

ARTICLE XVII

ADMINISTRATION AND ENFORCEMENT

SECTION 17.01 - APPOINTMENT 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.

SECTION 17.02 - POWERS AND DUTIES OF ZONING OFFICER.

- A. It shall be the duty of the Zoning Officer to enforce the provisions of This Ordinance and all rules, conditions and requirements adopted or specified pursuant thereto.
- B. 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:
 - 1. The Zoning Officer shall notify the owner and tenant before conducting any inspection.
 - 2. The Zoning Officer or his duly authorized assistant(s) shall display identification signed by the Board of Supervisors upon commencing an inspection.
 - 3. Inspections shall be commenced in the presence of the owner or his representative or tenant.
- C. 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.

- D. 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.
- E. The Zoning Officer shall submit monthly to the Board of Supervisors for insertion in the Supervisors' minutes, a written report summarizing for the month all building permits and certificates of occupancy issued by him as well as complaints of violations and action taken as a result of such complaints.
- F. The Zoning Officer shall identify and register all nonconforming uses and nonconforming structures and shall maintain up-to-date records of changes in use and other nonconformities.

SECTION 17.03 - ZONING PERMITS.

- A. All uses, activities and development occurring within any floodplain conservation district shall occur only with a zoning permit duly issued upon application to the Zoning Officer. No building or structure in any other zoning district shall be erected, installed, reconstructed or restored, renovated or structurally altered without a zoning permit duly issued upon application to the Township. However, no such zoning permit shall be required for building renovation valued at less than \$500. No zoning permit shall be issued unless the proposed construction or use is in full conformity with all the provisions of This Ordinance. Any zoning 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 of nullification thereof; and any work undertaken or use established pursuant to any such permit shall be unlawful.
- B. Every application for a zoning permit shall contain the following information and be accompanied by the required fee:
 - 1. The actual shape, dimensions, radii, angles and area of the lot on which the building is proposed to be erected, or of the lot in which it is situated if an existing building;
 - 2. The block and lot numbers as they appear on the latest real estate tax assessment records.
 - 3. The exact size and locations on the lot of the proposed building or buildings or alteration of an existing building and of other existing buildings on the same lot;
 - 4. The dimensions of all yards in relation to the subject building and the distances between such building and any other existing buildings on the same lot.
 - 5. The existing and intended use of all buildings, existing or proposed, the use of land, and the number of dwelling units the building is designed to accommodate; and

6. Such topographic or other information with regard to the building, the lot or neighboring lots as may be necessary to determine that the proposed construction will conform to the provisions of this Ordinance.
 7. Name and address of the applicant.
 8. Name and address of the owner, if other than the applicant, of the land on which the proposed construction is to occur.
 9. Name and address of the general contractor and, if known, the names and addresses of all subcontractors.
 10. Listing of other permits required including their identification numbers.
 11. Brief description of proposed work and estimated cost.
- C. No zoning permit shall be issued for the construction or alteration of any building upon a lot without access to a public street or highway.
- D. No zoning permit shall be issued for any building where the Land Development Plan of such building is subject to approval by the Board of Supervisors, except in conformity with the plans approved by said Supervisors.
- E. No zoning permit shall be issued for a building to be used for any use by Special Exception in any District where such use is allowed only by approval of the Zoning Hearing Board unless and until such approval has been duly granted by the Zoning Hearing Board.
- F. The zoning permit application and all supporting documentation shall be made in duplicate. On the issuance of a zoning permit, the Zoning Officer shall return one copy of all filed documents to the applicant.
- G. The Zoning Officer shall, within ten days after the filing of a complete and properly prepared application, either issue or deny a zoning permit. If a zoning permit is denied, the Zoning Officer shall state in writing to the applicant the reasons for such denial.
- H. Every zoning permit shall expire if the work authorized has not commenced within 3 months after the date of issuance, or has not been completed within 18 months from such date for construction costing less than \$1,000,000 and has not been completed within 36 months from such date for construction costing in excess of \$1,000,000. If no zoning amendments or other codes or regulations affecting subject property have been enacted in the interim, the Zoning Officer may authorize in writing the extension of either above periods of an additional six (6) months, following which no further work is to be undertaken without a new zoning permit.

1. Construction and/or development shall be considered to have started with the preparation of land, land clearing, grading, filling, excavation for basement, footings, piers, or foundation, erection of temporary forms, the installation of piling under proposed subsurface footings, or the installation of sewer, gas and water pipes, or electrical or other service lines from the street.
- I. As soon as the foundation of a building or of any addition to any existing buildings is completed, and before first story framing or wall construction is begun, there shall be filed with the Township an accurate survey signed by the person responsible for said survey, showing the exact location of such foundation with respect to the street and property lines of the lot.
 - J. Prior to the issuance of any zoning permit the Zoning Officer shall review the application for permit to determine if all other necessary governmental permits such as those required by Commonwealth and Federal laws have been obtained, including those required by Act 537, the Pennsylvania Sewage Facilities Act, the Dam Safety and Encroachment Act, the U.S. Clean Water Act, Section 404, 33, U.S.C. 1334, and the Pennsylvania Clean Streams Act. No permit shall be issued until this determination has been made. No construction shall commence until evidence of approved Pennsylvania Department of Transportation and/or Township driveway permits (if required) has been provided to the Zoning Officer.
 - K. No encroachment, alteration, or improvements of any kind shall be made to any watercourse, including such watercourses as may be located outside the mapped floodplain areas, until all adjacent municipalities which may be affected by such action have been notified by the Township, and until all required permits or approvals have been first obtained from the Department of Environmental Resources, Bureau of Dams and Waterway Management.
 1. In addition, the Federal Insurance Administrator and Pennsylvania Department of Community Affairs, Bureau of Community Planning, shall be notified by the Township prior to any alteration or relocation of any watercourse.
 - L. During the construction period and upon completion of the work, the Zoning Officer shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all Township laws and ordinances.
 1. In the event that the Zoning Officer discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Zoning Officer shall revoke the zoning permit and report such fact to the Board of Supervisors for whatever action it considers necessary.
 2. A record of all such inspections and violations of This Ordinance shall be maintained by the Zoning Officer.

M. Applications for zoning permits and special exceptions for any construction or development proposed to be located within, or partially within, any identified floodplain area shall provide, in addition to the information required by Section 17.03 B. of This Ordinance, the following plans and information:

1. A site plan of the lot or parcel, drawn at one (1) inch equal to one hundred (100) feet. Such plan shall show the following:

- (a) North arrow, written and graphic, scale, and a date.
- (b) A location map showing the vicinity in which the proposed activity or development is to be located within the Township.
- (c) Topography based upon the National Geodetic Vertical Datum showing existing and proposed contours at intervals of two (2) feet.
- (d) All property and lot lines including dimensions, and the size of the site expressed in square feet.
- (e) The location of all existing streets, drives, and other accessways with information concerning widths, pavement types, construction, and elevations.
- (f) The location of any existing bodies of water or watercourses, buildings, structures and other public or private facilities, and any other natural or manmade features affecting, or affected by, the proposed activity or development.
- (g) The location of the identified floodplain area boundary line, floodway line information and spot elevations concerning the one hundred (100) year flood elevations, and information concerning the flow of water including direction and velocities.
- (h) A general plan of the entire site accurately showing the location of all proposed buildings, structures, and any other improvements, including the location of any existing or proposed subdivision and land development in order to assure that:
 - (1) all such proposals are consistent with the need to minimize flood damage;
 - (2) all utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage; and

- (3) adequate drainage is provided so as to reduce exposure to flood hazards.
- 2. Detailed architectural and engineering drawings drawn at a suitable scale. Such drawings shall show the following:
 - (a) Building size, floor plans, sections and exterior building elevations.
 - (b) The proposed finished floor elevations of any proposed building based upon National Geodetic Vertical Datum, related flood depths, pressures, and velocities.
 - (c) Complete information concerning the impact and uplift forces and other factors associated with a one hundred (100) year flood.
 - (d) Details of proposed flood-proofing measures.
 - (e) Cross-sections for all proposed streets, drives, and other accessways and parking areas showing all rights-of-way and pavement widths.
 - (f) Profiles for all proposed streets, drives, and vehicular accessways including existing and paved grades.
 - (g) Plans and profiles of all proposed sanitary and storm sewer systems, water supply systems and any other utilities and facilities.
 - (h) Soil types.
- 3. The following data and information shall also be provided:
 - (a) Document, certified by a registered professional engineer, architect, or landscape architect which states that the proposed construction has been adequately designed to withstand the one hundred (100) year flood elevations, pressures, velocities, impact and uplift forces and other hydrostatic, hydrodynamic and buoyancy factors associated with the one hundred (100) year flood. Such statement shall include a description of the type and extent of floodproofing measures which have been incorporated into the design of the structure and/or the development.
 - (b) The appropriate component of the Department of Environmental Resources' "Planning Module for Land Development".

- (c) Where excavation, grading or fill is proposed, a plan meeting the requirements of the Department of Environmental Resources and the Middlesex Township Subdivision and Land Development Ordinance, to implement and maintain erosion and sedimentation control.
- N. A copy of all applications and plans for any proposed construction or development in any identified floodplain area to be considered for approval shall be submitted by the Zoning Officer to the Cumberland County Conservation District, the Middlesex Township Planning Commission and the Township's engineering and planning consultants for review and comment prior to the issuance of a building permit. Recommendations resulting from such reviews shall be considered by the Zoning Officer for possible incorporation into the proposed plan.

SECTION 17.04 - CERTIFICATE OF OCCUPANCY.

- A. It shall be unlawful for any person to occupy or use a building erected, installed, reconstructed, restored, structurally altered, moved, or any change in use of existing building until a Certificate of Occupancy shall have been applied for and issued by the Zoning Officer. Certificates of Occupancy shall be required only for buildings or structures proposed for human use or habitation.
- B. No Certificate of Occupancy shall be issued for any use of a building or of land requiring approval by the Zoning Hearing Board or for any land or use requiring Land Development Plan approval by the Supervisors unless and until such special exception or Land Development Plan approval has been duly granted. Every certificate of occupancy for which use by Special Exception or Land Development Plan approval has been granted or in connection with which a variance has been granted by the Zoning Hearing Board shall contain a detailed statement of any condition to which the same is subject.
- C. On a form furnished by the Township, application for a certificate of occupancy for a new building or for an existing building which has been altered, shall be made after the erection of such building or part thereof has been completed in conformity with the provisions of This Ordinance and in the case of a new building shall be accompanied by an accurate plot plan, or if not available, by a survey prepared by a licensed land surveyor or engineer showing the location of all buildings as built.
- D. If the proposed use is in conformity with the provisions of This Ordinance and all other applicable codes and ordinances, a certificate of occupancy shall be issued by the Zoning Officer within 15 days after receipt of a properly completed application. If a certificate of occupancy is denied, the Zoning Officer shall state the reasons in writing to the applicant.

- E. In regard to those uses which are subject to Performance Standards Procedure, the following requirements shall also apply:
1. Any normal replacement or addition of equipment and machinery not affecting the operations or the degree or nature of dangerous and objectionable elements emitted shall not be considered a change in use;
 2. After occupancy, if there occurs continuous or frequent, even though intermittent, violations of the Performance Standards and other provisions for a period of 5 days, without bona fide and immediate corrective work, the Zoning Officer shall suspend or revoke the occupancy permit of the use and the operation shall immediately cease until it is able to operate in accordance with these regulations at which time the occupancy permit shall be reinstated;
 3. The Zoning Officer shall investigate any alleged violations of Performance Standards, and if there are reasonable grounds to believe that a violation exists, the Zoning Officer shall investigate the alleged violation, and for such investigation may employ qualified experts.
 4. A copy of said findings shall be forwarded to the Township Supervisors. The services of any qualified experts employed by the Township to advise in establishing a violation shall be paid for by the violator, if it shall be determined that a violation is proved, and otherwise by the Township. No new certificate of occupancy shall be issued unless such charges have been paid to the Township.
- F. A certificate of occupancy shall be deemed to authorize, and is required for, both initial occupancy and the continuance of occupancy and use of the building or land to which it applies.
- G. Upon written request by the Owner, and upon fee payment, the Zoning Officer shall, after inspection, issue a certificate of occupancy for any building or use thereof or of land existing at the time of adoption of This Ordinance, certifying such use and whether or not the same and the building conforms to the provisions of This Ordinance.
- H. A record of all certificates of occupancy shall be kept by the Zoning Officer and copies shall be furnished on request, to any agency of the Township or to any persons having a proprietary or tenancy interest in the building or land affected.

SECTION 17.05 - FEES

- A. Fees. The Board of Supervisors shall set fees, payable in advance, for all applications, permits, or appeals provided for by This Ordinance to defray the cost of advertising, processing, inspecting, mailing notices, charges of a stenographer for taking the notes of

testimony, and copying applications, permits and occupancy certificates. Zoning Permit Fees shall not be required for any maintenance operations such as painting, roof repair, window replacement, installation of siding, replacement of defective structural members or similar maintenance measures.

SECTION 17.06 - ENFORCEMENT

A. Enforcement Notice

1. 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.
2. 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.
3. An enforcement notice shall state at least the following:
 - (a) The 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 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, not to exceed thirty (30) days from receipt of notice, and the date before which the steps must be completed.
 - (e) 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.
 - (f) 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.
 - (g) 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.

B. 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) day 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.

C. Jurisdiction. District justices shall have initial jurisdiction over proceedings brought under Section 17.06 D.

D. 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 therefor 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.
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 any person or entity other than the Township the right to commence any action for enforcement pursuant to this Section.
- E. 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.

SECTION 17.07 - SPECIAL EXCEPTION USES. It is the intent of this Section to provide special controls and regulations for particular uses which may, under certain conditions, be conducted within the various Zoning Districts established in Article III of This Ordinance.

Each subsection of this Section has particular controls and/or requirements which must be satisfied before the use by right or by Special Exception is permitted; and it is the intent of this Article that these particular controls and requirements are additional to those imposed by the District Use Regulations, Articles V through XIII, and by the Supplementary Regulations, Article XIV, of This Ordinance.

A. Applicability, Limitations, Compliance.

1. Applicability. The controls imposed by Sections 14.27 through 14.49 of Article XIV are applicable where cited specifically as a use by Special Exception and where cited for specific permitted uses in Articles V through XIII of This Ordinance.
2. Limitations. Special Exception uses shall be permitted only where specifically cited in the district use regulations, Articles V through XIII of This Ordinance.
3. Compliance. Nothing in this Section shall relieve the Owner or his agent, the developer, or the applicant for a Special Exception Use Permit from obtaining Subdivision and/or Land Development Plan approval in accordance with the Middlesex Township Subdivision and Land Development Ordinance.

B. Procedures for Special Exceptions.

1. Application. Each application for a Special Exception use shall be accompanied by a proposed plan showing the size and location of the lot, the location of all buildings and proposed facilities including access drives, parking areas, and all streets within 200 feet of the lot. The plan shall indicate the use of each building located within 200 feet of the lot.
2. Referral to Middlesex Township Planning Commission.
 - a. In their review the Commission shall take into consideration the public health, safety, and welfare, the comfort and convenience of the public in general and of

the residents of the immediate neighborhood in particular, and may recommend appropriate conditions and safeguards as may be required in order that the result of its action may, to the maximum extent possible, further the expressed intent of This Ordinance and the accomplishment of the following objectives in particular.

- b. That all proposed structures, equipment, or material shall be readily accessible for fire and police protection.
 - c. That the proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.
 - d. That, in addition to the above, in the case of any use located in, or directly adjacent to, a Residential District:
 - (1) The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to, or incongruous with, said Residential District or conflict with the normal traffic of the neighborhood; and
 - (2) The location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.
3. Planning Commission Recommendation. Within 30 days, the Commission shall forward its written recommendations to the Zoning Hearing Board. The Commission may recommend approval, disapproval or modification. In the case of disapproval or modification the Commission shall set forth the reasons for the recommendation in writing.
4. Zoning Hearing Board Action. The Zoning Hearing Board shall conduct a public hearing on each application for a special exception use. Such hearing shall be conducted in accordance with Section 18.04 of This Ordinance.

- a. The Zoning Hearing Board shall make its final decision based upon findings of fact as to the general factors set forth in Section 17.07.B.2. and upon the specific factors for which a special exception application is filed.
- C. Conditions and Safeguards of Special Exception Permits. The Zoning Hearing Board may require the special exception use permits be periodically renewed. Such renewal shall be granted upon a determination by the Zoning Hearing Board to the effect that such conditions as may have been prescribed by the Zoning Hearing Board in conjunction with the issuance of the original permit have not been, or are being no longer, complied with. In such cases, a period of 60 days shall be granted the applicant for full compliance prior to the revocation of said permit.
- D. Effect of Special Exception Approval. Any use for which a special exception use permit may be granted shall be deemed to be a conforming use in the District in which such use is located provided that such permit shall be deemed to affect only the lot or portion thereof for which such permit shall have been granted.
- E. Special Exceptions - Fees and Other Costs. In addition to the filing fee and other costs requisite for Land Development Plan approval in accordance with the Subdivision and Land Development Ordinance, the applicant shall pay the following costs:
 1. All costs related to any required public hearing including but not limited to: advertising of the hearing, services of the Township Solicitor and Engineer and/or Planner, public stenographer, transcripts of proceedings, and similar costs.

An applicant by filing for a use by special exception shall then be obligated to pay all costs hereinabove provided. Payment of such costs shall be promptly submitted to the Township by the applicant upon the submission of bills therefor from time to time. Payment shall be by check or money order made payable to the Township of Middlesex.

No building permit or other requisite permit shall be issued by the Township Zoning Officer until all such fees and costs have been paid in full by the applicant.

