

ARTICLE 12

ADMINISTRATION AND ENFORCEMENT

1200 DUTIES OF THE ZONING OFFICER

The provisions of this Ordinance shall be administered and enforced by the Zoning Officer who shall be appointed by the Borough Council and who shall hold no elective or appointed office in the municipality. Said Officer shall be able to demonstrate to the satisfaction of the Council a working knowledge of municipal zoning, and shall meet such other qualifications as the Council may, from time to time, deem necessary for the effective implementation of the provisions of this Ordinance. The Zoning Officer may be compensated for his work and shall have the following duties:

- A. to receive and process applications for permits, certificates, variances, special exceptions, conditional uses, appeals and other applications required under the terms of this Ordinance;
- B. to prescribe the form of all applications, permits and certificates required under the terms of this Ordinance;
- C. to issue or deny applications for Zoning Permits in accordance with the procedures set forth in Section 1202 of this Ordinance. **In cases involving requests for a conditional use, a special exception, or a variance, permits shall be issued only upon written order of the appropriate approving agency.** (It shall be the responsibility of the Zoning Officer to process requests for hearings before the Borough Council and Zoning Hearing Board, as applicable.);
- D. to issue or deny requests for Certificates of Compliance in accordance with the procedure set forth in Section 1203 of this Ordinance;
- E. to examine land, buildings and structures to determine their consistency with the Zoning Ordinance at the time of application filing, during the work and upon completion of the work;
- F. to issue written enforcement notices as specified in Section 1204 A. of this Ordinance where it appears that there has been a violation, and to institute civil enforcement proceedings with the appropriate District Justice on behalf of the Borough as a means of enforcing the zoning regulations. (Duplicate copies of such notices shall be referred to the Borough Solicitor, Zoning Hearing Board and to the Borough Council.);
- G. to maintain and update, as authorized, the official Zoning Map;
- H. to record and file all applications, permits or certificates issued, variances granted, inspections made, reports rendered and notices or orders issued;
- I. to post notice of pending Zoning Hearing Board hearings in accordance with the

procedure established in Section 1002 E.2 of this Ordinance and to post notice of proposed zoning district changes as per the requirements of Section 1100 A.;

- J. to present facts, records, and other information to the Borough Council and/or Borough Planning Commission, upon request of such body, as will assist them in their deliberations of specific applications;
- K. to present to the Zoning Hearing Board, in each case before the Board, all relevant facts and arguments to support the Borough's position, interpretation, and procedures in application of the provisions of this Ordinance;
- L. to issue Certificates of Nonconformance as requested (see Sections 900 F. and 901 D.); and
- M. to perform such other duties as may be made necessary by the terms of this Ordinance.

1201 GENERAL PROCEDURE FOR ZONING & BUILDING PERMIT APPLICATIONS

All persons desiring to undertake any development, new construction, structural alteration, or change in the use of a building, structure, or land shall apply to the Borough Zoning Officer for a Zoning Permit by completing the appropriate application form and by submitting the required fee. After thoroughly reviewing the application, the Zoning Officer shall either issue or deny the Zoning Permit or refer the application to the Zoning Hearing Board or Borough Council for their consideration, as applicable. After the applicant has received a Zoning Permit, he shall contact the Borough Building Code Official and make application for a Building Permit. Following completion of his project, the applicant shall apply to the Zoning Officer for a Certificate of Compliance. If the Zoning Officer finds that the project has been completed in accordance with the terms of the Zoning Permit, he shall issue a Certificate of Compliance, after which the Building Code Official shall inspect the project and issue or deny an Occupancy Permit allowing the premises to be occupied or used. (The specifics of each step of the zoning procedure are presented in Sections 1202 and 1203 below and in chart form in Appendix G. of this Ordinance.) **Nothing in this Ordinance shall exempt the applicant from obtaining any Permits which may be required by other regulations or codes in effect in Milton Borough.**

1202 ZONING PERMITS

A. Requirements for Zoning Permits

A Zoning Permit shall be required prior to the placement, erection, construction, addition, or alteration of any building or structure or portion thereof; prior to the use or change in use of a building, structure or land, including parking lots; prior to the erection or alteration of signs, except as specified in Article 7; prior to the change or extension of a nonconforming use; and prior to development in any Floodplain District; *except as listed below.*

It shall be unlawful for any person to commence work for the erection or alteration of any building or structure or to change a land use, until a Zoning Permit has been duly issued

therefor. (In many instances, additional permits may also need to be obtained prior to beginning construction or alterations.)

Exemptions

Zoning Permits shall not be required for the following activities **unless they are proposed within a floodplain district:**

1. interior alterations when there is no increase in ground floor exterior dimension and no change in use;
2. general exterior maintenance and repair to existing buildings or structures; including roofing, painting, the addition or replacement of storm windows, and similar activities;
3. landscaping, or the construction of land terraces, steps or similar features; or
4. placement or location of utility distribution lines.

B. Application for Zoning Permits

Each request for a Zoning Permit shall be made by completing the appropriate application form obtained from the Zoning Officer and submitting it, along with the required fee, to the Borough. Application for a 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 from the owner. The full names and addresses of the owner, lessee, applicant or other responsible parties shall be stated in the application.

The Zoning Officer shall have 10 days after receipt of a completed application to issue or deny the Permit. Any denial shall be in writing and shall state the reason(s) for such action.

C. Description of Work and Plan Requirements

All applications for Zoning Permits shall be accompanied by plans drawn to scale showing the actual shape and dimensions of the lot, the exact 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 thereof, and such other information as necessary to determine compliance with this Ordinance and all other pertinent regulations. No application shall be considered complete until all necessary documents have been filed and all fees have been paid to the Borough.

All applications and accompanying plans and documents shall become a matter of public record once a permit has been either issued or denied.

D. Applicability of Other Regulations

In addition to meeting the requirements set forth in this Ordinance, applicants shall adhere to all other regulations or codes in effect in Milton Borough or as may hereafter be enacted. Nothing in this Ordinance shall exempt an applicant from obtaining approvals or permits which may be required by such regulations or other local, State, or Federal laws or rules. It shall be the applicant's responsibility to provide the Borough with evidence that shows that such laws, rules or regulations have been met.

In particular, the standards and specifications contained in 34 PA Code (the Uniform Construction Code) Chapters 401-405, as amended, and the following referenced provisions shall apply to all Sections of this Ordinance, to the extent that they are more restrictive and/or supplement the requirements of this Ordinance.

1. International Building Code (IBC) 2000 or the latest edition thereof: Sections 801, 1202, 1403, 1603, 1605, 1612, 3402 and Appendix G.
2. International Residential Building Code (IRC) 2000 or the latest edition thereof: R104, R105, R109, R327, Appendix AE101, Appendix E, and Appendix J.

E. Changes

After the issuance of a Zoning Permit by the Zoning Officer, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written approval of the Zoning Officer. Requests for any such change shall be made in writing and shall be submitted to the Zoning Officer for consideration.

F. Display of Permit Placard

In addition to the Zoning Permit, the Zoning Officer shall issue a Permit placard which shall be displayed or posted on the premises during the time construction is in progress. The Permit placard shall remain posted until completion of the project and final inspection has been made by the Zoning Officer. Said placard shall bear the number of the Zoning Permit, the date of its issuance, a brief description of the construction authorized, and the signature of the Zoning Officer.

G. Time Limitations

Work on the approved construction shall commence within six (6) months after the date of issuance of the Zoning Permit and shall be completed within 18 months following Permit issuance or the Permit shall expire, unless a time extension is granted in writing by the Zoning Officer. Time extensions may be granted only if a written request is submitted by the applicant which sets forth sufficient and reasonable cause for the Zoning Officer to grant such a request. Where such cause is determined, no more than two (2), 90-day extensions may be granted. Additional time shall require the issuance of a new Zoning

Permit.

For the purposes of this Section, construction and/or development shall be considered to have started with the preparation of land, including land clearing, grading, filling, excavation for basement, footers, piers or foundations, erection of temporary forms, the installation of pilings under proposed subsurface footers, or the installation of sewer, gas, and water pipes, or electrical or other service lines from the street.

H. Inspections

During the construction period, 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 other applicable Borough laws. He shall make as many inspections as necessary to determine this compliance.

In the discharge of his duties, the Zoning Officer shall have the authority to enter any building, structure, premises, or development located in any zoning district, upon presentation of proper credentials, at any reasonable hour, to enforce the provisions of this Ordinance.

I. Revocation of Permits

The Zoning Officer may revoke a Zoning Permit at any time if it appears that the application or accompanying plan is in any material respect false or misleading or that work being done upon the premises differs materially from that called for in the application. In such case, the person holding the Permit shall immediately surrender it to the Zoning Officer. A report of such revocation shall also be submitted to the Borough Council for whatever action they may deem necessary.

J. Temporary Zoning Permits

A Temporary Zoning Permit may be authorized by the Zoning Officer for a non-permanent structure or use not generally permitted where it is deemed beneficial to the public health or general welfare, necessary to promote the proper development of the community, or for temporary accessory use, provided that such structure or use shall be completely removed upon expiration of the Permit without cost to the Borough. Such Permits shall be issued for a period of time not to exceed one (1) year, and may be renewed for no more than two (2) additional 90-day periods, except as provided otherwise in Sections 424 and 425 for specific types of temporary uses.

1203 CERTIFICATES OF COMPLIANCE

A. Requirements for Certificates of Compliance

No land shall be occupied or used and no building hereafter erected, altered or extended shall be used in whole or in part, or shall be changed in use, until a Certificate of

Compliance has been issued by the Borough Zoning Officer. Such requirements shall include proposals to *change from one use to another use* in any existing building (regardless if a structural alteration is proposed or necessary to accommodate the change).

The issuance of a Certificate of Compliance is not intended to guarantee or warranty, either stated or otherwise, the soundness of any construction nor the habitability of any building or structure. The purpose of the Certificate is only to certify that all work authorized by the Zoning Permit has been satisfactorily completed and that the building or proposed use thereof complies with the provisions of this Ordinance.

B. Issuance and Effect

The applicant shall notify the Zoning Officer upon completion of the permitted activity and the Certificate of Compliance shall be issued or denied by the Zoning Officer within ten (10) days after the activity has been inspected and approved as complying with the provisions of this Ordinance and the issued Zoning Permit. Once granted, the Certificate of Compliance shall continue in effect so long as there is no change of use, regardless of change in ownership, tenants or occupants. If any part of the construction is found in violation, then the applicant shall be notified in writing of the deficiencies found or the reasons for denial of the Certificate.

1204 VIOLATIONS AND ENFORCEMENT

Failure to secure a Zoning Permit when required hereunder; failure to secure a Certificate of Compliance; or failure to carry out the provisions of this Ordinance, shall be considered a violation of this Ordinance.

A. Enforcement Notice

Whenever it appears to the Zoning Officer that there has been a violation of any provision of this Ordinance, the Zoning Officer, on behalf of the Borough, shall give notice of such alleged violation as hereinafter provided. Such enforcement notice shall:

1. be in writing;
2. be served upon the owner of record of the parcel upon which the violation has occurred or be sent to him by certified mail (return receipt requested), and be sent to any person who has filed a written request to receive enforcement notices regarding the parcel, and to any other person requested in writing by the owner of record;
3. state the name of the owner of record and any other person against whom the Borough intends to take action;
4. indicate the location of the property in violation;
5. identify the specific violation(s) with a description of the requirements which have not

been met, citing in each instance the applicable provision(s) of the Ordinance;

6. contain an outline of remedial action which, if taken, will effect compliance;
7. specify the date before which the steps for compliance must be commenced and the date before which the steps must be completed;
8. notify the recipient of his right to appeal to the Borough Zoning Hearing Board prior to the expiration of the time period provided in the enforcement notice; and,
9. indicate that failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, shall constitute a violation and will be prosecuted or remedied as provided in this Section.

In any appeal of an enforcement notice to the Zoning Hearing Board, the Borough shall have the responsibility of presenting its evidence first.

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, the Borough Zoning Officer may institute in the name of the Borough, any appropriate action or proceeding to prevent, restrain, correct, or abate such building, structure, landscaping or land, or to prevent any action, conduct, business, or use in or about such premises constituting a violation.

Any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation may also institute an appropriate corrective action or proceeding. Such action must be preceded however by serving a copy of the complaint on the Borough Council at least 30 days prior to being instituted. No such action may be maintained until such notice has been given.

C. Jurisdiction

District Justices shall have initial jurisdiction over proceedings brought for a violation of this Ordinance.

D. Enforcement Remedies

Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Ordinance, whether enacted under current law or prior law, shall, upon being found liable therefore in a civil enforcement proceeding commenced by Milton Borough, pay a judgment of not more than **\$500 plus all court costs**, including reasonable attorney fees incurred by the Borough 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, Milton Borough 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 Zoning Ordinance shall be paid over to Milton Borough.

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.

Nothing contained in this Sub-Section shall be construed or interpreted to grant to any person or entity other than Milton Borough the right to commence any action for enforcement pursuant to this Sub-Section.

1205 FEES

Fees for the issuance of Zoning Permits, Certificates of Compliance, ordinance amendments, Conditional Uses, Special Exceptions, variances and other zoning actions shall be paid to the Borough upon filing of an application. Such fees shall be in accordance with the schedule of fees established by separate Resolution of the Borough Council. (A copy of the current fee schedule may be obtained from the Borough Zoning Officer or municipal Secretary.)

Further, any fees paid by a party for appeal of an enforcement notice to the Borough Zoning Hearing Board, shall be returned to the appealing party by the Borough if the Zoning Hearing Board, or any court in a subsequent appeal, rules in favor of the appealing party.