

ARTICLE 9

ADMINISTRATION AND ENFORCEMENT

9.100 ZONING OFFICER

9.110 Creation of Office

The Office of Zoning Officer is hereby established.

9.120 Appointment

The Zoning Officer shall be appointed by and compensated by the Governing Body.

9.130 Holding Other Public Office

The Zoning Officer shall not hold any elective office in the Municipality.

9.140 Powers and Duties

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 this Ordinance. He shall examine all applications for permits, issue permits for the construction, alteration, enlargement and occupancy of all uses which are in accordance with the requirements of this Ordinance and all nonconforming uses, record and file all applications for permits with accompanying plans and documents, and make such reports to the Planning Commission and the Zoning Hearing Board as may be required.

Zoning permits for a variance from the requirements of this Ordinance and for such special exceptions as may be enumerated in Article 3, hereof shall be issued only upon written order of the Zoning Hearing Board.

9.150 Appeals

All appeals from decisions of the Zoning Officer shall be taken in the manner set forth in this Ordinance and as otherwise prescribed by the Pennsylvania Municipalities Planning Code.

9.160 Qualifications of the Zoning Officer

The zoning officer shall be able to demonstrate to the satisfaction of the local governing body a working knowledge of municipal zoning.

9.170 Registration of Nonconforming Uses and Structures

The zoning officer may identify and register nonconforming uses and structures and shall identify the reasons for their identification as nonconformities.

9.180 Issuance of Preliminary Opinion

In order not to unreasonably delay the time when a landowner may secure assurance that the ordinance or map under which he proposes to build is free from challenge, and recognizing that the procedure for preliminary approval of his development may be too cumbersome or may be unavailable, the landowner may advance the date from which time for any challenge to the ordinance or map will run under Section 914.1 of Act 247 as amended by the following procedure:

9.181 The landowner may submit plans and other materials describing his proposed use or development to the zoning officer for a preliminary opinion as to their compliance with the applicable ordinances and maps. Such plans and other materials shall not be required to meet the standards prescribed for preliminary, tentative or final approval or for the issuance of a Zoning Permit so long as they provide reasonable notice of the proposed use or development and a sufficient basis for a preliminary opinion as to its compliance.

9.182 If the zoning officer's preliminary opinion is that the use or development complies with the ordinance or map, notice thereof shall be published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall include a general description of the proposed use or development and its location, by some readily identifiable directive, and the place and times where the plans and other materials may be examined by the public. The favorable preliminary approval under Section 914.1 of Act 247 as amended and the time therein specified for commencing a proceeding with the board shall run from the time when the second notice thereof has been published.

9.200 ZONING PERMITS

9.210 Purpose

To determine compliance with the provisions of this Ordinance. No person shall erect, alter or convert any structure or building, or part thereof, nor alter the use of any land, subsequent to the adoption of this Ordinance, until a Zoning Permit has been issued by the Zoning Officer.

In addition, a zoning permit shall be required for:

- a. The deposit or excavation of more than 50 cubic yards of soil, stone, rock, clean fill or similar material on a site in any calendar year,
- b. Grading activities involving more than ½ acre of land, and/or,
- c. Any grading, dumping or fill activities within the 100 Year Floodplain. All such activities shall be subject to review by the Planning Commission Engineer.

9.211 Exemptions

A separate zoning permit is not required for fill or grading specifically approved under another zoning permit, under a subdivision or land development approval or as part of a Borough approved flood control project.

9.220 Application for Permits

All such applications shall be accompanied by plans, in duplicate, drawn to scale, showing the actual shape and dimensions of the lot or lots to be built upon, its assessment map and parcel number as recorded, the date of official record of any lot or lots on which construction is proposed, the exact size and location of any building, sign, parking or loading area or other physical feature existing or proposed on the lot, the existing and intended use of each building or part of a building, the number of families, dwelling units, employees, offices or other appropriate units of occupancy which the building is designed to accommodate, and such other information as may be necessary to determine compliance with this Ordinance. One copy of such plans shall be returned to the owner when such plans shall be approved; one copy each of all applications with accompanying plans and documents shall become a public record after a permit is issued or denied.

9.230 Issuance of Permits

It shall be the duty of the Zoning Officer to issue a Zoning Permit, provided he is satisfied that the structure, building, sign, parking area of premises, and the proposed use thereof, conform with all requirements of this Ordinance and that all other reviews and actions, if any, called for in this Ordinance have been complied with and all necessary approvals secured thereof.

All Zoning Permits shall be issued in duplicate and one copy shall be kept conspicuously on the premises effected, and protected from the weather, whenever construction work is being performed thereon. No owner, contractor, workman or other person shall perform any building operations regulated by this ordinance of any kind unless a Zoning Permit covering such operation has been displayed as required by this Ordinance, nor shall they perform such building operations after notification of the revocation of said Zoning Permit.

9.240 Denial of Permits

When the Zoning Officer is not satisfied that the applicant's proposed development will meet the requirements of this Ordinance, he shall refuse to issue a Zoning Permit and the applicant may appeal to the Zoning Hearing Board for a reversal of the Zoning Officer's decision.

9.250 Revocation of Permits

If it shall appear at any time, to the Zoning Officer that the application or accompanying plans are in any material respect false or misleading or that work is being done upon the premises differing materially from that called for in the applications filed with him under existing laws or ordinances, he may forthwith revoke the Zoning Permit, whereupon it shall be the duty of the person holding the same to surrender it and all copies thereof to the said Zoning Officer. After the Zoning Permit has been revoked, the Zoning Officer may, in his discretion, before issuing a new Zoning Permit, require the applicant to file an indemnity bond in favor of the Municipality with sufficient surety conditioned for compliance with this Ordinance and all building laws and ordinances then in force and in a sum sufficient to cover the cost of removing the building if it does not so comply. A permit shall also be revoked in accordance with Section 8.430, hereof.

9.300 OCCUPANCY PERMITS

9.310 For New Uses

After completion of the whole building or structure, and upon the sworn application by the owner or his duly authorized agent, setting forth such facts as the Zoning Officer may require, and after actual inspection of the premises by the Zoning Officer or his duly authorized assistant, he shall upon finding the facts to be as represented, issue in duplicate an Occupancy Permit, certifying that the premises comply with the provisions of the Ordinance and may be used for the purposes set forth in the permit, which purposes shall conform with the requirements of this Ordinance. No change of use shall be made in any building, structure, or premises, or premises now or hereafter erected or altered that is not consistent with the requirements of this Ordinance. Any person desiring to change the use of his premises shall apply to the Zoning Officer for an Occupancy Permit, setting forth under oath such facts as may be required.

A copy of the Occupancy Permit shall be kept at all times upon the premises effected, and shall be displayed upon request made by an authorized official. A record shall be kept of all Occupancy Permits issued and the original applications therefore shall be kept on file in the same manner as applications for Zoning Permits. No owner, tenant, or other person shall use or occupy any building or structure thereafter erected or altered, the use of which shall be changed after the passage of this Ordinance without first procuring an Occupancy Permit; provided that an Occupancy Permit once granted shall continue in effect so long as there is no change of use, regardless of change in the personnel of tenants or occupants.

9.320 For Existing Uses

Upon written request from the owner, tenant or occupant, the Zoning Officer, after inspection, shall issue an Occupancy Permit for an existing use legally existing at the time this Ordinance is made effective, certifying the extent and kind of use and whether any such existing use conforms with the provisions of this Ordinance.

No change or extensions of use, and no alterations shall be made in a nonconforming use or premises without an occupancy permit having first been issued by the Zoning Officer stating that such change, extension or alteration is in conformity with the provisions of this Ordinance.

9.400 PLANNING COMMISSION

9.410 Review Application and Appeals

The Zoning Hearing Board may refer to the Planning Commission all applications for Special Exceptions, and any other applications or appeals which in their opinion require review by the Planning Commission.

9.420 Criteria for Review

The Planning Commission shall review such applications in accordance with applicable criteria set forth in Section 5.810 and any special requirements for the intended use.

9.430 Report to the Zoning Hearing Board

The Planning Commission may recommend approval, disapproval, or approval subject to conditions or modifications, and shall report its findings to the Zoning Hearing Board within thirty (30) days of receipt thereof; such report shall state all recommended conditions and modifications and the reasons for such approval or disapproval.

9.440 Report to Governing Body

Following the enactment of this Ordinance the Planning Commission shall, from time to time prepare and file with the Governing Body, but in no case at less than two (2) year intervals a report on the operation of this Ordinance including recommendations on the enactment of amendments, supplements or changes thereto. The Planning Commission shall also review and report on all proposed conditional uses referred to it by the Governing Body.

9.500 VIOLATIONS

9.510 Complaints of Violations

Whenever a violation of this Ordinance occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Zoning Officer, who shall properly record such complaint and immediately investigate and report thereon.

9.520 Enforcement Procedures

9.521 Enforcement Notice

- a. If it appears to the municipality that a violation of the zoning ordinance 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 record.
- c. An enforcement notice shall be mailed to the alleged violator by certified mail and 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.
 - (5) The recipient of the notice has the right to appeal to the zoning hearing board within the prescribed period of time and in accordance with procedures set forth in Section 9.523 hereof.
 - (6) The failure to comply with the notice within thirty (30) days of the date of said notice, unless extended by appeal to the zoning hearing board, constitutes a violation, with possible sanctions clearly described.

9.522 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 ordinance, the Zoning 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 to the governing body of the municipality. No such action may be maintained until such notice has been given.

9.523 Appeals. Any recipient of a notice of enforcement shall have the right to appeal to the zoning hearing board to remove such notice. Such appeals, however, must be filed with the zoning hearing board not more than five (5) days following the receipt of such an enforcement notice.

9.530 Enforcement Remedies

- a. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this zoning ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the municipality, pay a judgment of not more than \$500.00 plus all court costs, including reasonable attorney fees incurred by the municipality as a result thereof. No judgment shall commence or be imposed, levied or be 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 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 of this ordinance shall be paid over to the Municipality.
- 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.

9.600 FEES

The following fees shall be paid to the Zoning Officer upon the filing of an application:

9.610	Fees for Zoning Permits not requiring Board Action	\$ 40.00
9.620	Zoning Permits for business and outdoor advertising signs	\$ 50.00
9.630	Occupancy Permits	\$ 25.00
9.640	Applications requiring Board action, including appeals for variances, requests for amendments, applications for special uses, applications for rehearings on appeals and applications	\$400.00
9.650	Applications for Conditional Uses requiring action by the Borough Council	\$300.00
9.660	Fees are intended to cover the costs of advertising and other costs of administering applications requiring Board and Council action, including a portion of the court stenographer's fee, as allowed by law. In the event that actual costs are less than the fee paid with the application, the Borough shall refund surplus payments in excess of \$25.00.	