

SUGARCREEK BOROUGH ORDINANCE NO. 236 OF 2004

Introduced and passed:

AN ORDINANCE AMENDING THE SUGARCREEK BOROUGH'S ZONING ORDINANCE TO SPECIFY ZONES WHERE INTENSIVE FEEDING OF ANIMAL FEED OPERATIONS, COMMUNICATION TOWERS AND SEXUALLY ORIENTED BUSINESSES MAY BE LOCATED AS SPECIAL EXCEPTIONS OR CONDITIONAL USES; TO PROVIDE SPECIFIC CRITERIA FOR SPECIAL EXCEPTIONS AND CONDITIONAL USES; ADDING NO-IMPACT HOME-BASED BUSINESSES AS PERMITTED USES IN ALL RESIDENTIAL ZONES AND FORESTRY AS A PERMITTED USE IN ALL ZONES; AMENDING SECTION 403.1 TO REQUIRE ONLY ONE FRONT YARD FOR LOTS ABUTTING MORE THAN ONE STREET; AND AMENDING SECTION 505 TO PROVIDE FOR CIVIL ENFORCEMENT AND PENALTIES FOR VIOLATIONS.

WHEREAS, the Planning and Zoning Commission of the Borough of Sugarcreek and the Council of the Borough of Sugarcreek deem it desirable for the welfare of the present and future residents of the Borough of Sugarcreek in order to further the development objectives set forth in the Sugarcreek Borough Zoning Ordinance to provide for certain new uses not originally contemplated, and to provide specific criteria for special exceptions and conditional uses and to provide for no impact home based businesses and to provide civil enforcement of the Zoning Ordinance.

NOW THEREFORE, BE IT ORDAINED by the Council of the Borough of Sugarcreek, and it is hereby enacted and ordained by authority of the same:

**Section One.** TABLE 304(A), A-1 Conservation District of the Sugarcreek Borough Zoning Ordinance be, and is hereby, amended to add intensive animal feed operations, and communication towers as conditional uses in the district.

**Section Two.** TABLE 304(A) be, and is hereby amended, to provide that sexually oriented business shall be added as a conditional use in C-1 Commercial District, LI/C light industrial/commercial district and, I-1 light industrial district and in I-2 heavy industrial district.

**Section Three.** TITLE OF ARTICLE 7 shall be changed by adding "AND SPECIAL EXCEPTIONS."

**Section Four.** Section 704 CRITERIA FOR APPROVAL be, and is hereby amended to read:

"A conditional use or a special exception shall be approved only if it meets the following criteria.

704.1 Use: The proposed use conforms to the district and conditional use or special exception provisions and all general regulations of this Ordinance.

704.2 The effect on traffic, as to creating danger and hazards which would be adverse to the public safety but not the mere fact that the use would increase traffic.

704.3 Whether the use will create a nuisance or hazard to the neighboring property owners.

704.4 Will the use result in a high probability of a substantial effect on the community of pollution, drainage and/or flooding problems.

704.5 Special Standards: The proposed use meets all special standards which may apply to its class of conditional uses or special exceptions as set forth in this Article:

A. Churches, hospitals and nursing homes:

1. Shall provide all parking and loading/unloading requirements as required by this ordinance.
2. Shall be so located as to be readily accessible from streets that are adequate to handle anticipated traffic.
3. The design and landscaping shall be compatible with, and preserve the character of adjoining residential uses.
4. All parking and recreation/play areas which abut residential uses shall be screened.
5. Any outdoor lighting shall be designed to prevent glare to adjoining properties.

B. Public utilities:

1. Shall be landscaped to preserve the residential character of the neighborhood.
2. Shall be enclosed by a security fence; notwithstanding any other section of this chapter, the height of this fence shall be adequate to provide proper security for the installation.

3. No outdoor storage shall be permitted.

C. Medical clinics:

1. Such facilities shall exclude the treatment of the insane, nor shall they include penal or correctional institutions.
2. Access shall be from a street with a pavement width of at least twenty-four (24) feet.
3. All required parking, loading and unloading shall be contained entirely on lot, including sufficient maneuvering room so that vehicles will not back onto a public street.
4. All lighting shall be so arranged to prevent glare to adjoining properties.
5. Any parking area next to a residential use shall be screened."

**Section Five.** ARTICLE 2 - DEFINITIONS be, and is hereby, amended to add the definition of "no-impact home based business" thereto, which shall read as follows:

"No-Impact Home-Based Business": A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use of a residential dwelling and which involve no customer, client or patient traffic, whether vehicular or pedestrian, pick up, delivery or removal functions to or from the premises, in excess of those normally associated with residential use. The business or commercial activity must satisfy the following requirements:

1. The business activities shall be compatible with the residential use of the property and surrounding residential uses.
2. The business shall employ no employees other than family members residing in the dwelling.
3. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
4. There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.
5. The business activity may not use any equipment or process which creates noise, vibration, air, fumes, odors or electric coil or electronic interference, including interference, including interference with radio or television reception, which is

detectable in the neighborhood.

6. The business activity may not generate any solid waste or sewage discharge in volume or type which is not normally associated with residential use in the neighborhood.
7. The business activities shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area.
8. The business may not involve any illegal activity.

**Section Six.** ~~"No-Impact Home-Based Businesses shall be added as permitted uses in Table 304(A) of Article 3 - District Regulations. A-1 Conservation District, R-1 Suburban Residential District and R-2 Urban Residential District.~~

**Section Seven.** Forestry shall be added as a permitted use in all Districts.

**Section Eight.** Section 403.1 be, and is hereby amended to nine. "403.1 Lots which abut more than one street are required to have one front yard which shall be on the side the front door of the house is nearer or nearest.

**Section Nine.** Section 505 of Article 5 is hereby deleted and in place thereof the Ordinance is hereby amended to read as follows:

"505 VIOLATIONS - ENFORCEMENT OF ORDINANCE.

505.1 Enforcement Notice.

(a) If it appears to the municipality that a violation of any zoning ordinance enacted under this act or prior enabling laws has occurred, the municipality shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.

(b) The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of the record.

(c) An enforcement notice shall state at least the following:

(1) The name of the owner of record and any other person against whom the municipality intends to take action.

(2) The location of the property in violation.

(3) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the ordinance.

(4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed which shall be no less than thirty (30) days after the enforcement notice date except when the violation involves imminent danger to person(s) or property.

(5) That the recipient of the notice has the right to appeal to the zoning hearing board within a prescribed period of time in accordance with procedures set forth in the ordinance.

(6) That failure to comply with the notice within the time specified, unless extended by appeal to the zoning hearing board, constitutes a violation, with possible sanctions clearly described.

(d) In any appeal of an enforcement notice to the zoning hearing board, the municipality shall have the responsibility of presenting its evidence first.

(e) Any filing fee paid by a party to appeal an enforcement notice to the zoning hearing board shall be returned to the appealing party by the municipality if the zoning hearing board or any court in a subsequent appeal rules in the appealing party's favor.

#### 505.2 Causes of Action

In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of any ordinance enacted under this act or prior enabling laws, the governing body or, with the approval of the governing body, an officer of the municipality, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the municipality at least 30 days prior to the time the action is begun by serving a copy of the complaint on the governing body of the municipality. No such action may be maintained until such notice has been given.

#### 505.3 Enforcement Remedies.

(a) Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of any zoning ordinance enacted under this act or prior enabling laws shall, upon being found liable therefor in a civil enforcement proceeding commenced by a

municipality, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by a municipality as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the municipality may enforce the judgment pursuant to the applicable rules of civil procedure. Each date that violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of zoning ordinances shall be paid over to the municipality who ordinance has been violated.

(b) The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.


(c) Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the municipality the right to commence any action for enforcement pursuant to this section."

**Section 10.** All other parts of the Sugarcreek Borough's Zoning Ordinance are hereby confirmed and re-enacted, and any and all parts of ordinances enacted prior hereto are repealed insofar as they are inconsistent with this Ordinance.


**Section 11.** This Ordinance shall be effective on the earliest date permitted by law.

APPROVED this 2nd day of June, 2004.

BOROUGH OF SUGARCREEK, VENANGO  
COUNTY, PENNSYLVANIA

By   
Council President

ATTEST:

By   
Mayor

  
Council Secretary