, swimming pools, etc.)
- Change in intensity of use, or extending or displacing the use of any building, structure and/or land.

## HOW TO USE THE ZONING ORDINANCE:

- 1) Review the zoning map to determine what zoning district the subject property is classified.
- 2) Determine if the proposed use is permitted in the district by reviewing the list of authorized uses in the zoning ordinance. The ordinance will note if the use is permitted by right, special exception or conditional use.
- 3) Review the lot area requirements to determine the permissible lot area, lot width, yard requirements, building height, and lot coverage related to the district and/or specific use.
- 4) Review any supplemental regulations and specific use regulations.
- 5) Review regulations for all uses, such as for landscaping, parking, and signs.

## How do I get a zoning permit?

There are four main paths to getting a zoning permit: by right, by conditional use, by special exception or by variance. Applicants should contact their municipality to obtain copies of the applications and fee schedule and consult with the Zoning Officer regarding your project to ensure that you are completing the proper forms and applications.

### 1) **By Right**

When a proposed use or development is listed in the zoning ordinance as permitted by right and it complies with all the zoning provisions applicable to the property (use, dimensions, parking, signs, etc.), the applicant can get a zoning permit “by right” from the Zoning Officer without any action by the Zoning Hearing Board or Supervisors.

### 2) **By Conditional Use**

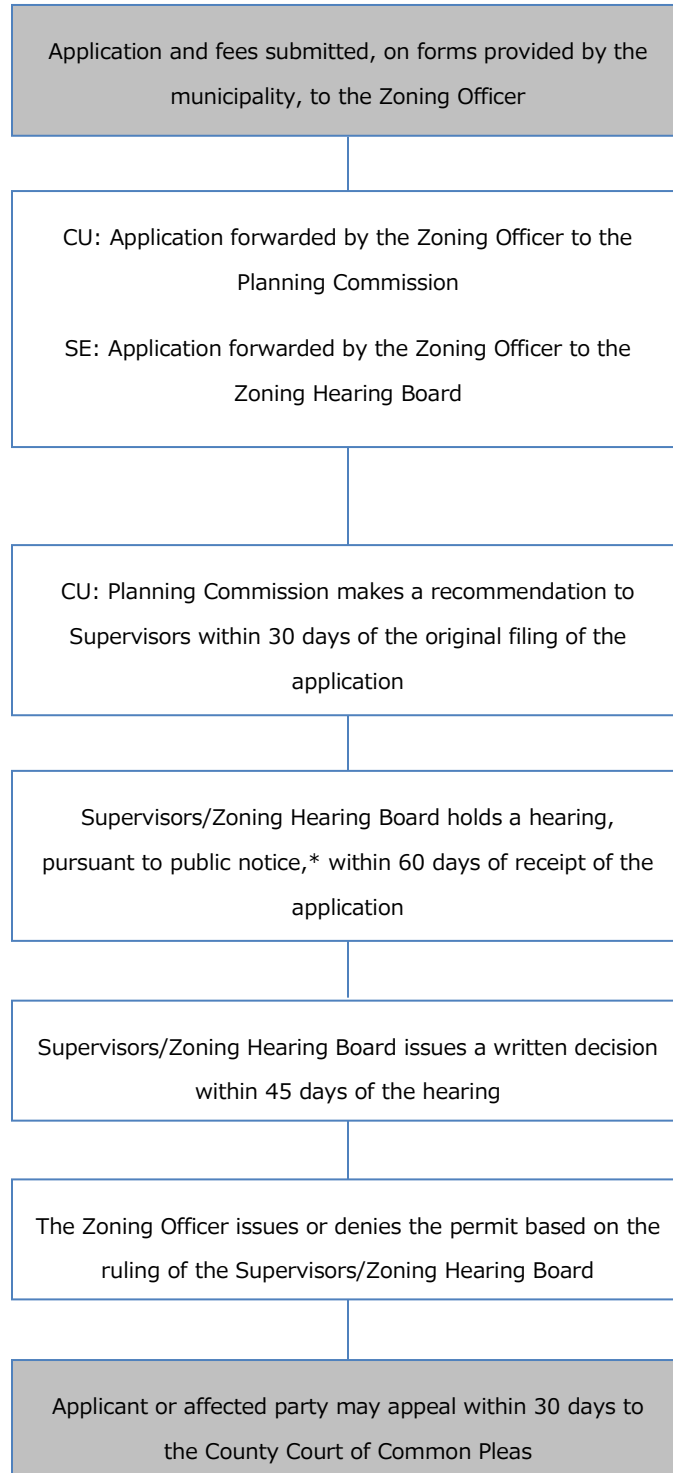
The Zoning Ordinance permits certain uses and development by conditional use, which is granted by the Supervisors if the project meets express standards and criteria in the ordinance and is compatible with the surrounding neighborhood. Uses permitted as a conditional use are noted in the use tables for each district of the Zoning Ordinance. See the process for a conditional use application on page 4.

### 3) **By Special Exception**

The Zoning Ordinance permits certain uses and development by special exception, which is granted by the Zoning Hearing Board if the project meets express standards and criteria in the ordinance and is compatible with the surrounding neighborhood. Uses permitted as a special exception are noted in the use tables for each district in the Zoning Ordinance. See the process for a special exception application on page 4.

## Process for Conditional Use (CU) and Special Exception (SE)

Note: Gray boxes are applicant responsibility



*\* Public Notice - notice published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than 7 days from the date of the hearing.*

#### **4) By Variance**

In some cases, special circumstances prevent projects from conforming to the Zoning Ordinance standards. In these instances, applicants must obtain a variance from the Zoning Hearing Board in order to deviate from the zoning standards. The Zoning Officer will review the application, then deny the zoning permit since the project proposal does not comply with the Zoning Ordinance. The applicant may then choose to either 1) alter the project to make it conform to the Zoning Ordinance, or 2) apply to the Zoning Hearing Board for a variance. The Zoning Hearing Board will hold a hearing and use the criteria in the Zoning Ordinance to verify that there are special circumstances at the property presenting an unnecessary hardship in complying with the Zoning Ordinance. If the applicant provides satisfactory evidence to prove hardship, the Zoning Hearing Board may grant a variance. The applicant will receive a "Notice of Decision" and must present it to the Zoning Officer to receive the zoning permit.

### **When should I apply for a zoning permit?**

If the proposed project involves a new building or structure or alterations to an existing building or structure, an application for a zoning permit must be made prior to application for a building permit.

If no construction is involved (i.e. a change of use), an application for a zoning permit and an occupancy permit (pursuant to the Pennsylvania Uniform Construction Code) may be made simultaneously at any time prior to the use or occupancy of the land, building or structure.

## **What if my application for a zoning permit is denied?**

Applicants may appeal any determination or action by the Zoning Officer and/or an interpretation of the terms of the Zoning Ordinance to the Zoning Hearing Board. All appeals shall be in writing on forms provided by the municipality and shall refer to the specific provision of the Zoning Ordinance involved and set for the interpretation that is claimed. The Zoning Hearing Board shall hold a hearing prior to making a decision. Finally, decisions of the Board may be appealed within thirty (30) days to the Court of Common Pleas.

## **How can the zoning map or text be revised?**

A request for a zoning map or text revision may be initiated by a variety of sources, including Township Supervisors, the Planning Commission, or a property owner. All amendments are submitted to the Township Planning Commission and Fayette County Planning Commission for review and comments. The municipality will hold a hearing, pursuant to public notice (no earlier than 45 days after the amendment has been submitted to the County Planning Commission for review) before voting on its adoption.



# PART 2 – THE DECISION-MAKERS

## The Zoning Officer

Washington Township is required to appoint a Zoning Officer to administer the Zoning Ordinance. The Zoning Officer(s) is responsible for receiving, reviewing and issuing permits for building and zoning purposes and certificates of occupancy, maintaining records of applications and permits, performing inspections to determine compliance with the ordinance, notifying persons violating the ordinance, keeping the zoning ordinance and map up-to-date, registration of nonconforming uses and accepting applications for and presenting facts at hearings before the Zoning Hearing Board.

The Zoning Officer must administer the ordinance by its literal terms. This person does not have any discretionary power and can neither waive nor tighten any requirement of the ordinance.

As per the Pennsylvania Municipalities Planning Code, the Zoning Officer cannot hold any elective office within the municipality and is required to meet qualifications established by the municipality and must be able to demonstrate a working knowledge of municipal zoning.

## The Zoning Hearing Board

Washington Township is required to appoint a Zoning Hearing Board. Zoning Hearing Board members cannot hold any elective or appointed office in the municipality nor be staff. The Zoning Hearing Board is responsible to help assure fair and equitable application and administration of the Zoning Ordinance; serve as a “local court” for zoning matters and hear applications concerning interpretations of the Zoning Ordinance and appeals of decisions by the Zoning Officer.

As stated in the MPC Section 909.1(a), the Zoning Hearing Board has jurisdiction in the following areas:

- Substantive challenges to the validity of any land use ordinance;
- Appeals from the determination of the zoning officer;
- Appeals from a determination by the municipal engineer or the zoning officer with regards to the administration of any floodplain or flood hazard regulations;

- Applications for variances;
- Applications for special exceptions;
- Appeals from determinations regarding the administration of transfers of development rights or performance density provisions;
- Appeals from the zoning officer's determination regarding preliminary opinions;
- Appeals from the municipal engineer's or zoning officer's determination in the administration of any land use ordinance regarding stormwater management and erosion and sediment control not involving subdivision, land development or planned residential development applications.

## The Planning Commission

Washington Township Planning Commission has the following responsibilities related to the Zoning Ordinance:

- Make recommendations to Supervisors on proposed amendments to the Zoning Ordinance.
- Review any proposed amendments to the Zoning Ordinance, including the Zoning Map.
- Any other activities related to planning or zoning as the Supervisors sees fit or as the Pennsylvania Municipalities Planning Code may require.

## Township Supervisors

The Supervisors are the legislative body in the Township that renders the following decisions:

- Approvals for conditional use applications.
- Hold public hearings.
- Appoint members to the Planning Commission and Zoning Hearing Board.
- Appoint the Zoning Officer.
- Enact all zoning amendments, map changes, etc.

## PART 3 – COMMONLY ASKED QUESTIONS

**Q - Where does the Township receive its authorization to regulate land development?**

A - In Pennsylvania, the power and responsibility to plan for land use and its regulation lies exclusively with local governments. The General Assembly delegated to local governments a portion of the “police power” with respect to planning and land use controls to protect the public health, safety, and general welfare. Responsibility for land use planning and regulating development is exercised through the authority granted to municipal officials in the Pennsylvania Municipalities Planning Code (MPC), Act of 1968, P.L. 805, No. 247 as reenacted and amended.

**Q - What is Zoning?**

A - A process used to promote the health, safety and general welfare of the municipality through the equitable regulation, protection, preservation and enhancement of land and land use activities. It is also one method of implementing the community’s comprehensive plan.

**Q - What is a Zoning Ordinance?**

A - A tool enacted by the elected officials to implement the adopted comprehensive plan that typically contains two components – the text and the zoning map. The zoning ordinance divides all land within a municipality into districts and creates regulations that apply generally to the municipality as a whole as well as specifically to individual districts. Each zoning district contains a list of permitted uses, special exceptions and conditional uses. Included for each zoning district are specific land use regulations related to the development of property such as permitted uses, yard setbacks, building heights and lot coverage specifications. Other zoning regulations govern such aspects as accessory uses, landscaping, signs and parking.

**Q – Who is responsible for administering and enforcing the Zoning Ordinance?**

A - The MPC requires that two separate entities – a Zoning Officer and a Zoning Hearing Board – be created for the purpose of administration and enforcement of the zoning ordinance.

**Q – What happens if a property owner violates the requirements of the zoning ordinance?**

A - Any person, partnership or corporation found in violation of the zoning ordinance shall pay a judgment of not more than \$500 plus all associated court costs upon being found liable in a civil proceeding. Each day that a violation continues after this determination may constitute a separate offense.

**Q – Are reviews and decisions made by the Planning Commission, Zoning Hearing Board, or Supervisors open to the public?**

A – Yes. All of these agencies are required to hold public meetings, which are forums held pursuant to public notice.

From time to time, a public hearing, which is a formal meeting held pursuant to public notice, may be held to inform and obtain public comment prior to taking action in accordance with the MPC.

**Q - How can I learn more?**

A – Contacting the Township is the easiest way to learn more about the applications, fees, procedures, codes and ordinances currently being used to administer and enforce land use requirements that may impact you.

The Commonwealth of Pennsylvania has a website – [www.newpa.com](http://www.newpa.com) – that provides a wealth of information from which you can access publications, such as the MPC and the Planning Series Workbooks.

**Q – How do I know what Zoning District I am in?**

A – If you call the Zoning Officer and give your address, he/she can tell you the name of your zoning district and generally what is permitted there. You can access a copy of the Zoning Ordinance on the Township’s website that contains a zoning map, or simply visit the Township Office to review the ordinance and zoning map. Within the Zoning Ordinance

there is a schedule of permitted uses and restrictions that goes with each type of zone that is depicted on the zoning map. Be careful, however, not to assume that this schedule has all of the answers to all of your zoning questions. Also, be sure to check your understanding with the Zoning Officer before you make any commitments to buy property or build upon it. Be aware there may be other sets of regulations that may apply to your property or project, especially if you plan to make changes.

**Q – When should I apply for a zoning permit?**

A – You should check with the Zoning Officer whenever you propose to: build or alter a structure; change the nature of the activity that is to take place on a given property (e.g., residential use to commercial use, or one kind of business activity to another); hold a temporary event, or anything else that could have some impact upon other properties. The Zoning Officer will tell you if you need to apply for a permit.

**Q – How do I apply for a zoning permit?**

A – A Zoning Permit application form can be obtained through the Zoning Officer.

**Q – How do I know if my proposal complies with the Zoning Ordinance?**

A – You can call the Zoning Officer for general information but you can get more accurate information if you submit drawings/plans first and/or make an appointment to discuss your plan in person. The Zoning Officer will give you the best guidance he/she can, but ultimately the responsibility to comply with the Zoning Ordinance rests with the property owner. Unfortunately, no set of regulations can foresee every kind of circumstances, and there is always the possibility of varying interpretation. Copies of the Township’s Zoning Ordinance are available for review on the Township’s website and at the Township Office.

**Q – If the Zoning Officer denies my permit, can he/she be overruled?**

A – Yes. You can file an appeal with the Township’s Zoning Hearing Board if you feel the Zoning Officer made an incorrect interpretation of the Zoning Ordinance, or if you feel the zoning regulation that caused the denial of your permit imposes a hardship in your particular circumstances.

**Q – Please explain what "grandfathering" and "non-conforming" means. How do these terms apply?**

A – If you have a property with a building or use on it that has been established for quite a while but does not conform to the current zoning regulations (perhaps in terms of its setback from the property line, or its height), or you have a business that is not expressly permitted for a given zone district -- and that building or business existed prior to the zoning regulation that otherwise prohibits it -- you may have a "non-conforming" building or business. It may therefore be "grandfathered" and allowed to continue, and to some extent may be expanded, transferred or sold. Please note that any changes to a non-conforming use must first be approved by the Zoning Hearing Board. In such a case you shall or must provide good, compelling evidence that proves when the non-conforming entity came into existence. This might include: business records, pictures, affidavits, etc.

**Q – Is my property in a flood plain?**

A – The Federal Emergency Management Agency (FEMA) Flood Map Service Center is the official online location to find all flood hazard mapping products created under the National Flood Insurance Program (NFIP), including your community's flood map, called a Flood Insurance Rate Map (FIRM). You can go online to FEMA's website - <https://msc.fema.gov/portal/search> - to view the FIRM for your location.

**Q – I'd like to do business out of my home. What do I need to know?**

A – It depends on the size and type of your business. It is recommended that you first speak with the Zoning Officer.

**Q – Does a homeowner need a permit for a shed?**

A – Yes, a residential storage building needs a zoning permit, regardless of size.

**Q – Must I obtain a permit for a sign?**

A – All signs must comply with all of the regulations contained within the zoning ordinance, irrespective of whether a permit is required. No sign, however, is ever permitted in the road right-of-way or in a clear-sight triangle unless proper permission is obtained from the Township.