

ARTICLE XXII

ADMINISTRATION AND ENFORCEMENT

2200. Duties of Zoning Officer

For the administration of this 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 meet qualifications established by the Board of Supervisors and shall be able to demonstrate to the satisfaction of the Board of Supervisors a working knowledge of municipal zoning. The Zoning Officer shall administer this 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 and other applicable Township codes and ordinances. The Zoning Officer shall issue all permits required by this Ordinance. The Zoning Officer may be authorized to institute civil enforcement proceedings as a means of enforcement when acting within the scope of his employment by the Township.

- (1.) It shall be the duty of the Zoning Officer, who shall be appointed by the Township Supervisors to enforce the provisions of this Ordinance and of all rules, conditions and requirements adopted or specified pursuant thereto.
- (2.) The Zoning Officer or his duly authorized assistant(s) shall have the right to enter any building or enter upon any land at any reasonable hour as necessary in the execution of their duties, provided that:
 - (a) The Zoning Officer shall notify the owner and tenant before conducting any inspection.
 - (b) The Zoning Officer or his duly authorized assistant(s) shall display identification signed by Supervisors upon commencing an inspection.
 - (c) Inspections shall be commenced in the presence of the owner or his representative or tenant.
- (3.) The Zoning Officer shall maintain files, open to the public, of all applications for certificates of occupancy and building permits along with plans submitted therewith as well as final certificates and permits.
- (4.) The Zoning Officer shall also maintain records, open to the public, of every complaint of a violation of the provisions of this Ordinance as well as action taken as a result of such complaints.
- (5.) The Zoning Officer shall submit to the Township Supervisors for insertion in the Supervisors' minutes, a written report summarizing for the year all building and zoning permits issued as well as complaints of violations and action taken as a result of such complaints.

2201. Building Permits

- (1.) No building in any District shall be erected, reconstructed, restored, or altered without a building permit duly issued upon application to the Township. No building permit shall be issued unless the proposed construction or use is in full conformity with all the provisions of this Ordinance and all other applicable ordinances (i.e. Uniform Construction Code). Any building permit issued in violation of the provisions of this Ordinance shall be null and void and of no

effect, without the necessity for any proceedings or revocations for nullification thereof; and any work undertaken or use established pursuant to any such permit shall be unlawful.

- (a.) No building permit shall be issued for the construction or alteration of any building upon a lot without approved access to a street or highway or without an approved waste disposal permit or water/well permit.
- (b.) No building permit shall be issued for a building to be used for any variance, Special Exception or Conditional Use unless and until such approval has been duly granted by the Zoning Hearing Board or other applicable body.
- (c.) Unless otherwise prescribed by this ordinance, the Township shall, within fifteen (15) business days for residential construction and thirty (30) business days for commercial construction after the filing of a complete and properly prepared application, either issue or deny a building permit. If a building permit is denied, the Township shall state in writing to the applicant the reasons for such denial.
- (d.) A building permit becomes invalid unless the authorized construction work begins within 180 days after the permit's issuance or if the authorized construction work permit is suspended or abandoned for 180 days after the work has commenced. A permit holder may submit a written request for an extension of time to commence construction for just cause. The building code official may grant extensions of time to commence construction in writing. A permit may be valid for no more than five (5) years from its issue date.
- (e.) Where a zoning or building permit is required by this Ordinance, but the work is commenced or the use is commenced or changed prior to obtaining such permit, the fees set by ordinance or resolution of the Township Board of Supervisors for such permit shall be doubled. The doubling of the permit fee shall be required to reflect the additional expense incurred by the Township resulting from the need to inspect the property, respond to any complaints, issue any enforcement notices and/or process the application as soon as it is received. The payment of such increased permit fee shall not relieve any person from complying with all requirements of this Ordinance or any other applicable Township ordinances or from any penalties or enforcement actions authorized by this Ordinance or the Act;

2202. Zoning Permits

(1.) General Requirements for Zoning Permits:

(a.) Permit Required

- (i.) No land or buildings shall be occupied by a use or changed from one use to another and no building, structure, fence, and/or any other improvements or development of land itself shall be erected, established, constructed, altered or extended without first obtaining a zoning permit after submitting a complete and detailed zoning application. Additionally, no proposed building or use shall be

occupied or established until a certificate of use and occupancy shall have been issued by the Zoning Officer stating that the buildings or proposed uses fully comply with the provisions of this Ordinance, the provision of the Uniform Construction Code and the provision of all other applicable ordinances (i.e. Subdivision and Land Development Ordinance).

- (ii.) Application for zoning permits shall be made in writing to the Zoning Officer;
 - (iii.) Such zoning permits shall be granted or refused in writing within ninety (90) days from date of a completed application
 - (iv.) No zoning permit shall be issued except in conformity with:
 - (1.) All applicable regulations of this Ordinance;
 - (2.) Any conditions imposed upon the site by the Zoning Hearing Board or the Board of Supervisors; and,
 - (3.) Any recorded subdivision or land development plan;
 - (v.) In all instances in which the Zoning Officer expresses a reasonable doubt as to the ability of a proposed use to meet all of the above-described requirements, it will be incumbent upon the applicant to furnish adequate evidence in support of his application. If such evidence is not presented, the zoning permit will be denied;
 - (vi.) Application for a zoning permit shall be made by the Owner or Lessee of any building or structure, or the agent of either; provided, however, that if the application is made by a person other than the Owner, it shall be accompanied by a written authorization of the Owner or the qualified person making an application, that the proposed work is authorized by this Owner. The full names and addresses of the Owner, Lessee, Applicant, and of the responsible officers, if the Owner or Lessee is a corporate body, shall be stated in the application;
 - (vii.) The Zoning Officer may call upon other Township Staff and/or Township-appointed consultants in the review of submitted materials for applications;
 - (viii.) The Zoning Officer may revoke a zoning permit or case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based or for any other cause set forth in the Zoning Ordinance;
- (b.) Where a zoning or building permit is required by this Ordinance, but the work is commenced or the use is commenced or changed prior to obtaining such permit, the fees set by ordinance or resolution of the Township Board of Supervisors for such permit shall be doubled. The doubling of the permit fee shall be required to reflect the additional expense incurred by the Township resulting from the need to inspect the property, respond to any complaints, issue any enforcement notices and/or process the application as soon as it is received. The payment of

such increased permit fee shall not relieve any person from complying with all requirements of this Ordinance or any other applicable Township ordinances or from any penalties or enforcement actions authorized by this Ordinance of the Act;

- (c.) Issuance of Permits – Upon receiving the application, the Zoning Officer shall examine the same within a reasonable time after filing a complete application. If the application or plans do not conform to the provisions of all pertinent local laws, he shall reject such application in writing, stating the reasons therefore. He shall inform the applicant of his right to appeal to the Zoning Hearing Board in the event such application is rejected. If satisfied that the proposed work and/or use conforms to the provisions of the Zoning Ordinance and all laws and ordinances applicable thereto, and that the certificate of use and occupancy as required herein has been applied for, he shall issue a zoning permit therefore as soon as practical but not later than ninety (90) days from receipt of the application;
- (d.) Reconsideration of Application – An applicant whose request for a zoning permit has been denied by the Zoning Officer may make a later application for a permit provided all deficiencies which were the basis for the prior denial of the permit have been eliminated. The Zoning Officer shall not be required to make a new inspection of the application if this condition is not met;
- (e.) Expiration of Permit – The zoning permit shall expire after one (1) year from the date of issuance; provided, however, that the same may be extended every six (6) months for a period not to exceed an additional two (2) years, upon written request by the applicant which demonstrates good cause to the Zoning Officer;
- (f.) Compliance with Ordinance – The zoning permit shall be a license to proceed with the work and should not be construed as authority to violate, cancel, or set aside any of the provisions of the Zoning Ordinance, except as stipulated by the Zoning Hearing Board;
- (g.) Compliance with Permit and Plot Plan – All work or uses shall conform to the approved application and plans for which the zoning permit has been issued as well as the approved plot plan;
- (h.) Display of Zoning Permit – All approved zoning permits shall be prominently displayed on the subject property during construction, renovation, reconstruction, repair, remodeling or the conduct of other site improvements. Such permit displays shall occur within five (5) days of permit issuance, or prior to the commencement of actual work on the site, whichever occurs first. Such permit display shall be contiguous until the site receives its certificate of use and occupancy;
- (i.) Temporary Use Permits – It is recognized that it may be in accordance with the purpose of this Ordinance to permit temporary activities for a limited period of time, which activities may be prohibited by other provisions of this Ordinance. If such uses are of such a nature and are so located that, at the time of application, they will:

- (i.) In no way exert a detrimental effect upon the uses of land and activities normally permitted in the zone, they may be permitted by special exception; or
 - (ii.) Contribute materially to the welfare of the Township, particularly in a state of emergency, under conditions peculiar to the time and place involved, then, the Board of Supervisors may direct the Zoning Officer to issue a permit, by right, for a period not to exceed six (6) months. Such permits may be extended not more than once for an additional period of six (6) months;
- (j.) Application for All Zoning Permits:
- (i.) Applications shall contain a general description of the proposed work, development, use or occupancy of all parts of the structure or land and shall be accompanied by plans in sufficient detail as the Zoning Officer deems necessary from the following:
 - (1.) Dimensions and shape of lot to be developed;
 - (2.) Location and dimensions of any structures to be erected, constructed and altered and floor plans of the interior layout of such structures. For proposed structures, measurements to all property lines and center of the street shall be identified on the site plan;
 - (3.) Existing and proposed uses, including the number of occupied units, businesses, etc., all structures are designed to accommodate;
 - (4.) Off-street parking and loading spaces;
 - (5.) Utility systems affected and proposed;
 - (6.) Alteration or development of any improved or unimproved real estate;
 - (7.) The size of structures and the number of employees anticipated; and,
 - (8.) Any other lawful information that may be required by the Zoning Officer to determine compliance with this Ordinance; and,
 - (9.) Copies of any applicable approved subdivision or land development plans; and,
 - (10.) If the proposed activity requiring a zoning permit, is located within an identified floodplain area, an approved floodplain development permit shall be required that complies with the requirements or provisions of South Middleton Township Ordinance 2023-06., as amended

2203. Fees

Determination – The Board of Supervisors may, by resolution, establish fees for the administration of this Ordinance. All fees shall be determined by a schedule that is made available to the general public. The Board of Supervisors may reevaluate the fee

schedule and make necessary alterations to it by resolution or ordinance. Such alterations shall not be considered an amendment to this Ordinance and may be adopted at any public meeting of the Board of Supervisors.

2204. Land Development Review

Uses requiring review and approval as Land Development under the South Middleton Township Subdivision and Land Development Ordinance shall not be acted upon by the Zoning Officer until approval of any such land development by the Board of Supervisors. Generally, and for purposes of this Ordinance, the following principal uses are examples that land development approval is required:

- (1.) All institutional uses.
- (2.) All commercial uses.
- (3.) All utilities.
- (4.) All industrial uses.
- (5.) The following residential uses:
 - (a.) Multi-family Dwellings
 - (b.) Manufactured Home Parks
 - (c.) Boarding Houses
 - (d.) Recreation Vehicle Parks
 - (e.) Nursing Homes
 - (f.) Planned Residential Development
 - (g.) Cluster Development

2205. Violations and Penalties

- (1.) Enforcement Notice
 - (a.) Whenever the Zoning Officer or other authorized Township representative determines that there are reasonable grounds to believe that there has been a violation of any provision of this Ordinance, or of any regulation adopted pursuant thereto, the Zoning Officer 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 state at least the following:
 - (i.) The name of the owner of record and any other person against whom the Township intends to take action.
 - (ii.) The location of the property in violation.
 - (iii.) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the Ordinance.

- (iv.) The date before which the steps for compliance must be commenced, not to exceed thirty (30) days from receipt of notice, and the date before which the steps must be completed.
- (v.) An outline of remedial action which, if taken, will effect compliance with the provisions of this Ordinance, or any part thereof, and with any regulations adopted pursuant thereto.
- (vi.) A statement indicating 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 elsewhere in this Ordinance.
- (vii) A statement indicating 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.

(2.) 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 or any other Township ordinances, code or regulation, the Board of Supervisors, or any 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 or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When 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 Board of Supervisors. No such action may be maintained until such notice has been given.

(3.) Jurisdiction. District justices shall have initial jurisdiction over proceedings brought under Section 2204 (4.).

(4.) Enforcement Remedies.

- (a.) 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 five hundred dollars (\$500) 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 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 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 fee collected for the violation of the Ordinance shall be paid over to the Township.

- (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 any person or entity other than the Township the right to commence any action for enforcement pursuant to this Section.
- (5.) Any development initiated or any building or structure constructed, reconstructed, enlarged, altered, or relocated, not in compliance with this Ordinance may be declared by the Board of Supervisors to be a public nuisance and abatable as such.