

## **ARTICLE 22**

### **ADMINISTRATION AND ENFORCEMENT**

#### **Section 2201. APPOINTMENT AND POWERS OF ZONING OFFICER**

**A. Appointment**

For the administration of this Zoning Ordinance, a zoning officer, who shall not hold any elective office in the Township, shall be appointed by the Board of Supervisors. The Zoning Officer shall administer the zoning ordinance in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to the zoning ordinance. The Zoning Officer shall meet the qualifications established by the Township and shall be able to demonstrate to the satisfaction of the Township a working knowledge of municipal zoning.

**B. Zoning Application Review and Administration**

The Zoning Officer shall examine all applications for permits, issue permits for construction and uses which are in accordance with the requirements of this Ordinance, record and file all applications for permits with accompanying plans and documents, and make such reports as the Board of Supervisors may require. Permits for construction and uses which are a variance or special exception to the requirements of this ordinance shall be issued only upon approval of the Zoning Hearing Board. Permits for construction and uses which are a conditional use shall be issued only upon approval of such conditional use by the Board of Supervisors.

**C. Inspection**

It shall be the duty of the Zoning Officer, or a duly appointed representative, to inspect of property for which a zoning permit has been issued. The minimum inspections shall meet the procedures and standards set forth in Section 2203.

**D. Enforcement**

It shall be the duty of the Zoning Officer, to enforce the provisions of this Ordinance and such power and authority as it is necessary for enforcement is hereby conferred upon the Zoning Officer. If violations of this Ordinance are found, the Zoning Officer shall notify the person responsible for such violations in accordance with the procedures outlined in Section 2207 of this Ordinance.

## Section 2202. ZONING PERMITS

### A. Requirements of Permits.

It shall be a violation of this Ordinance for any person, or property owner to commence work for the erection or alteration of any building or structure, or the change any land use until a zoning permit has been duly issued. No such permit shall be required in case of normal maintenance activities, minor repairs, or alterations which do not alter the structure of the building. A zoning permit shall be required prior to any of the following activities:

1. The erection, alteration, enlargement or relocation of any building, structure, land, or portion thereof;
2. The use of or change in the use of a building, structure or land;
3. The alteration or expansion of a nonconforming use, building or structure;
4. The issuance of a building permit, if required;
5. The erection, placement, installation, alteration, relocation or replacement of a sign as specified in Article 18 of this Ordinance;
6. The construction of any driveway or parking areas; or
7. The placement of temporary construction or office trailers.

### B. Application for Permits

All applications for permits shall be accompanied by plans in duplicate, which may be drawn to scale, showing the shape and dimensions of the lot to be built upon, showing the size and location of any buildings existing on the lot, the lines within which the proposed building or structure shall be erected or altered, the existing and intended use of each building or part of a building, the number of families or dwelling units the building is designed to accommodate and such information as may be necessary to determine compliance with this Ordinance and all other ordinances. One (1) copy of such plans shall be returned to the owner when such plans have been reviewed and acted upon by the Zoning Officer. All applications with accompanying plans and documents shall become a public record after a permit is issued or denied.

### C. Issuance of Permits

No permit shall be issued until the Zoning Officer has certified that the proposed use, building, addition or alteration, complies with all the provisions of this Ordinance, as well as the provisions of all other applicable ordinances. A permit issued hereunder shall become void twelve (12) months after issuance date, unless a request for extension has been submitted to and approved by the Zoning Officer. Such request shall be filed with the Zoning Officer at least thirty (30) days prior to the permit expiration date.

D. Temporary Permits

A temporary permit may be authorized by the Board of Supervisors for a structure or use which it deems necessary to promote the proper development of the community, provided that such nonconforming structure or use shall be completely removed upon expiration of the permit without cost to the Township.

Such permits shall be issued by the Zoning Officer for a specified period of time not to exceed one (1) year, and may be renewed annually for an aggregate period not exceeding three (3) years.

**Section 2203. INSPECTION BY THE ZONING OFFICER**

It shall be the duty of the Zoning Officer, or a duly appointed representative, to make the following minimum number of inspections of property for which a permit has been issued:

A. Inspection At the Beginning of Construction

A record shall be made indicating the time and date of inspection and the finding of the Zoning Officer in regard to conformance of the construction with plans submitted with the approved permit application. If the actual construction does not conform to the application, a written notice of violation shall be issued by the Zoning Officer, and such violation shall be discontinued. Upon proper correction of the violation and receipt of written notice from the Zoning Officer, construction shall proceed.

B. Inspection At the Completion of Construction

A record shall be made indicating the time and date of the inspection; the findings of the Zoning Officer in regard to conformance to this Ordinance, and the opinion of the Zoning Officer in regard to the issuance of a Certificate of Use Permit.

**Section 2204. CERTIFICATE OF ZONING COMPLIANCE**

- A. A Certificate of Zoning Compliance shall be a statement issued by the Zoning Officer setting forth that a building, structure, parcel, and/or use of land complies with the provisions of this Ordinance.
- B. No vacant land shall be occupied or used, and no structure or part of a structure, hereafter erected, substantially altered or changed in use shall be occupied or used, until a Certificate of Zoning Compliance shall have been issued by the Zoning Officer.
- C. A Certificate of Zoning Compliance for the use or occupancy of vacant land or for a change in the use of land, or for a change in the use of an existing building, either for a whole or part of a new building or for the alteration of an existing building, shall be applied for coincident with the application for a building or zoning permit, and shall be issued or denied within fifteen (15) days after a final inspection and approval by the Zoning Officer.
- D. A Certificate of Zoning Compliance for changing or extending a non-conforming use, existing at the time of the passage of this Ordinance or of an amendment thereto, shall be applied for and authorized by the Zoning Officer before any such non-conforming use shall be changed or extended. Such Certificate shall be issued within fifteen (15) days after a final inspection by the Zoning Officer.
- E. A record of all Certificates of Zoning Compliance shall be kept on file in the office of the Zoning Officer and a copy shall be furnished on request to any person having a proprietary or tenancy interest in the building or land affected.

#### **Section 2205. CERTIFICATE OF NONCONFORMANCE**

A Certificate of Non-conformance shall be issued by the Zoning Officer to the owner of any property which, at the time of the effective date of this Ordinance, is identified as containing a non-conforming use, or structure. The owner's property and the issuance date of such certificate shall be registered in the records of the Township as follows:

- A. The Certificate of Nonconformance shall set forth in detail all of the nonconforming conditions of said property.
- B. A copy of the Certificate of Non-conformance shall be retained and filed by the Zoning Officer for the municipal registration.
- C. The Certificate shall be for the purposes of insuring the owner, his heirs, successors and assigns the right to continue a non-conforming use in accordance with the regulations of this Ordinance.

#### **Section 2206. FEES**

The Township Supervisors shall establish a schedule of fees, charges and expenses, as well as a collection procedure for zoning permits, certificates of zoning compliance, appeals, variances, conditional uses, special exceptions, amendments, bonds and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the Township building, and may be amended only by the Township Supervisors. Such fees shall be payable to the Township and until all applicable fees, charges and expenses have been paid in full, the application shall be considered incomplete and no action shall be taken on any applications or appeal.

## **Section 2207. VIOLATIONS**

Failure to comply with any provision of this Ordinance, failure to secure a permit, Zoning Hearing Board or Township Supervisor's Certification, when required, previous to the erection, construction, extension, or addition to a building; or failure to secure a Certificate of Use, shall be violations of this Ordinance.

### **A. Notice of Violation**

1. When written notice of a violation of any of the provisions of this Ordinance has been served by the Zoning Officer on the owner, agent or occupant, or contractor, such violation shall be discontinued immediately.
2. The enforcement notice prepared by the Zoning Officer shall state the following and include maps and other supporting documentation as necessary:
  - a. Name of the owner of record and any other person against whom the Township intends to take action;
  - b. The location of the property in violation;
  - c. The specific violation and a description of the requirements which have not been met, citing in each instance the applicable provisions of the Zoning Ordinance;
  - d. The date before which the steps for compliance must be commenced and the date before which the steps must be completed;
  - e. A statement 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 the procedures set forth herein; and

- f. A statement that failure to comply with the notice within the time specified in Section 2203.A.3, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly defined.
3. All appeals from determinations by the Zoning Officer under this section shall be to the Zoning Hearing Board within thirty (30) days of the date of the determination.

B. Causes of Action

In case any building, structure, or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted maintained, or used in violation of this Ordinance, the proper officer of the Township, 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 of 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 Township at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the Township Supervisors. No such action may be maintained until such notice has been given.

C. Enforcement Remedies

1. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$500.00 plus all court costs, including reasonable attorney fees incurred by the Township 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 Township may enforce the judgment pursuant to the applicable 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 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 shall be paid over to the Township of Lykens.

2. 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.
3. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Township the right to commence any action for enforcement pursuant to this section.

**Section 2208. CONDITIONAL USES**

- A. Conditional uses such as provided herein shall be allowed or denied by the Township Supervisors pursuant to public notice and hearing, and pursuant to the standards set forth in this ordinance. Applications for a conditional use specified in this Ordinance shall be submitted to the Zoning Officer with the information required in Article 20.
- B. A conditional use application will be returned to the applicant if the forms provided by the Township and information required in this section and Section 2002 is incomplete at the time of submission.
- C. Unless otherwise specified or extended by the Board of Supervisors, a conditional use authorized by the Board of Supervisors will expire if the applicant fails to obtain, where required to do so, a building permit or certificate of use and occupancy within 6 months of the date of the authorization of the conditional use.
- D. Referral to the Planning Commission

All conditional use applications shall be reviewed by the Planning Commission prior to the conduct of the public hearing before the Board of Supervisors.

- E. Standards and Criteria for Conditional Use Approval

A conditional use may be granted by the Board of Supervisors when the applicant demonstrates compliance with the general and specific standards for conditional uses provided in Article 20 Sections 2003 and 2004 of this Ordinance. The applicant for conditional use shall have the burden of proof, which shall include the burden of going forward with the evidence, and the burden of persuasion on all questions of fact which are to be determined by the Board of Supervisors.

- F. Site Plan Approval

1. Any site plan presented in support of the conditional use pursuant Article 20, Section 2002.B shall become part of the official record for the said conditional use. Approval of the conditional use shall bind the use in accordance with the site plan. Should a change in the site plan be required as part of the approval of the conditional use, the applicant shall revise the site plan prior to the issuance of a building permit or certificate of use.
2. Any subsequent change to the use on the subject property shall not reflect on the originally approved site plan, and shall require the obtainment of another conditional use approval.

G. Condition Use Public Hearing Procedures

1. Before voting on the approval or denial of a conditional use, the Board of Supervisors shall hold a public hearing, pursuant to public notice. The Board of Supervisors shall submit each such application to the Planning Commission at least 30 days prior to the hearing on such application to provide the Planning Commission an opportunity to submit recommendations. If, after any public hearing held upon an application, the proposed conditional use is revised, the Board of Supervisors shall hold another public hearing, pursuant public notice, before proceeding to vote on the conditional use application.
2. All public hearings shall be conducted in accordance with the requirements outlined in Article 24, Section 2407.B and Section 2407.D of this Ordinance except that any reference to the "Zoning Hearing Board" shall be replaced with "Board of Supervisors" and any reference to "special exception" shall be replaced with "conditional use".

**Section 2209. SPECIAL EXCEPTIONS**

Applications for any special exceptions to be granted as permitted by this Ordinance shall be made to the Zoning Hearing Board through the Zoning Officer. Filing for a special exception shall be processed in accordance with Article 24.

**Section 2210. APPEALS AND APPLICATIONS**

An appeal, or application for an amendment, special exception, conditional use, or variance from the terms of this Ordinance shall be filed with the Zoning Officer, and shall contain:

- A. The name and address of the applicant;



- B. The name and address of the owner of the real estate to be affected by such proposal, as well as, names and addresses of all adjoining property owners;
- C. A brief description and location of the real estate to be affected by such proposal;
- D. A statement of the present zoning classification of the real estate in question, the improvements thereon, and the present use thereof;
- E. A statement of the section of this Ordinance under which the appeal or application is filed and reasons why it should be allowed; or, a statement of the section of this Ordinance governing the situation in which the alleged erroneous ruling is being appealed and reasons for the appeal.
- F. A reasonably accurate description of the present improvements, and the additions intended to be made under this application, indicating the size of such proposed improvements, materials, and general construction thereof. In addition, there shall be attached a plot plan of the real estate to be affected, as required to accompany applications for building permits, indicating the location and size of the lot and locations of improvements now erected, and proposed to be erected thereon; and
- G. Any other pertinent data required by the Zoning Hearing Board, Township Supervisors, and/or Zoning Officer, as appropriate to their individual authorities set forth in this Article.

**Section 2211. INTERPRETATION, PURPOSE, AND CONFLICT**

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the health, safety, morals, and general welfare. It is not intended to interfere with or abrogate or annul other rules, regulations, or ordinances, provided that where this Ordinance imposes a greater restriction upon the use of buildings or premises, or upon the height of a building, or requires larger open spaces than are imposed by such other rules, easements, covenants, restrictions, regulations or ordinances, the provisions of this Ordinance shall control.