

ARTICLE 6 – ADMINISTRATION, ENFORCEMENT AND VIOLATIONS

601 Zoning Administration Officer:

The governing body shall appoint a Zoning Administration Officer for the administration of this Zoning Ordinance. The Zoning Officer shall not hold any elective office in the municipality. The Zoning Officer shall meet qualifications established by the municipality and shall be able to demonstrate to the satisfaction of the municipality a working knowledge of municipal zoning.

602 Duties of the Zoning Officer:

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 any change of use, which does not conform, to this Zoning Ordinance. The Zoning Officer shall be authorized to institute civil enforcement proceedings as a means of enforcement when acting within the scope of his employment.

602.1 Applications:

He shall receive applications for zoning permits in accordance with the provisions of the Zoning Ordinance. In addition, the Zoning Officer shall receive all applications for appeals and forward same to the appropriate body.

602.2 Zoning Permits:

The Zoning officer shall issue a Zoning Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances. Prior to the issuance of any Zoning Permit the Zoning Officer shall review the application for permit to determine if all other necessary government permits and approvals require by Local, County, State and Federal laws have been obtained, such as those required by the Wayne Township Storm Water Management Ordinance, the Wayne Township Flood Plain Ordinance, the Wayne Township Airport Zoning Ordinance, the Wayne Township Highway Occupancy Ordinance, the Erie County Subdivision & Land Development Ordinance, the Pennsylvania Sewage Facilities Act, the Pennsylvania Dam Safety and Encroachment Act, the Pennsylvania Clean Water Act, the U.S. Clean Water Act. No permit shall be issued until this determination has been made.

602.3 Inspection:

The Zoning Officer may examine or cause to be examined all structures and or land for which an application has been filed for zoning permits, and he may conduct such inspections from time to time during and at the completion of the work for which a zoning permit has been issued.

602.4 Non-Conforming:

The Zoning Officer may keep an up-to-date list of all non-conforming uses.

603 Power Of The Zoning Administration Officer:

The Zoning Administration Officer shall have the following powers:

603.1 The right to enter and examine any premises at any reasonable time for the purpose of making inspection of buildings or premises necessary to carry out his duties.

603.2 The right to issue permits as provided in this Ordinance and keep a record of all permits issued with a notation of all special conditions involved.

603.3 The right to issue “stop work” orders by notice in writing when any construction work is being done contrary to the provisions of this Ordinance or a permit issued under it.

604 Zoning Permits:

604.1 Requirements:

Until the Zoning Officer has issued a zoning permit applicable thereto, no person shall:

- (a) Occupy or use any vacant land;
- (b) Construct, reconstruct, move or enlarge any structure;
- (c) Change a non-conforming use;
- (d) Carry on a home occupation
- (e) Erect a sign.

Exemptions:

Exterior remodeling or improvement of existing buildings which does not alter the basic structure, create additional lot area coverage or change the use of the parcel or building is exempt from this specific requirement.

604.2 Applications and Fees:

Each application for a zoning permit shall present with the application, a plot plan showing clearly and completely the location, dimensions and nature of any structures involved, and such other information as the Zoning Officer may require as to compliance with this Ordinance, together with a filing fee in accordance with a schedule annually affixed by resolution of the Board of Township Supervisors. This fee resolution may contain civil penalty provisions requiring the payment of an additional fee by anyone failing to obtain advance approval of the project.

604.3 Contractors:

No contractor, subcontractor or builder shall commence construction of any structure or sign without first ascertaining that a permit has been obtained. Failure to do so shall constitute a violation of this Ordinance.

604.4 Temporary Sub Size Permits:

A temporary permit may be authorized by the Zoning Officer for a period not to exceed 1 (one) year for non-conforming uses incidental to housing and construction projects, and including but not limited to such structures and uses as storage of building supplies and machinery, and occupation as a residence during the construction period. Any extensions thereof shall, at the option of the Zoning Officer, be referred to the Zoning Hearing Board.

604.5 Record:

Wayne Township shall maintain a permanent file of all-zoning permits and applications as public record.

604.6 Permits:

Any permit shall be exercised within one (1) calendar year from the date of its issue; otherwise it shall become null and void. The grant of a variance or special exception or conditional use shall automatically expire within two (2) calendar years if a building permit has not been obtained and construction or alteration has not commenced. This expiration provision runs with the land and not any given owner. Previous grants of approvals given prior to the adoption of this ordinance shall automatically expire within two (2) calendar years of the effective date of this ordinance if a building permit has not been obtained and construction or alteration has not commenced.

605 **Enforcement Notice:**

If it appears to the Zoning Administration Officer that a violation of the Zoning Ordinance has occurred, the Zoning Administration Officer shall initiate enforcement proceedings by sending an enforcement notice as provided in this section and imposing a civil penalty upon the violator in accordance with a schedule annually affixed by resolution of the Board of Township Supervisors.

605.1 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 filled a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.

605.2 An enforcement notice shall state at least the following:

- (a) The name of the owner of record and any other person against whom the municipality intends to take action.
- (b) The location of the property in violation.
- (c) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the Ordinance.
- (d) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
- (e) 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.
- (f) That a civil penalty has been imposed upon the violator which is to be paid within thirty days of receipt of the enforcement notice.
- (g) 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.

606 **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 governing body or, with the approval of the governing body, any 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 thirty (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.

606.1 **Jurisdiction:**

District Justices shall have initial jurisdiction over proceedings brought under Section 606.2.

606.2 **Enforcement Remedies:**

- (a) Any person, partnership or corporation who or which has violated or permitted the violation or the provisions of this zoning ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the municipality, pay a judgment of not more than five hundred (500) dollars 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 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 good faith bases 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 Wayne Township whose 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.

607 Finances and Expenditures:

- 607.1** The governing body may appropriate funds to finance the preparation of zoning ordinances and shall appropriate funds for administration, for enforcement and for actions to support or oppose, upon appeal to the courts, decisions of the Zoning Hearing Board.
- 607.2** The governing body shall make provision in its budget and appropriate funds for the operation of the Zoning Hearing Board.
- 607.3** The Zoning Hearing Board may employ or contract for and fix the compensation of legal counsel, as the need arises. The legal counsel shall be an attorney other than the municipal solicitor. The Board may also employ or contract for and fix the compensation of experts and other staff and may contract for services as it shall deem necessary. The compensation of legal counsel, experts and staff and the sums expended for services shall not exceed that appropriated by the governing body for this use. Members of the board may receive compensation for the performance of their duties, as may be fixed by the governing body, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the governing body, Alternate members may receive compensation when designated as alternate members pursuant to section 704.
- 607.4** For the same purposes, the governing body may accept gifts and grants of money and services from private source and from the County, State, and Federal governments.

607.5 The governing body may prescribe reasonable fees with respect to the administration of zoning ordinance 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.

608 **Exemptions:**

This article shall not apply to existing or proposed building, or extension thereof, used by a public utility corporation, if, upon petition, of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public. It shall be the responsibility of the Pennsylvania Public Utility Commission to ensure that both the corporation and the municipality in which the building or proposed building is located have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties and otherwise exercise the rights of a party to the proceedings.