

**FILE OF COUNCIL**

No. 25 of 1999

Presented in City Council on August 31, 1999

---

**AMENDING FILE OF COUNCIL NO. 17 OF 1960, AS AMENDED, ENTITLED THE "CITY OF WILKES-BARRE ZONING ORDINANCE, AS AMENDED."**

WHEREAS, THE CITY COUNCIL OF THE CITY OF WILKES-BARRE PASSED FINALLY ON OCTOBER 18, 1960, A ZONING ORDINANCE AND;

WHEREAS, CITY COUNCIL MAY ENACT AMENDMENTS TO THE ZONING ORDINANCE SUBJECT TO SAID AMENDMENTS HAVING PRIOR REVIEW BY THE WILKES-BARRE PLANNING COMMISSION AND;

WHEREAS, CITY COUNCIL SEEKS TO AMEND THE ZONING ORDINANCE FOR THE PURPOSE OF REGULATING THE LOCATION OF METHADONE CLINICS; IN ACCORDANCE WITH ACT NO. 10 OF 1999 AN AMENDMENT TO THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE, ACT 247, AS ENACTED BY THE PENNSYLVANIA GENERAL ASSEMBLY AND;

WHEREAS THE WILKES-BARRE PLANNING COMMISSION REVIEWED AND RECOMMENDED THE SUBJECT AMENDMENT AT A MEETING HELD ON JUNE 23, 1999, AND;

NOW THEREFORE IT IS HEREBY ORDAINED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF WILKES-BARRE THAT THE FOLLOWING AMENDMENTS TO THE WILKES-BARRE ZONING ORDINANCE ARE HEREBY ADOPTED.

**SECTION I**

**Article 2, Section 203, Definitions of Terms, The Term Conditional Use,** is hereby amended to include the following term:

**CONDITIONAL USE:** A use, that owing to some special characteristics attendant to its operation or installation, is permitted in a zoning district subject to approval by Wilkes-Barre City Council and subject to special requirements, in addition to and/or different from those requirements for the zoning district in which the conditional use may be located.

**SECTION 2.**

Article 2, Section 203, Definition of Terms, the term "Impact Analysis" which currently reads as follows:

**IMPACT ANALYSIS:**

A study, which may be required by the Zoning Hearing Board, prior to approval of a use and/or development to determine the effect of the same on activities, utilities, circulation, surrounding land uses, community facilities, environmental features, both on and off the site of the proposed development, and other factors directly, indirectly or potentially effected. The landowner and/or applicant shall be responsible for all costs related to any and all studies and/or reports required by the Zoning Hearing Board under and within the context of the term, "IMPACT ANALYSIS."

**IS HEREBY AMENDED TO READ AS FOLLOWS:**

**IMPACT ANALYSIS:**

A study and/or report, which may be required at the discretion of the Planning Commission or City Council prior to approval of a conditional use or by the Zoning Hearing Board prior to approval of a special exception use, to determine the potential impact of the proposed use on activities, utilities, traffic generation and circulation, surrounding land uses, community facilities, environmental features, and the public health, safety and welfare and other factors which may be directly or potentially affected. The applicant shall be responsible for all costs related to any and all report and/or studies required by the Planning Commission, City Council or Zoning Hearing Board under or within the context of the term "IMPACT ANALYSIS."

**SECTION 3**

Article 2, Section 203, Definition of Terms is hereby amended to include the following item:

**METHADONE CLINIC:**

A facility licensed by the Pennsylvania Department of Health to use the drug methadone in the treatment, maintenance or detoxification of persons.

**SECTION 4**

Article 7, Zoning Hearing Board and Other Administrative Procedures, is hereby amended to include the following Sections and Subsection:

**SECTION 716 CONDITIONAL USES**

The purpose of a use classified as a "Conditional Use" is to provide expressed standards and criteria to regulate uses classified as such in particular zoning districts, as provided in the Table of Use Requirements off the Wilkes-Barre Zoning Ordinance.

## **716.1 GENERAL PROVISIONS**

The authority for approving or denying applications for uses permitted as a conditional use shall be vested in the City Council, with the Planning Commission having the authority to review and submit its recommendations to City Council. Decisions by City Council shall be made in accordance with standards and criteria set forth in this Article, any studies and reports required within the context of an Impact Analysis, as so defined in Article 2 of this Ordinance, the respective zoning district in which the use is located, all other applicable regulations of this Ordinance, other ordinances of the City and all applicable State and/or Federal regulations.

## **716.2 APPLICATION, SITE PLAN AND SUPPORTING INFORMATION**

A zoning permit application, and twenty (20) copies of said application shall be submitted to the Zoning Officer along with twenty (20) copies of a site plan at a scale of not greater than one (1") inch equals one twenty (20') feet, which includes the following information.

- A. The applicant shall submit a narrative outline that fully describes all proposed uses or development of the site or property, and all pertinent operational aspects, features, and/or activities related to the proposed uses or development of the site or property.
- B. The applicant shall provide upon the site plan the location and size of all buildings and structures, existing and proposed, including both principal and accessory buildings and structures.
- C. The applicant shall provide upon the site plan the location of all off-street parking areas and/or loading areas.
- D. The applicant shall provide upon the site plan the location of all open space areas, including buffer areas and fencing, if applicable, and the location, type and height of any required screening.
- E. The applicant shall provide upon the site plan the means of traffic access to the site and internal traffic circulation within the site including the width and pavement of traffic lanes, and aisle widths.
- F. The applicant shall provide upon the site plan all streets, both public and private, within two hundred (200') feet of the site, including the right-of-way and cartway widths.
- G. The location of all structures within two hundred (200) feet of any property line boundary of the subject site.
- H. The Map, Block and Lot Number of the subject parcel as recorded within the Luzerne County Recorder of Deeds Office, and a copy of the deed to the property.

- I. A location map at a scale of not greater than one (1) inch equals two thousand (2,000) feet, indicating the relation of the site to its geographic proximity within the City.
- J. Any other information which may be required by the Planning Commission or City Council for determining the conformance of the conditional use with the regulations for that particular use, including but not necessarily limited to an "IMPACT ANALYSIS."

### **716.3 PROCEDURAL REQUIREMENTS IN RENDERING A DECISION**

- A. Prior to approving or denying an application for a conditional use, City Council shall conduct a public hearing pursuant to public notice. The City Council shall submit the application for the proposed conditional use to the Planning Commission, not less than thirty (30) days prior to the public hearing, to allow the Planning Commission to submit any such recommendations as it may deem appropriate.
- B. The required public hearing shall be held and conducted in accordance with the same procedural guidelines which govern the Zoning Hearing Board under Article 7 of this Ordinance. The term "City Council" shall replace the term "Zoning Hearing Board" in relevant passages of said Article.
- C. The City Council shall render a written decision or, when no decision is called for, make written findings on the conditional use application within forty-five (45) days after the last hearing before City Council. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefor. Conclusions based on any provisions of the Ordinance or any other ordinance, rule or regulation, shall contain a reference to the provisions relied upon and the reasons why the conclusion is deemed appropriate in light of the facts found.
- D. If City Council fails to render a decision within forty-five (45) days after the last hearing or fails to hold the required hearing within sixty (60) days from the date of the applicant's request for hearing, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing, or on the record, to an extension of time. When a decision has been rendered in favor of the applicant because of their failure of City Council to meet or render a decision as noted above provided, City Council shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same manner as required by public notice. If City Council fails to provide such notice, the applicant may do so.

- E. Nothing contained within this Section shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction within thirty (30) days from the date of a decision by City Council. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him no later than the day following its date.
- F. City Council shall grant an approval for a conditional use upon its determination that adequate evidence and information has been provided, which indicates the applicant's meets the general and specific requirements for the type of conditional use in question, and any additional conditions and safeguards deemed necessary to protect the public health, safety and general welfare. The submission of any reports and/or studies within the context of the definition "Impact Analysis" must conclusively demonstrate that the proposed use or development will not have a negative impact upon the particular subject or subjects as defined by the Planning Commission or City Council, including but not limited to the interest of protecting the health, safety, welfare and convenience of the public. Failure to conclusively demonstrate such to the satisfaction of City Council shall represent a basis for denying approval of the conditional use.

#### **SECTION 5.**

Article 14, Supplemental Requirements is hereby amended to include the following Section and Subsections.

#### **1430 METHADONE CLINICS - SUPPLEMENTARY REGULATIONS**

##### **1430.1**

- A. A methadone clinic shall be located upon a lot having an area of not less than twenty thousand (20,000) square feet, applicable for either new construction or for adaptive reuse of an existing structures.
- B. Any proposed methadone clinic shall include with its submission of a zoning permit application, a development narrative which accurately describes the nature of all medical services to be offered, the proposed hours of operation, and the names of the medical practitioners providing said services. A licensed physician, an M.D. or a D.O., shall be on duty at the clinic during the clinic's hours of operation.
- C. Any existing structure proposed for adaptive reuse as a methadone clinic shall be brought into compliance with all current building codes of the City of Wilkes-Barre, and all other applicable City, County and State regulations prior to occupancy.

- D. Any methadone clinic shall include, with its submission of a zoning permit application, a traffic impact analysis prepared by a professional licensed engineer with expertise in transportation and traffic planning. Such analysis shall demonstrate the following:
1. The number of vehicle trips expected to be generated during an average weekday and during both a.m. and p.m. peak hours along adjacent street traffic.
  2. The projected number and types of vehicles, with an origin or destination at the subject site, the need for which is generated by said use.
  3. The routes, roadways or streets to reach the clinic.
  4. The impact of the levels-of-service at intersections within one half ( ½) mile of said methadone clinic.
  5. Recommended traffic control devices designed to mitigate the documented impact on adjacent streets and roadways.
- E. A methadone clinic shall demonstrate its compliance with supplying the required number of off-street parking spaces as provided for in Section 322(M) of this Ordinance. All off-street parking areas shall be adequately lighted, with a lighting plan included within the submission of the required site plan.
- F. A methadone clinic, shall be located not less than five hundred (500') feet from any of the following uses:
1. A residential dwelling.
  2. A place of worship.
  3. A school or a child care facility, as defined in Article 2 of this Ordinance.
  4. A park, playground or similar recreational facility.
  5. A public or quasi-public use or structure.
  6. A zoning boundary of any residential zoning district.

Measurements of the required distance shall be made in a straight line, from the nearest portion of the property line of the structure or premises of a proposed methadone clinic, to the nearest property line of the above noted uses or locations.

## **1430.2**

Should City Council wish to consider authorizing the establishment of a methadone clinic at a location which is less than 500 feet from the uses addressed with in Section 1430.1(F). The following action by City Council shall precede a vote for the purpose such authorization.

- (A) Public Notice, as defined in Article 2 of this Ordinance, shall be provided stating City Council's intent to consider granting approval of a methadone clinic which fails to comply with standards within Section 1430.1(F).
- (B) In addition to public notice, all owners of real property within five hundred (500') feet of the proposed location of a methadone clinic shall be provided with written notice by City Council of said public hearing at least thirty (30) days prior to the date of the public hearing.
- (C) Approval to locate a methadone clinic, at a site which is less than five hundred (500') feet from the uses addressed in Section 1430.1(F), may be authorized by a majority vote of City Council.

## **SECTION 6.**

Article 11, Section 1106, Table of Use Requirements - Commercial Services, is hereby amended to include a Methadone Clinic as a conditional use in a C-4 (Heavy Commercial) Zone.

## **SECTION 7.**

The provisions of this Ordinance shall be severable, and if any of its provisions shall be deemed to be invalid for any reason, the validity of any of the remaining provisions of this Ordinance shall not be affected. It is hereby declared as the intention of the City Council that this Ordinance would have been adopted had such invalidity not been included therein.

**SECTION 8.**

All other ordinances, or parts thereof, of the City of Wilkes-Barre which are in conflict with this Ordinance, to the extent of such conflict are hereby repealed.

Passed finally by the City Council of the City of Wilkes-Barre on 9/9/99

This Ordinance shall become effective on 9/19/99

ATTEST:

William G. Brace, City Clerk