

ARTICLE XVII AMENDMENTS

Section 17.1 Procedure

The Borough Council may, from time to time, on their own motion or on petition, amend, supplement, change, modify, or repeal by ordinance, the boundaries of zoning districts, regulations or restrictions established by this ordinance or provisions contained herein. Any proposed amendment, supplement, change, modification, or repeal shall first be submitted to the Planning Commission for its recommendations and report. If the Planning Commission makes no report within ninety (90) days of submission, it shall be deemed to have made a report approving the proposed amendment, supplement, change, modification, or repeal. Upon the filing of the recommendations and report by the Planning Commission with respect to any proposed amendment, supplement, change, modification, or repeal, the Borough Council shall proceed to hold a public hearing in relation thereto pursuant to public notice. If, after any public hearing held upon an amendment, the proposed amendment is revised, or further revised, to include land previously not affected by it, the Borough Council shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment. In addition, if the proposed amendment or revision thereto involves a zoning map change, notice of said public hearing shall be conspicuously posted by the Borough of Sewickley Hills at points deemed sufficient by it along the tract, to notify potentially interested citizens. The affected tract or area shall be posted at least one (1) week prior to the date of the hearing.

Section 17.2 Mediation

Mediation may be used where both parties agree to be bound by the written findings and solution to the proceeding, which is subject to review by the Zoning Hearing Board as outlined in Article XV, Section 16.9 of this ordinance.

Section 17.3 Procedure for Landowner Curative Amendment

A landowner who desires to challenge on substantive grounds the validity of this ordinance, the Zoning Map attached and made a part hereof, or any provision hereof, which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the Borough Council with a written request that his challenge and proposed amendment or amendments be heard and decided in the manner prescribed by Act 247, the "Pennsylvania Municipalities Planning Code," Article VI and all amendments thereto and further defined as follows:

17.3.1 Procedure for filing for curative amendment:

- A. The landowner shall make a written request to the Borough Council that it hold a hearing on his challenge. The request shall contain a short statement reasonably informing the Borough Council of the matters that are in issue and the grounds for the challenge.
- B. Such request may be submitted at any time, but if an application for a permit or approval is denied under this ordinance, the request shall be made not later

than thirty (30) days after notification of such denial. In such case, if the landowner elects to make the request to the Borough Council and the request is timely, the time within which he may seek review of the denial of the permit or approval on other issues shall not begin until the request is finally disposed of.

- C. The request shall be accompanied by plans and other materials describing the use or development proposed by the landowner. Such plans and other material may be general in nature, but should provide a sufficient base for evaluating the challenge.
- D. If the Borough of Sewickley Hills does not accept a landowners curative amendment brought in accordance with this subsection and a court subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for the entire Zoning Ordinance and map, but only those provisions relating to the landowner's challenge.

17.3.2 Public Hearing:

- A. Upon petition, the Borough Council shall hold a hearing thereon within sixty (60) days of the filing of the request.
- B. At least thirty (30) days prior to the hearing, the Borough Council shall refer the proposed amendment to the Borough Planning Commission and Allegheny County Planning Commission for recommendation.
- C. The public notices of the hearing shall, in addition to the requirements for advertisement for any amendment, indicate that the validity of this ordinance or Zoning Map is in question and shall indicate the place and times when a copy of the landowner's request, including all plans submitted and the proposed amendment(s) may be examined by the public.
- D. The public hearing shall be conducted within the following guidelines:
 - (1) The President of the Borough Council presiding shall have the 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.
 - (2) The parties 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.
 - (3) Formal rules of evidence shall not apply but irrelevant, immaterial or unduly repetitious evidence may be excluded.
 - (4) The Borough Council shall keep a stenographic record of the proceedings and a transcript of the proceedings as well as copies of graphic or written material received in evidence shall be made available to any party at cost.
 - (5) The Borough Council shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate; shall

not take notice of any communication, reports, staff memoranda, or other materials 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 representatives unless all parties are given an opportunity to be present.

- E. The hearing may be postponed or continued at the request of the landowner or by mutual consent of the parties.

17.3.3 Procedure for rendering formal action: Upon completion of the hearing, the Borough Council shall render a decision and communicate said decision to all parties within thirty (30) days.

- A. Approval of the amendment shall be granted by formal affirmative vote at a regular or special meeting of the Borough Council.
- B. The landowner's request shall be considered denied when:
 - (1) The Borough Council notifies the landowner that it will not adopt the amendment.
 - (2) The Borough Council adopts another amendment which is unacceptable to the landowner.
 - (3) The Borough Council fails to act on the landowner's request within thirty (30) days of the close of the last hearing, unless the time is extended by mutual consent of the landowner and Borough Council.

Section 17.4 Procedure for Municipal Curative Amendment

If the Borough of Sewickley Hills determines that its Zoning Ordinance or any portion thereof is substantially invalid, it shall take the following action:

17.4.1 The Borough shall declare by formal action, its Zoning Ordinance or portions thereof substantively invalid and propose a curative amendment to overcome such invalidity. Within thirty (30) days of such declaration the Borough Council shall:

- A. By resolution make specific findings setting forth the invalidity which may include:
 - (1) References to specific uses which are not permitted or not permitted in sufficient quantity;
 - (2) Reference to a class of use or uses requiring revision;
 - (3) Reference to the entire ordinance which requires revisions.
- B. Begin to prepare and consider a curative amendment to correct the declared invalidity.

17.4.2 Within one hundred and eighty (180) days from the date of the declaration and proposal, the Borough of Sewickley Hills shall enact a curative amendment to validate or reaffirm the validity of its Zoning Ordinance pursuant to the provisions of Act 247, "Pennsylvania Municipalities Planning Code," Article VI and all amendments thereto.

17.4.3 Upon declaration of invalidity, the Borough Council shall not be required to consider a landowner's curative amendment not shall the Zoning Hearing Board be required to give a report subsequent to the declaration and proposal to remedy said invalidity. Upon completion of the procedures set forth in Sections 17.4.1 and 17.4.2, no rights to a cure pursuant to the provisions of Sections 17.4.3 of this Zoning Ordinance or Section 609.1 and 916.1 of the Pennsylvania Municipalities Planning Code shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of the unamended Zoning Ordinance for which there has been a curative amendment pursuant to this Section.

17.4.4 The Borough of Sewickley Hills having utilized the procedures as set forth in Article XVII may not again utilize said procedure for a thirty-six month period following the date of the enactment of a curative amendment, or reaffirmation of the validity of its Zoning Ordinance, pursuant to Section 17.4.2; provided, however, if after the date of declaration and proposal, there is a substantially new duty or obligation imposed upon the Borough of Sewickley Hills by virtue of a change in statute or by virtue of a Pennsylvania appellate court decision, to prepare a curative amendment to its Zoning Ordinance to fulfill said duty or obligation.

Section 17.5 Content of Public Notice

Public notices of proposed zoning ordinances and amendments shall include either the full text thereof, or a brief summary setting forth the principal provisions in reasonable detail, and a reference to a place within the Borough where copies of the proposed ordinance or amendment may be examined, in addition to the time and place of hearing.

Section 17.6 Copy to County Planning Commission

Following enactment of a zoning amendment or revision to the zoning map, a copy of said amendment shall be forwarded to the Allegheny County Planning Commission.