

ORDINANCE NO. 2110

AN ORDINANCE OF THE BURGESS AND TOWN COUNCIL OF THE BOROUGH OF POTTSTOWN AMENDING VARIOUS SECTIONS OF CHAPTER 27, ZONING, OF THE POTTSTOWN BOROUGH CODE OF ORDINANCES, AS AMENDED.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Burgess and Town Council of the Borough of Pottstown, Montgomery County, Pennsylvania, and it is hereby enacted and ordained by the authority of same, as follows:

SECTION 1. Definitions, as set forth in Chapter 27, Zoning, and Chapter 22, Subdivision and Land Development, of the Code of the Borough of Pottstown, as amended, is hereby amended to create the following additional new definitions:

CONDITIONAL USE - A use permitted in a particular zoning district pursuant to the provisions in Section 400 and Article VI of the PA Municipalities Planning Code.

COUNTY COMPREHENSIVE PLAN - A land use and growth management plan prepared by the County Planning Commission and adopted by the County Commissioners which establishes broad goals and criteria for municipalities to use in preparation of their comprehensive plan and land use regulation.

MOBILEHOME LOT - A parcel of land in a mobilehome park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobilehome.

MULTIMUNICIPAL PLAN - A plan developed and adopted by any number of contiguous municipalities, including a joint municipal planning commission in accordance with

Article XI of the Pennsylvania Municipalities Planning Code, or otherwise by resolution of the participating municipalities, to address, on behalf of the participated municipalities, multimunicipal issues, including but not limited to agricultural and open space preservation, natural and historic resources, transportation, housing and economic development.

MULTIMUNICIPAL PLANNING AGENCY - a Planning Agency comprised of representatives of more than one municipality and constituted as a joint municipal planning commission in accordance with Article XI, or otherwise by Resolution of the participating municipalities, to address, on behalf of the participating municipalities, multi-municipal issues, including, but not limited to, agricultural and open space preservation, natural and historic resources, transportation, housing and economic development.

MUNICIPALITY - Any city of the Second Class A or third class, borough, incorporated town, township of the first or second class, county of the second class through eighth class, home rule municipality, or any similar general purpose unit of government which shall hereafter be created by the General Assembly.

NO-IMPACT HOME-BASED BUSINESS - A business or commercial activity permitted in all zoning districts, which is administered or conducted as an accessory use, which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with residential use.

NONCONFORMING LOT - A lot the area or dimension of which was lawful prior to the adoption or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.

OFFICIAL MAP - A map adopted by ordinance pursuant to the Pennsylvania Municipalities Planning Code Article IV.

OPEN-AIR MARKET - An outdoor market for the retail sale of new or used merchandise, produce or other farm products, whether operated by a single vendor or composed of stalls, stands or spaces rented or otherwise provided to vendors. The term does not include the outside display of merchandise as an incidental part of retail activities regularly conducted from a permanent building on sidewalks or other areas immediately adjacent to, and upon the same lot as, such building. The term also does not include merchandise sold at festivals or other special events, temporary in duration, at which the display and sale of merchandise is incidental to the primary cultural, informational or recreational activities of such festival or special event.

PRESERVATION OR PROTECTION - When used in connection with natural and historic resources, shall include means to conserve and safeguard these resources from wasteful or destructive use, but shall not be interpreted to authorize the unreasonable restriction of forestry, mining or other lawful uses of natural resources.

PROFESSIONAL CONSULTANTS - Persons who provide expert or professional advice, including, but not limited to, architects, attorneys, certified public accountants, engineers, geologists, land surveyors, landscape architects or planners.

REGIONAL PLANNING AGENCY - A planning agency that is comprised of representatives of more than one county. Regional planning responsibilities shall include providing technical assistance to the counties and municipalities mediating conflicts across county lines and reviewing county comprehensive plans for consistency with one another.

**SECTION 2.** Definitions, as set forth in Chapter 27, Zoning, and Chapter 22, Subdivision and Land Development, of the Code of the Borough of Pottstown, as amended, is hereby amended to amend and modify the following existing definitions:

ENGINEER - A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for a municipality, planning agency or joint planning commission.

INSTITUTIONAL/CIVIC USE - A non-profit or public use, such as a library or government owned or operated building, structure or land use for a public purpose. This also includes cultural uses that promote art, drama, music, science and/or history, such as a museum, theater or botanical garden.

LAND DEVELOPMENT - Any of the following activities:

- A. The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:
  - 1. A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
  - 2. The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of, streets common areas, leaseholds, condominiums, building groups, or other features.
- B. A subdivision of land
- C. Development in accordance with the PA Municipal Planning Code Section 503(1.1).

PUBLIC GROUNDS - Includes:

- 1. Parks, playgrounds, trails, paths, and other recreational areas and other public areas.
- 2. Sites for schools, sewage treatment, refuse disposal and other publicly owned or operated facilities; and

3. Publicly owned or operated scenic and historic sites.

PUBLIC HEARING - A formal meeting held pursuant to public notice by Borough Council or the Planning Commission, intended to inform and obtain public comment, prior to taking action in accordance with this Article and the Pennsylvania Municipalities Planning Code.

PUBLIC MEETING - A forum held pursuant to notice under 65 Pa. C.S. CH. 7 (Relating to open meetings).

STRUCTURE - Any constructed, erected, or placed material or combination of materials in or upon the ground or water, whether or not affixed to land, including, but not by way of limitation, buildings, mobilehomes, radio towers, sheds, signs, storage bins, tents and pools (See Airport Zoning for special definition as regards to living plants).

SUBSTANTIALLY COMPLETED - In the judgment of the Borough Engineer, at least 90% (based on the cost of the required improvements for which financial security was posted pursuant to the requirements of this or any other land-use ordinance of the Borough or the Pennsylvania Municipal Planning Code) of those improvements required as a condition for final approval have been completed in accordance with the approved plan, so that the project will be able to be used, occupied or operated for its intended use.

VARIANCE - Relief granted pursuant to the Pottstown Zoning Ordinance [Article A9] and the Pennsylvania Municipal Planning Code (provisions of Articles VI and IX).

**SECTION 3.** Section 318(2), Permitted Uses in Neighborhood Residential Districts, Section 319(2), Permitted Uses in Traditional Town Neighborhood Districts, Section 332(2), Permitted Uses in Neighborhood Business Districts, Section 333(2), Permitted Uses in Downtown Gateway Districts, and

Section 334(2), Permitted Uses in Gateway East and Gateway West Districts, are hereby amended to include the following additional principal permitted use:

Municipal parks, playgrounds, and other such municipal buildings and uses deemed appropriate and necessary by the Borough Council.

**SECTION 4.** Sections 320(2), Downtown District Conditional Uses, Section 332(2), Conditional Uses in Neighborhood Business, Section 333(2), Conditional Uses in Downtown Gateway, and Section 334(2), Conditional Uses in Gateway East and Gateway West, of Article 3, Conservation, of the Pottstown Zoning Ordinance, as amended, are hereby amended to permit "open-air markets" as a conditional use.

**SECTION 5.** A new Section 401(29), Conditional Uses, of Part 4, of the Pottstown Borough Zoning Ordinance, as amended, shall be created to permit open air markets as a conditional use and shall read as follows:

§401(29). Open-Air Markets.

In all zoning districts that permit retail uses, an open-air market may be permitted as a conditional use. As part of the conditional use submission, the applicant shall include the following:

1. A plan depicting the layout of the site, including dimension of sales area, access ways, parking areas, and location of trash receptacles.
2. The specific days and hours of operation.
3. The means, such as stalls, tables or other structures, by which merchandise is to be displayed.

Borough Council shall grant the conditional use, and the Applicant shall be issued a permit by the Code Enforcement Officer, if the Applicant is able to satisfy the following standards and criteria:

1. Parking requirements shall comply with the standards of Article VI.
2. There shall be no less than one trash receptacle for 1,000 square feet of sale area; all such trash receptacles shall be emptied regularly so as not to overflow. Litter and debris shall not be permitted to accumulate.
3. Merchandise, stalls or other materials shall not be stored outdoors while the use is not open for business.
4. The operation shall be restricted to the times between 9:00 a.m. and 5:00 p.m., unless otherwise specified in the conditional use approval.
5. The operation shall not obstruct any street or sidewalk.
6. The operation shall not disturb the tranquility of the residential areas or others in close proximity or interfere with the reasonable use and enjoyment of neighboring property by reason of excessive noise, traffic or overflow parking.

**SECTION 6.** Subsection (2) of Section 404, Accessory Uses, of Article 4, Conditional Uses, of the Pottstown Borough Zoning Ordinance, Chapter 27, Zoning, of the Code of the Borough of Pottstown, as amended, is hereby amended to read in its entirety, as follows:

- (2) Home Occupations are permitted in any zoning district.

Home occupations shall satisfy the following requirements:

- A. Home occupations shall be conducted entirely within the dwelling or accessory building and may not occupy more than 25% of the habitable floor area.
- B. Home occupations shall be conducted only by resident occupants of the residential dwelling, except that up to one person not a resident of the dwelling may be employed.
- C. There shall be no public display of goods on the premises.
- D. The home occupation shall not have any business related exterior storage or display of goods and/or merchandise.
- E. No article or good shall be sold or offered for sale which is not produced by a resident occupant of the dwelling.
- F. The home occupation shall not alter the exterior of the dwelling or accessory structures.
- G. The home occupation shall not generate more than five vehicle trips per day in excess of that which is required for the primary use.
- H. There shall be no regular deliveries to or from a home occupation from a vehicle with more than two axles.
- I. No home occupation shall require any solid waste or sewage discharge, in volume or type, which is in excess of that which is normally associated with use in the neighborhood.
- J. No home occupation shall be conducted, created, altered or maintained which involves any purpose, trade or business which is noxious, offensive or potentially injurious to health by reason of odor, fumes, noise, dust, smoke, heat, gas, radiation, vibration, glare, hazardous substance,

electrical or electronic interference, including interference with radio or television reception.

- K. The business may not involve any illegal activity.

**SECTION 7.** Subsection (6) of Section 404, Accessory Uses, of Article 4, Conditional Uses, of the Pottstown Borough Zoning Ordinance, Chapter 27, Zoning, of the Code of the Borough of Pottstown, as amended, is hereby amended to read in its entirety, as follows:

(6) Storage Sheds.

- A. Residential storage sheds shall be no larger than 120 square feet and 8 feet in overall height.
- B. Non-Residential storage sheds shall be no larger than 200 square feet and 8 feet in overall height, with a maximum up to three (3) storage sheds per lot.
- C. In all districts storage sheds shall be located in the rear yard, a minimum of three (3) feet from any property lines.
- D. For non-residential uses, the following standards shall apply:

Standard	Size
Minimum Open Space	20 percent (20%)
Maximum Lot Coverage	75 percent (75%)

**SECTION 8.** Severability. If any sentence, clause, section or part of this ordinance is, for any reason, found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of

this ordinance. It is hereby declared as the intent of the Burgess and Town Council of the Borough of Pottstown, that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof, not been included herein.

**SECTION 9.** Reenactment. All other parts of the Pottstown Borough Zoning Ordinance and Chapter 27, Zoning, of the Code of Ordinances of the Borough of Pottstown, as amended, to the extent not inconsistent herewith, are hereby reenacted and reordained and shall remain in effect as previously adopted.

**SECTION 10.** Effective Date. This ordinance shall become effective immediately upon enactment.

**ENACTED** and **ORDAINED** this 13<sup>th</sup> day of MAY, 2013.

**BURGESS AND TOWN COUNCIL  
OF THE BOROUGH OF POTTSTOWN**

BY: Stephen M. Tracy

ATTEST: Virginia L. Talbot

Approved this 13<sup>th</sup> day of  
MAY, A.D., 2013.

Bonnie Heath  
Mayor