

Article XX — Administration, Fees, Permits, and Penalties

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Article XX — Administration, Fees, Permits, and Penalties

§ 21-2001 Zoning Officer.

A Zoning Officer shall be appointed by Council to administer and enforce this Chapter. The Zoning Officer shall meet any qualifications established by Council and shall be able to demonstrate to the satisfaction of Council a working knowledge of municipal zoning. The Zoning Officer shall not hold any elective office in the Borough. The Zoning Officer's duties shall include but not be limited to the following:

(a) Receive and examine all applications for zoning permits and issue zoning permits only for any use or change of use which conforms to this Chapter.

(b) Refer zoning permit applications for special exceptions to the Zoning Hearing Board.

(c) Refer zoning permit applications for conditional uses to the Planning Commission.

(d) Issue permits for construction or uses requiring a special exception or variance only upon order of the Zoning Hearing Board. Permits requiring approval by Council shall be issued only after receipt of an authorization from the Council.

(e) Following refusal of a permit, receive applications for interpretation appeals and variances and forward these applications to the Zoning Hearing Board for action thereon.

(f) Conduct inspections and surveys to determine compliance or noncompliance with the terms of this Chapter.

(g) Issue enforcement notices for violations of this Chapter as set forth in § 21-2005. Any failure to comply with such enforcement notice shall constitute a violation of this Chapter.

(h) Institute civil enforcement proceedings as a means of enforcement when acting within the scope of such Zoning Officer's employment, subject to the approval or direction of Council in cases of equitable actions as set forth more particularly in § 21-2006.

(i) Keep an official record of all business and activities, including complaints of a violation of any of the provisions of this Chapter and of the subsequent action taken on each such complaint. All such records shall be open to public inspection. The Zoning Officer shall also file copies of all applications received, permits issued, and reports and inspections made in connection with any structure, building, or land.

(j) Maintain a map or maps showing the current zoning classification of all land in the Borough.

(k) Identify, register, and map all nonconforming lots, uses, and structures created as a result of the adoption of this Chapter (or any predecessor zoning ordinance) or created as a result of amendments thereto, and in each such case, the Zoning Officer shall indicate the reasons it was identified as a nonconformity.

(l) Issue occupancy permits in accordance with the terms of this Chapter.

§ 21-2002 Fees, Charges, and Expenses.

(a) Zoning Hearing Board or Conditional Use Proceedings.

(1) **Base Fees.** The base fee for a proceeding before the Zoning Hearing Board (whether an appeal, request for a variance, interpretation, special exception, etc.) or a conditional use proceeding before Council shall be:

(A) Four Hundred Twenty-five Dollars (\$425.00) in the case of a residential application; and

(B) Eight Hundred Seventy-five Dollars (\$875.00) in the case of all other applications.

The base fee shall be nonrefundable, even if the applicant withdraws the application.

(2) **Additional Fees.** In addition to the base fees set forth in paragraph (1), the Borough shall recover from the applicant—

(A) all costs incurred by the Borough for advertising hearings in connection with the application;

(B) all costs incurred by the Borough to provide notices to any persons in connection with the application;

(C) fifty percent (50%) of the appearance fee for a stenographer. In addition, the cost of the original transcript shall be paid by the Zoning Hearing Board or Council if the transcript is ordered by the Zoning Hearing Board or Council, or shall be paid by the person appealing from the decision of the Zoning Hearing Board or Council if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof; and

(D) all properly-chargeable engineering and legal costs incurred by the Borough in connection with the proceeding, which does not include the legal expenses of the Zoning Hearing Board or Council, expenses for engineering, architectural, or other technical consultants, or expert witness costs.

(3) **Escrow.** The applicant shall deposit the sum of Two Thousand Five Hundred Dollars (\$2,500.00) with the Borough at the time the application is filed as security for the payment of additional fees under paragraph (2), and shall replenish any sums drawn against the escrow upon demand.

(b) **Zoning Permits.** The fee for a zoning permit under § 21-2003 (relating to Zoning Permits Required) shall be Seventy-five Dollars (\$75.00). This fee is in addition to the fees for all other permits which may be required in connection with the activity or use which is the subject of the zoning permit, including but not limited to building permits and other permits under Chapter 30 (relating to Uniform Construction Code).

(c) [RESERVED]

(d) **Other Fees.** Council may establish, by resolution, a schedule of additional fees with respect to the administration of this Chapter, as amended from time to time, and with respect to hearings before the Zoning Hearing Board. Fees for these hearings may include compensation for the secretary and members of the Zoning Hearing Board, notice and advertising costs, and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural, or other technical consultants, or expert witness costs. The schedule of fees shall be posted in the office of the Zoning Officer.

(e) **No Action Taken Unless Fees Are Paid.** No action shall be taken on any application or appeal until all application fees, charges, and expenses have been paid in full.

§ 21-2003 Zoning Permits Required.

(a) No building, structure, or sign shall be erected, constructed, moved, added to, or structurally altered, nor shall land be put to any use, nor shall the use of such land be changed, without a permit therefor, issued by the Zoning Officer. No such permit shall be issued except in conformity with the provisions of this Chapter, or upon written order from the Zoning Hearing Board in the form of a special exception, variance, or as otherwise provided for by this Chapter, the Pennsylvania Municipalities Planning Code, 53 PA. STAT. ANN. § 10101 *et seq.*, any applicable laws, or any court of competent jurisdiction.

(b) All requests for zoning permits shall be made in writing by the owner or by his authorized agent on forms supplied by the Zoning Officer, and shall be accompanied by a plan drawn to scale, showing proposed structures in exact relation to lot and street lines, and by a written statement from a qualified engineer or surveyor or by other satisfactory evidence that the line of the bounding street has been staked on the ground. A zoning permit shall satisfy the requirements of both this Chapter and Chapter 31 (relating to Building Construction). Failure to obtain a zoning occupancy permit shall be a violation of this Chapter.

(c) A temporary zoning permit may be issued by the Zoning Officer for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion, *provided* such temporary permit may require such conditions and safeguards as will protect the safety of the occupants and the public.

§ 21-2004 Occupancy Permits Required.

No building hereafter constructed, erected, or altered under a zoning permit shall be occupied or used in whole or in part for any use whatsoever, and no change of use of any building or part of a building shall hereafter be made, until an occupancy permit has been issued by the Zoning Officer, indicating that the building or use complies with the provisions of this Chapter. An occupancy permit shall be granted or denied within ten (10) days after the Zoning Officer receives written application.

§ 21-2005 Notice of Violation.

(a) If it appears to the Borough that a violation of this Chapter has occurred, the Borough 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 in which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding the parcel, and to any other person requested in writing by the owner of 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 Borough 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 this Chapter.

(4) The date before which the steps for compliance must be commenced.

(5) The date before which the steps for compliance must be completed.

(6) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within thirty (30) days next following the date of the notice.

(7) 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.

§ 21-2006 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 this Chapter, as amended, Council, or with the approval of Council, the Zoning Officer, or any aggrieved person 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 Borough Manager at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on Council. No such action may be maintained until such notice has been given.

§ 21-2007 Enforcement Remedies.

(a) Any person, partnership, or corporation who or which has violated or permitted the violation of the provisions of this Chapter, as amended, shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than Five Hundred Dollars (\$500.00) plus all court costs, including reasonable attorneys fees incurred by the Borough 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 Borough may enforce the judgment pursuant to the Pennsylvania Rules of Civil Procedure. Each day that a 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 this Chapter 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 (5th) 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 attorneys fees collected for the violation of this Chapter shall be paid over to the Borough.

(b) The Court of Common Pleas of Lehigh County, Pennsylvania, 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 Borough, the right to commence any action for enforcement pursuant to this section.