

DATE: July 2, 2020

RE: Draft Zoning Ordinance – Municipal Planning Law in PA Overview, Responses to Comments, & Similarities to the Existing Borough SALDO (Ordinance No. 152)

Planning Law in PA Overview:

General Planning Law information for the State of Pennsylvania can be found in the PA Municipalities Planning Code, also known as the MPC. The MPC gives power to municipalities to guide development according to a community's best interest and govern growth in a uniform and consistent way. The MPC gives municipalities the power to decide what land uses are acceptable in certain areas and to require that developments are constructed according to standards and regulations.

Within the MPC, there are specific requirements for comprehensive planning, subdivision and land development, zoning, etc. The purposes of a Zoning Ordinance, as stated in the MPC, are as follows:

- To promote, protect, and facilitate the public health, safety, morals, and welfare of the community;
- To encourage coordinated and practical community development and proper density of population;
- To provide for various residential housing types;
- To accommodate reasonable overall community growth;
- To preserve prime agricultural and farmlands;
- To prevent overcrowding of land, blight, danger, and congestion in travel and transportation.

The MPC states that if a municipality has zoning, no part of a municipality can be un-zoned. MPC also allows municipalities to define building and lot sizes and dimensions.

The PA MPC is available online via the following link:

<https://dced.pa.gov/download/pennsylvania-municipalities-planning-code-act-247-of-1968/?wpdmdl=56205&ind=1560959920736>

Responses to Comments/Questions:

1. Just thought of a good reason to be concerned about the zoning proposal. My guess is that if it is adopted before the new County tax assessment, general conditions change and property taxes will probably go higher than they would without zoning.

Answer: Generally, the zoning district in which a property is located does not affect the way the property is taxed or the amount of taxes to be paid. Taxes are usually based on the current use of a property and the condition of that property. The creation of the Zoning Ordinance for the Borough is a completely separate process from and is not tied to nor a part of the Countywide tax reassessment process. For more information on the Countywide tax reassessment, please contact the Assessment / Tax Claim office at 724-770-4480.

And, typically, police departments do not want to deal with zoning code or building code issues. The municipal Zoning Officer could be a part-time employee that works a limited number of hours per week or it could be the Borough Secretary that serves that role, or it could even be a third-party agency or firm that is under contract with the municipality to provide such services. There are multiple ways to approach appointing a Zoning Officer.

13. So what I'm understanding and that if I'm in a certain area and I want to expand my house I'm not gonna be able to put a second level on it because it's a maximum height of 35 foot and if someone has less than an acre they have to tie in the sewer.

Answer: Typically, a two story house is somewhere between 18-25 feet tall. So, if someone lives in a ranch style home and wants to add another story, the 35 foot height limitation should provide enough room to allow the another story to be built. Setting the maximum height at 35 feet is pretty common for residential districts.

In regard to having to connect to sewer, if public sewer is nearby and available, the intent would be for folks to connect to the system.

14. R-1 can have fenced pastures, barns, silos and such I'm hoping. I'll have to read this. A lot to read.

Answer: Accessory agricultural buildings and accessory agricultural operations are permitted in both the A-R and R-1 districts as proposed. Accessory agricultural operations are subject to the supplemental regulations listed in Section 503.

15. I did not see any "grandfathering" mentioned within the ordinance. If there is no grandfather clause we will be forced to work within the confines of the new zoning.

Answer: Grandfathering refers to uses that are existing and will not be compliant with provisions of the new ordinance. This is also considered non-conforming and there can be non-conforming uses, buildings, and structures. There is significant language regarding non-conforming uses in Article X.

16. Sounds as if the zoning will be automatically considering a legitimate repair business a junk yard if and when the autos are not picked up according to someone's random time period. Maybe we should start charging doctors for keeping new borns in hospitals if mother isn't able to pick up baby on a random time schedule. Just doesn't make much sense.

Answer: An automobile repair and service facility would not be considered a junk yard or salvage yard. However, there are standards included in the draft ordinance for which auto repair establishments must be maintained and where cars that are to be serviced are stored as they await to be repaired or picked up. These conditions are outlined in Section 408 and are applicable to the A-R District only, where automobile repair and service is a conditional use.

17. I just developed a theory based upon bits of info gained in the last week. I was told the Borough approached the state some years ago to put in our own sewer plant and system. Ohioville was told no, use Midland's. When approached, Midland apparently wanted way too much money so it did not happen. I wonder if the reason the state said no was possibly because of the lack of zoning at the time. Now the push is because of the need to add sewer system.

Answer: The desire to establish a Zoning Ordinance for Ohioville Borough was taken on as a means to protect from the Borough from intense development and to provide a way to help manage potential growth while also preserving the Borough's character and rural heritage. The desire to have a zoning ordinance has nothing to do with public sewers or public water.

In addition, the existing Borough SALDO provides various provisions for the supply of public water and sanitary sewage disposal. For example, the SALDO states that where a public water supply system is available, subdivisions and land developments shall extend such systems and connect to the public water supply.

18. I live on Tusca which will be considered N-C. If I am reading the ordinance correctly a pawn shop, tattoo parlor or even possibly a nightclub could be built beside me but I can't have a backyard flock of chickens (Section 503)??? Am I reading that correctly?

Answer: A pawn shop and a tattoo parlor are both permitted uses in the N-C District. A nightclub is a conditional use in the N-C District and if a nightclub was built, it would need to adhere to the standards and criteria for nightclubs listed in Section 440 of the ordinance. Backyard chickens fall under accessory agricultural operations, and accessory agricultural operations are only permitted in the A-R and R-1 Districts, as the ordinance is currently written.

19. Am I reading it to say it's grandfathered in but we will still have to seek the permit/register for it (1005)?

Answer: Correct. Section 1005 places the burden to register a nonconforming use, structure, or building with the Borough on the property owner. This could be a simple letter to the Borough noting your use, how long you've been there and in operation, etc. Many municipalities keep a list of nonconforming uses, structures, and buildings. And, there would be no fee involved with such a registration. The purpose is more just to document that the nonconformance is present and exists.

20. Zoning Ordinance thought: Sec 104 Pg 2 states that one of the purposes of the ordinance is 'to increase the employment opportunities and the economic base of the community.' However, looking at the map approx. 80% will be zoned as areas that have the most restrictions in regards to businesses.

Answer: The Zoning Ordinance was prepared to include several business, commercial, and industrial uses but to not allow those types of uses in residential areas. Allowing businesses in the Neighborhood Commercial (N-C) and Industrial and Commerce District (I-1) helps to preserve the character of the residential areas of the Borough while allowing the more intense business uses along Tuscarawas Road in the N-C areas or along the river in the I-1.

21. Why did the R1 stop at the beginning of wildwood rd? Why not continue down pleasantview dr and include the side roads like it did in many other locations like mine. There are a lot of houses on that road.

Answer: The majority of Wildwood Road is either zoned R-1 or A-R, both of which are residential districts. Pleasantview Drive is A-R. The Borough will review with the planning consultant but both are residential districts in nature and the difference may be location, i.e. proximity to Tuscarawas Road, and also existing lot sizes or dimensions that is the reason for the different residential zones in those areas.

Similarities to the Borough SALDO, Ordinance No. 152:

The Borough's Subdivision and Land Development Ordinance (SALDO), Ordinance No. 152, as amended, was originally adopted in 1975 as a Subdivision Ordinance. The SALDO includes various provisions, regulations, and procedures related to the subdivision of land and the development of land within the Borough. Specifically, the SALDO includes provisions for the design of streets, sidewalks, and curbs and provides the criteria for subdivision and land development applications and plans.

There are some items in the proposed Zoning Ordinance that are currently included in the existing SALDO such as lot sizes, building lines, and setbacks.

Section 521 of the SALDO provides the required lot sizes for lots with public sewer and water and without these services.

For single-family lots where neither public water nor public sewer is available, the minimum lot sizes are as follows:

- Interior Lots: 100 feet in width; 44,000 square feet in area
- Corner Lots: 120 feet in width; 48,000 square feet in area

For single-family lots where either public water or public sewer is provided, the minimum lot sizes are as follows:

- Interior Lots: 100 feet in width; 44,000 square feet in area
- Corner Lots: 120 feet in width; 48,000 square feet in area

For single-family lots where both public water and public sewer is provided, the minimum lot sizes are as follows:

- Interior Lots: 100 feet in width; 25,000 square feet in area
- Corner Lots: 120 feet in width; 27,500 square feet in area

For semi-detached, row, and multi-family structures, the following is required:

- Row house structures: additional 3,000 square feet of area per dwelling unit
- Semi-detached dwellings: additional 5,000 square feet of area per dwelling unit
- Multi-family dwellings: additional 2,000 square feet per dwelling unit

The required area and bulk regulations are separated by zoning district in the proposed Zoning Ordinance but require similar lot widths and sizes as to what is already provided for in the existing SALDO. Minimum lot sizes without sewer for residential uses is typically 1 acre in the proposed ordinance, or 43,560 square feet. In addition, some of the required lot sizes where there is access to public utilities have been reduced in the proposed ordinance. For example, minimum lot size in the R-1 and R-2 districts if public water and sewer is available is 17,424 square feet, which is a little over a 1/3 of an acre. The required lot size in A-R is one acre or 43,560 square feet. This is easy unit of measurement and better than 44,000 or 48,000 square feet.

Section 522 of the SALDO lists the required setbacks as follows:

- Front yard: 50 feet
- Side yard: 10 feet
- Rear yard: 25 feet

The above listed setbacks were carried over into the proposed Zoning Ordinance for the residential and N-C Districts. The proposed zoning ordinance does list increased side and rear yard setbacks for the I-1 and S-C Districts though, to 50 feet.

Section 523 of the SALDO lists the parking requirements for residential uses ranging from 1.0 parking space per unit for efficiency apartments to 2.0 parking spaces per unit for 3+ bedroom apartments, single-family homes, townhomes, and semi-detached homes.

Article VII of the SALDO provides design standards for cluster developments which includes open space requires, density requirements, minimum lot sizes, HOAs, etc.

While the lot size requirements are slightly different in the proposed draft zoning ordinance, the concepts of having these types of requirements and regulations is not entirely new. They've been updated in the proposed ordinance draft to be reflective of existing conditions and real estate market trends.