

**PART 1**

**LEGAL AND GENERAL PROVISIONS**

**Section 101. Authority.**

This Chapter is enacted and ordained under the grant of powers contained in the Pennsylvania Municipalities Planning Code (MPC).

**Section 102. Title.**

This Chapter shall be known as and may be cited as the “Borough of Paxtang Zoning Ordinance”, “Paxtang Zoning Ordinance”, or “Zoning Ordinance”.

**Section 103. Purpose of Enactment.**

The purpose of this Chapter is to:

- A. Promote, protect, and facilitate one (1) or more of the following: the public health, safety, morals, or general welfare; the provision of adequate light and air; and other public requirements.
- B. Prevent one (1) or more of the following: overcrowding; blight; or loss of health, life or property from fire, flood, or other dangers.
- C. Establish a zoning map dividing Paxtang Borough into zoning districts with varying regulations.
- D. Permit, prohibit, regulate and determine the uses of land, watercourses, and other bodies of water; the size, height, bulk, location, erection, construction, repair, expansion, razing, removal, and use of buildings and structures, as well as yards and other open areas to be left unoccupied.
- E. Establish the requirements for density and intensity of uses.
- F. Promote innovative design to preserve and enhance the established and important sense of community, neighborhoods, and character areas.
- G. Provide diverse housing opportunities, including housing that is affordable.
- H. Encourage and accommodate appropriate and compatible adaptive reuse, replacement, infill development, and redevelopment.
- I. Serve as a tool that is part of an overall plan for the orderly, appropriate and compatible preservation, growth, and development in the Paxtang Borough, by incorporating the overall objectives and principles of, as well as seeking to implement the most recent version of the Paxtang Borough comprehensive plan, and/or other applicable plans adopted by Paxtang Borough.
- J. Affect any additional purposes provided for in Articles I, VI, VII-A, and elsewhere in the Pennsylvania Municipalities Planning Code (MPC).

**Section 104. Interpretation and Uses Otherwise Not Provided For.**

- A. Interpretation. In interpreting and applying this Chapter, its provisions shall be held to be the minimum requirements for promotion of health, safety, morals and general welfare of the Borough. Any use permitted subject to the regulations prescribed by the provisions of this Chapter shall conform with all

regulations of the zoning district(s) in which it is located and elsewhere in this Chapter, as well as with all other applicable regulations of this and other related chapters, ordinances, standards, and/or rules. This Chapter is not intended to interfere with, abrogate, annul, supersede, or cancel any easements, covenants, restrictions or reservations contained in deeds or other agreements, but if this Chapter imposes more stringent restrictions upon the use of buildings, structures, land (which also includes water bodies / courses) than are elsewhere established, the provisions of this Chapter shall prevail. Unless otherwise specified elsewhere in this Chapter, wherever and whenever the requirements of this Chapter are not consistent with the requirements of any other legally adopted laws, rules, regulations, chapters, or ordinances, the most restrictive, or that imposing the higher standards shall govern. In interpreting the language of this Chapter to determine the extent of the restriction upon the use of property, the language shall be interpreted, where doubt exists as to the intended meaning of the adopted language, in favor of the property owner and against any implied extension of the restriction.

- B. Uses Not Otherwise Provided For. Any use which clearly is not permitted by right, by special exception use, nor by conditional use by this Chapter within any zoning district, or a use which is not defined by this Chapter, then such use shall be prohibited, except that the Paxtang Borough Council may permit such use by conditional use if the applicant proves to the satisfaction of the Paxtang Borough Council that all of the terms and conditions set forth below are satisfactorily addressed:
1. The proposed use is in general conformity with the most recent version of the Paxtang Borough comprehensive plan, and/or other applicable plans adopted by Paxtang Borough, and in harmony with the zoning district, area, and neighborhood in which it is proposed.
  2. The proposed use is:
    - a. Similar to and compatible with the permitted uses in the zoning district in which the subject property is located;
    - b. Not permitted in any other zoning district under the terms of this Chapter; and
    - c. In no way conflicting with the general purposes and intent of this Chapter or the zoning district in which the subject property is located.
  3. The external impacts associated with the proposed use would be equal to or less intensive than external impacts associated with other uses that are permitted in the zoning district in which the subject property is located.
  4. The location of the proposed use would not endanger the public health and safety, and the use will not deteriorate the environment or generate nuisance conditions such as traffic congestion, noise, dust, smoke, glare or vibration.
  5. The proposed use shall comply with Borough building, health, housing, rental, safety, property and other applicable local, county, state, and federal code and licensing requirements. All such licenses, certificates, and permits shall have been obtained and presented to the Borough, or shall be a condition of approval.
  6. The proposed use would meet the standards that apply under Part 17 of this Chapter relating to *Conditional Uses*.
  7. The applicant shall provide:

- a. The information required in Part 12 of this Chapter relating to Hours of Operation and Management Plan. This information is required for both residential and non-residential uses.
- b. A detailed description of how the proposed use and development complies with items 1.- 6. in this subsection above.
- c. A plot / site plans required in Part 17 of this Chapter relating to *Applications for Zoning Permits*.
- d. A schematic architectural drawing of the principal building(s) front façade(s).

**Section 105. Applicability.**

- A. Within the Borough of Paxtang, Dauphin County, PA, no land, body of water, or structure shall hereafter be used or occupied and no structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all regulations and procedures specified for in the zoning district(s) in which such land, body of water, or structure is located, as well as with all other applicable provisions of this Chapter and other applicable chapters of the Codified Ordinances of the Borough of Paxtang.
- B. This Chapter shall not apply to an existing or proposed building or structure or extensions thereof, that is used or to be used by a public utility corporation, if upon petition of the corporation, the Pennsylvania Public Utility Commission (PUC) shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public. It shall be the responsibility of the PUC to ensure that both the corporation and the Borough have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties, and otherwise exercise the rights of a party to the proceedings. The exemptions and procedures shall be in accordance with the MPC.
- C. Notwithstanding the foregoing, the requirements of this Chapter shall not apply to municipal owned uses, land, facilities, or structures owned by the Borough, nor to uses, land, facilities or structures owned by a municipal authority created by the Borough or agent thereof that is authorized or created by the Borough or municipal authority to provide governmental or public health and safety services. Further, the requirements of this Chapter shall not apply to private uses permitted by the Borough, or its authorized municipal authorities or agents, to be conducted upon and or in structures owned and/or operated by the Borough, municipal authorities, or authorized agents. In any instance in which applicable zoning provisions would be affected by non-compliance if not for the exemption provided in this subsection, the Paxtang Borough Council shall take public comment on the specific zoning provisions and related issue(s) at an advertised public meeting of the Paxtang Borough Council. Notice of the public meeting shall be mailed by the Borough at least thirty (30) days prior to the date of the meeting by first (1<sup>st</sup>) class mail to the addresses to which real estate tax bills are sent for all real property located within two hundred (200) feet of the exempt tract, as evidenced by tax records within the possession of the Borough. The notice shall include the location, date, and time of the public meeting, and shall include the location of said exempt tract, a description of the proposed use / development of the exempt tract, and the specific zoning provisions for which strict compliance cannot be met by the proposed use / development of the exempt tract.

**Section 106. Municipality Liability.**

- A. The granting of a zoning permit for the erection or use of a structure, building, or lot shall not constitute a representation, guarantee or warranty of any kind or nature by the Borough, or an official or employee, thereof, of the safety of any structure, building, use, or other proposed plan from cause whatsoever, and

shall create no liability upon or a course of action against the Borough or such public official or employee for any damage that may be pursuant thereto.

**Section 107. Disclaimer.**

A. It is recognized that the:

1. Act of June 22, 1937 (P.L. 1987, No. 394) known as "The Clean Streams Law";
2. Act of May 31, 1945 (P.L. 1198, No 418) known as the "Surface Mining Conservation and Reclamation Act";
3. Act of April 27, 1966 (1<sup>st</sup> Special Session, P.L. 31, No. 1) known as "The Bituminous Mine Subsidence and Land Conservation Act";
4. Act of September 24, 1968 (P.L. 1040, No. 318) known as the "Coal Refuse Disposal Control Act";
5. Act of December 19, 1984 (P.L. 1093, No. 219) known as the "Noncoal Surface Mining Conservation and Reclamation Act";
6. Act of December 19, 1984 (P.L. 1140, No. 223) known as the "Oil and Gas Act";
7. Act of June 30, 1981 (P.L. 128, No. 43) known as the "Agricultural Area Security Law";
8. Act of June 10, 1982 (P.L. 454, No. 133) entitled "An act protecting agricultural operations from nuisance suits and ordinances under certain circumstances"; and
9. The Act of May 20, 1993 (P.L. 12, No 6) known as the "Nutrient Management Act";

preempt zoning ordinances. Therefore, suggestions, recommendations, options or directives contained in this Section are intended to be implemented only to the extent that they are consistent with and do not exceed the requirements of these Acts. Nothing contrary to these Acts shall be mandated by this Chapter.

**Section 108. Severability.**

A. It is hereby declared to be the legislative intent that if a court of competent jurisdiction declares any provisions of this Chapter to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Chapter shall continue to be separately and fully effective.

**Section 109. Repealer.**

A. The pre-existing Chapter or ordinance relating to zoning in the Borough of Paxtang, as amended, is hereby expressly repealed; provided, further that nothing in this Chapter shall be construed to affect any suit or proceeding pending in any court, or any rights acquired or liability incurred, or any permit issued or approval granted or any cause or causes of action arising prior to the enactment of this Chapter. All chapters and ordinances or parts of chapters and ordinances and all resolutions or parts of resolutions which are inconsistent herewith by virtue of references or incorporation of requirements contained in the pre-existing Chapter or ordinance relating to zoning in the Borough of Paxtang, as amended shall, as nearly as possible, be construed to reference this Chapter.

**Section 110. Effective Date.**

- A. This Chapter shall take effect on (date) day of (month), 2012 as enacted and ordained by the Paxtang Borough Council.