

ARTICLE 16 Administration and Enforcement

16.1 Generally: Appointment of Zoning Officer

For the purposes of administering and enforcing this Ordinance a Zoning Officer shall be appointed by the Board of Supervisors. The appointment of a Zoning Officer is generally governed by Section 614 of the Pennsylvania Municipalities Planning Code, Act of 1968, P.L. 805, No. 247, as amended. The Zoning Officer shall hold no elective office in the Township and shall demonstrate to the satisfaction of the Board of Supervisors a working knowledge of municipal zoning and shall meet such other qualifications as the Board of Supervisors 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 duties specified in Section 16.2 herein.

16.2 Powers and Duties of the Zoning Officer

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 the provisions herein. He shall have such duties and powers as are conferred on him by this Ordinance and as reasonably implied for those purposes. In addition, the Zoning Officer shall:

16.2.1 – Receive and evaluate applications for permits, certificates, variances, special exception or conditional uses, appeals and other applications within the terms of this Ordinance;

16.2.2 – Prescribe the form of all applications, permits and certificates required under the terms of this Ordinance;

16.2.3 – Issue permits for the construction, alteration or erection of all buildings or structures which are in accord with the requirements of this Ordinance, within 30 days after receipt of a complete application for such a permit. In cases of applications for a Conditional Use, Special Exception, or a Variance, permits shall be issued only upon the written order of the appropriate approving agency. It shall be the responsibility of the Zoning Officer to process requests for hearings before the Zoning Hearing Board or the Board of Supervisors, as appropriate;

16.2.4 – Deny applications for permits which do not meet the requirements of this Ordinance, within 30 days following receipt of such application. Said denial shall be in writing and shall state the reasons for such action;

16.2.5 – Examine land, buildings, and structures to determine their consistency with the Zoning Ordinance at the time of filing an application, during the work and upon completion of the work. Inspections to enforce the provisions of this Ordinance shall be made at a reasonable time and upon presentation of proper credentials;

16.2.6 – Issue or deny requests for Certificates of Occupancy within ten (10) days after final inspection of the activity. A denial shall be in writing and shall state the reasons for such action;

16.2.7 – Issue written enforcement notices as specified in Section 16.6 of this Ordinance where it appears that there has been a violation, and to institute civil enforcement proceedings with the District Justice having jurisdiction on behalf of the Township as a means of enforcing the zoning regulations. Duplicate copies of such notices shall be referred to the Zoning Hearing Board and to the Board of Supervisors;

16.2.8 – Review the application for the permit to determine if all other necessary government permits required by State and Federal laws have been obtained, such as those required by the Pennsylvania

Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made;

16.2.9 – Serve as the Township Floodplain Administrator when assigned that duty by the Board of Supervisors;

16.2.10 – Keep and maintain a permanent and public record and file of all activities undertaken by him in the performance of his official duties: including file copies of all applications received, permits issued, placards distributed, inspections and reports made in connection with any structure, dwelling, sign or land;

16.2.11 – Issue preliminary opinions (in accord with Section 916.2 of the Pennsylvania Municipalities Planning Code) regarding whether a landowner's proposed use or project complies with applicable ordinances and maps based on plans and other materials submitted by the landowner, and if such opinion is favorable, to publish notice thereof once each week for two (2) successive weeks in a newspaper of general circulation in the area. Such a notice shall include a general description of the proposed use or development, its location, and the places and times where the plans and other materials may be examined;

16.2.12 – Be responsible for maintaining and updating the Official Zoning Map with respect to any amendments thereto;

16.2.13 – Identify and register nonconforming premises in accord with the Nonconforming Regulations of Article 10; and

16.2.14 – Inform the Board of Supervisors prior to issuing violation and/or enforcement notices.

16.3 General Procedure: Zoning Permit Required

If required, persons desiring to undertake the construction, alteration, or to change the use of any structure or lot shall apply to the Zoning Officer for a Zoning Permit by filing the appropriate form and by submitting the required fee. The Zoning Officer will then either issue or refuse the permit or refer to the application to the Zoning Hearing Board or the Board of Supervisors, as appropriate. After the Zoning Permit has been issued to the applicant, he may proceed to undertake the action allowed by the permit. Upon completion of such action, the applicant shall apply to the Zoning Officer for an Occupancy Permit, if applicable. If the Zoning Officer finds that the action of the applicant has been in accordance with the permit and the provisions of this Ordinance and other applicable laws and regulations, the Zoning Officer may then issue an Occupancy Permit allowing the premises to be occupied and used.

16.4 Zoning Permits and Certificates

16.4.1 Classes of Zoning Permits – Under the terms of this Ordinance, the following classes of Zoning Permits may be issued:

16.4.1.1 – Permitted Use - Issued by the Zoning Officer on the authority granted herein;

16.4.1.2 – Special Exception Use - Issued by the Zoning Officer after review and upon the order of the Zoning Hearing Board;

16.4.1.3 – Conditional Use - Issued by the Zoning Officer after review by the Planning Agency and upon the order of the Supervisors;

16.4.1.4 – Permit on Appeal or Variance - Issued by the Zoning Officer upon the order of and following review and hearing by the Zoning Hearing Board.

16.4.2 Requirement for Zoning Permits – A Zoning Permit shall be required prior to the 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; prior to the erection or alteration of signs, except as specified in Article 8; prior to the change or extension of a nonconforming use; or 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 for a change in land use, until a Zoning Permit has been duly issued therefor. In some instances, additional permits may also be needed to be obtained prior to beginning construction work or alterations.

Exceptions - Zoning Permits shall not be required for any of the following activities except when proposed in a floodplain district:

16.4.2.1 – interior alterations when there is no increase in ground floor exterior dimension and no change in use;

16.4.2.2 – exterior or interior maintenance and repair to existing buildings or structures; including siding, roofing, painting, storm windows, and similar activities;

16.4.2.3 – cultivation of crops;

16.4.2.4 – landscaping including the erection of land terraces, steps or other similar features;

16.4.2.5 – placement or location of utility distribution lines; or

16.4.2.6 – razing of buildings or structures.

16.4.3 Application – 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 Township. 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 party shall be stated in the application.

The Zoning Officer shall have 30 days after receipt of a completed application to issue or deny the Permit. A denial shall be in writing and shall state the reason(s) for such action.

16.4.4 Plan Requirements – All applications for Zoning Permits shall be accompanied by plans, in duplicate, drawn to scale, showing the actual shape and dimensions of the lot, the exact size and location of any building 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 of a building, the number of families or dwelling units the building is designed to accommodate and such other information as maybe necessary to determine compliance with this Ordinance and all other pertinent regulations including building floor plans as may be appropriate. No application shall be considered complete until all necessary documents have been filed, and all fees have been paid to the Township.

One copy of the plans will be returned to the applicant when such plans have been approved by the Zoning Officer. All applications and accompanying plans and documents shall become a matter of public record once a permit has been either issued or denied.

16.4.5 Proof of Compliance – It shall be the responsibility of the applicant in all cases to furnish adequate information and to certify that the proposed use will comply with all requirements of this Ordinance and all other applicable federal, state or local regulations. Included in the information shall be a copy of a sewage permit when one is required. Also, if the PA Department of Labor and Industry, the Department of Transportation, County Conservation District (E&S Controls), PA DEP (state and federal environmental plans and/or permits, e.g. NPDES), or other regulatory agency requirements apply, the applicant shall supply evidence which shows that these regulations have been met.

16.4.6 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 consent or approval of the Zoning Officer. Requests for any such change shall be in writing and shall be submitted by the applicant to the Zoning Officer for consideration.

16.4.7 Permit and Permit Placard – In addition to the Zoning Permits, the Zoning Officer shall issue a Permit Placard which shall be displayed or posted on the premises during the construction time period. The Permit Placard shall remain on display until completion of the project and final inspection has been made by the Zoning Officer. Said placard shall bear the permit number, date of issuance, and the signature of the Zoning Officer.

16.4.8 Time Limitations – An application for a permit for any proposed work shall be deemed to have been abandoned six months after the date of filing unless such application has been diligently pursued, or a permit shall have been issued. Reasonable extensions of time not exceeding ninety (90) days may be granted at the discretion of the Zoning Officer.

16.4.9 Expiration of Permit – If the work approved by issuance of any Zoning Permit has not begun within one (1) year from the date of issuance, said permit shall expire. One (1) extension of up to six (6) months may be granted at the discretion of the Zoning Officer if requested in writing showing good cause by the applicant. If the work approved by issuance of any Zoning Permit has not been completed within three (3) years from the date of issuance, said permit shall expire. Further work on the premises shall not continue until a new Zoning permit has been obtained.

16.4.10 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 Township laws. He shall make as many inspections as necessary to determine compliance.

16.4.11 Revocation of Permit – 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 cases, the person holding the Permit shall immediately surrender it to the Zoning Officer. A report of such revocation shall also be submitted to the Board of Supervisors.

16.4.12 Temporary Use Permits – It is recognized that from time to time it may contribute to the welfare of the Township and its residents to allow the occupancy of land or structure for a temporary time-period by a use other than those normally permitted. In this case, the Zoning Hearing Board may

approve such temporary use and issue a Temporary Use Permit for the time-period not to exceed one (1) year, and under the conditions that will enhance the public health, safety and welfare.

16.4.13 Occupancy Permits – Prior to the use or occupancy of any land or building for which a Zoning Permit is required or to any change of use of any existing structure or land, an occupancy permit shall be secured from the Zoning Officer. A copy of the Occupancy Permit shall be kept on the premises and shall be shown to any officer of the Township upon request. All applications for Occupancy Permits shall be in writing.

16.5 Violations

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

16.6 Enforcement Notice

If it appears to the Zoning Officer that a violation of the zoning ordinance has occurred, the Zoning Officer, on behalf of the municipality, shall give notice of such alleged violation by sending an enforcement notice stating at least the following:

16.6.1 – The name of the owner of record and any other person against whom the municipality intends to act.

16.6.2 – The location of the property in violation.

16.6.3 – The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the ordinance.

16.6.4 – The date before which the steps for compliance must be commenced and the date before which the steps must be completed.

16.6.5 – 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.

16.6.6 – 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.

16.7 Cause 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 any ordinance enacted under this act or prior enabling laws, the Board of Supervisors, or with the approval of the Board of Supervisors, an 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 on the Board of Supervisors. No such action may be maintained until such notice has been given.

16.8 Enforcement Remedies

16.8.1 – District justices shall have initial jurisdiction over proceedings brought under Section 16.8.2.

16.8.2 – Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of any zoning ordinance enacted under this act or prior enabling laws shall, upon being found liable therefor in a civil enforcement proceeding commenced by a municipality, pay a judgment of not more than \$500 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 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 zoning ordinances shall be paid over to the municipality whose ordinance has been violated.

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 section shall be construed or interpreted to grant to any person or entity other than Nippenose Township the right to commence any action for enforcement pursuant to this section.

16.9 Filing Fees

Filing fees shall be payable to the Municipality and shall be received by the zoning officer. Filing fee amounts shall be established by a resolution of the Township Board of Supervisors.

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