

## ARTICLE IX ADMINISTRATION

### s. 900 **BOROUGH COUNCIL: Powers and Duties**

#### s. 900.1 **Zoning Hearing Board Appointment:**

- a. The Council must appoint three (3) residents of the Borough to a Zoning Hearing Board.
- b. No member of the Zoning Hearing Board may hold any other Borough Office.
- c. The Council must designate one (1) member to serve until the first day of January following the effective date, one (1) member to serve until the first day of the second January thereafter, and one (1) member to serve until the first day of the third January thereafter.
- d. Successors must be appointed on the expiration of the respective terms above to serve three (3) years.
- e. Appointments to fill vacancies must be only for the unexpired portion of the terms.

#### s. 900.2 **Amendments:**

- a. The Council may from time to time on its own motion, or on petition or on recommendation of the Borough Planning Commission, amend, supplement, or repeal any of the regulations and provisions of this Ordinance after public notice and hearing.
- b. Before the public hearing, a proposed change to this Ordinance, except those coming from the Planning Commission, must be referred to the Planning Commission and York County Planning Commission for their recommendations.
- c. If the Planning Commission fails to make a recommendation within thirty (30) days the Council may act without the Planning Commissions recommendation.

### s. 901 **PLANNING COMMISSION: Powers and Duties**

s. 901.1 **Zoning Hearing Board Cases:** When the Planning Commission is presented an application for a special exception or variance to the Zoning Hearing Board, the Planning Commission must review and give a written recommendation on it to the Zoning Hearing Board on or before the scheduled hearing date for the application.

s. 901.2 **Amendments:** The Planning Commission may recommend amendments to the regulations and provisions of this zoning ordinance to the Council. For a proposed amendment stemming from other sources, the Commission must review it and make a recommendation regarding it to the Council within thirty (30) days after receipt of the proposal.

### s. 902 **BOROUGH ENGINEER: Powers and Duties**

s. 902.1 **Drainage:** At the request of the Council, Planning Commission, Zoning Officer or the Zoning Hearing Board the Borough Engineer must review site plans or other data to ascertain that provision for surface water drainage will be adequate.

s. 902.2 **Building Adjacent to Drainage Channels and Watercourses:**

The Borough Engineer shall, upon request by the Borough, review plans for buildings adjacent to drainage channels or watercourses to ascertain that the buildings will be an adequate distance from the high water line.

s. 902.3 **Zoning Hearing Board Cases:** Where the exercise of the above powers and duties involves an application or appeal to the Zoning Hearing Board, the Borough Engineer shall make recommendations to the Board. The approving authority in such cases shall be the Zoning Hearing Board and not the Borough Engineer.

s. 903 **ZONING OFFICER**

s. 903.1 **Appointment:** The provisions of the Ordinance shall be administered and enforced by the Zoning Officer who shall be appointed by the Council.

s. 903.2 **Primary Duties:** The primary duties of the Zoning Officer shall be as specified below. Upon appointment and until duly released, the Zoning Officer shall ensure that all the below duties are fully executed. By virtue of this Ordinance the Zoning Officer is vested with the power to and shall:

- a. Receive all applications for building permits; issue permits when there is compliance with the provisions of this Ordinance, other Borough ordinances and laws of the Commonwealth of Pennsylvania.
- b. Inspect the lands and buildings built or altered under this Ordinance to insure that they comply with the provisions of this Ordinance; and upon satisfactory completion of said inspection, issue Certification of Use and Occupancy.
- c. Following refusal of a building permit, or refusal of a certificate of use and occupancy, receive any appeals from alleged error of the Zoning Officer and any appeals for variances from the terms of this Ordinance and forward these to the Zoning Hearing Board for action thereon.
- d. Order, in writing, correction of all conditions found to be in violation of the provisions of this Ordinance. Such written orders can be served personally or by registered mail upon persons, firms or corporations deemed by the Zoning Officer to be violating the terms of this Ordinance.
- e. Keep a permanent record of all plans and applications for permits and all permits issued, with a notation as to all conditions attached thereto.
- f. Maintain a map or maps showing the current zoning classification of all land in the Borough.
- g. See Section 614 of the Pennsylvania Municipalities Planning Code for further duties and requirements.

s. 903.3 **Additional Duties Upon Request:** When directed by either the Council, the Planning Commission

or the Zoning Hearing Board as specified below the Zoning Officer shall:

- a. Conduct investigations to determine compliance or noncompliance with the terms of this Ordinance. Such investigations may be directed toward a problem located upon a specific site or they may be area wide investigations to determine general compliance with the terms of this Ordinance.
- b. Institute, with the approval of the Council, proceedings in courts of proper jurisdiction for the enforcement of this Ordinance and issue enforcement notice pursuant to the appropriate section of this ordinance and the Pennsylvania Municipalities Planning Code.
- c. Upon the request of the Council, Planning Commission, or Zoning Hearing Board, present to such bodies, facts, records or any similar information to assist such individuals or bodies in reaching a decision upon a specific application, plan or appeal.
- d. Prepare and maintain the list of nonconforming uses as prescribed by Section 406 when requested and as directed by the Planning Commission or Council.

s. 903.4

Limits of Authority:

- a. The Zoning Officer shall have the authority to issue permits only for construction and uses which are in accordance with the requirements of this Ordinance. Construction and uses which require special exception or variance shall be issued zoning permits after approval of such application by the Zoning Hearing Board. Construction and uses which require Planning Commission and Supervisor review as Land Development under the Subdivision and Land Development Ordinance shall be issued only following final approval by the Council.
- b. The Zoning Officer shall issue no permits for the construction or use of any land and buildings unless it conforms to all Borough ordinances and the laws of the Commonwealth of Pennsylvania and/or special exceptions or variances and conditions thereto granted by the Zoning Hearing Board
- c. The Zoning Officer shall revoke a permit or approval issued under the provisions of this Ordinance in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based. Moreover, any permit issued in error may be revoked immediately and shall in no case be construed as waiving any provision of the Ordinance.

s. 903.5

**Accountability:** For purpose of accountability, the Zoning Officer shall maintain, upon forms provided by the Council, a record of all applications and inspections. Among other items such record shall contain the date, time, building permit number, and signature of the applicant or his authorized representative. Upon request by the Council, the record shall be submitted to the Council for their review.

s. 904

#### **BUILDING PERMITS**

- a. Hereafter, no building or structure shall be erected, moved, placed, constructed, improved, altered, repaired, or enlarged within the limits of Fawn Grove Borough unless a permit to do so shall first be secured in accordance with the provisions of the Building Permit Ordinance of Fawn Grove Borough and/or the Uniform Construction Code, and

unless such erection, movement, placement, construction, improvements, alteration, repair, or enlargement is in strict accordance with the application submitted pursuant to the Building Permit Ordinance of Fawn Grove Borough and with the permit issued pursuant thereto, and in accordance with the procedures set forth in such ordinance.

- b. All of the provisions of the Building Permit, Uniform Construction Code, and any other ordinances of Fawn Grove Borough are incorporated herein by reference and any violation of that ordinance shall constitute a violation of this ordinance.
- c. Action of Building Permits: Within thirty (30) business days, except for holidays, after receipt of a complete application for a building permit, the Zoning Officer must grant or refuse the permit. If the application conforms to the applicable requirements of the building permit ordinance and this Ordinance, the Zoning Officer must grant a permit. If the permit is not granted, the Zoning officer must state in writing the grounds of the refusal.

s. 905      **CERTIFICATE OF USE AND OCCUPANCY**

s. 905.1      **Permit Required:** No land or buildings shall be occupied by a principal use or changed from one principal use to another and no building hereafter erected, constructed, altered, improved, repaired, or extended shall be occupied 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 provisions of the Building Permit Ordinance of Fawn Grove Borough, the provision of the Building Code of Fawn Grove Borough and the provision of all other relevant ordinances.

s.905.2      **Application Requirement:** All applications for certificates of use and occupancy shall be made in writing by the owner or authorized agent on forms supplied by the Zoning Officer, setting forth information listed, and other data the Zoning Officer may require. Setting forth such information and data as the Zoning Officer may require and shall be accompanied by a filing fee as set by the Council.

s. 905.3      **Permit Procedures:**

- a. Construction: In cases where a building permit is required, all certificates of use and occupancy shall be applied for coincident with the application for the building permit. The certificate shall be retained by the Zoning Officer until such time as he is notified that construction has been completed. Upon notification, the Zoning Officer shall make a final inspection to determine compliance with the provisions of this Ordinance, the provisions of the Building Permit Ordinance of Fawn Grove Borough, the provision of the Pennsylvania Uniform Construction Code and the provision of all other relevant ordinances.
- b. Change of Use: In cases involving establishment of a use on land or a change of use on land or within a structure, application for a certificate of use and occupancy alone shall Suffice. The Zoning Officer shall by Letter grant or deny such use within fifteen (15) days following a complete application, except in cases of special exception where further proceedings are necessary.

(1) Such letter shall be sufficient authorization to occupy the premises. If denied, the Zoning Officer shall state in writing the cause for such denial.

- (2) Before occupancy, the applicant shall notify the Zoning Officer, upon a form provided by the Zoning Officer at time of application. The Zoning Officer shall subsequently make an on-site inspection, before actual occupancy, to determine compliance with the terms of all applicable Borough Ordinances and with statements and plans submitted by the applicant.

s. 905.4 **Permit Approval:** If the Zoning Officer finds during an inspection that all work is in conformity, a certificate of use and occupancy shall be granted within fifteen (15) days following such inspection. If any part of the construction is found in violation of any Borough ordinance then the applicant shall be notified in writing within fifteen (15) days following the inspection as to the specific points of violation.

s. 905.5 **Life of a Certificate:** A certificate of use and occupancy shall become void after ninety (90) days from the date of issuance if the applicant has not occupied or activated the use as approved.

s. 905.6 **Land Development Review:** Uses requiring review and approval as Land Development under the Borough Subdivision and Land Development Ordinance shall not be acted upon by the Zoning Officer until approval of any such land development by the Council. For purposes of this Ordinance the following principal uses shall be considered land developments:

- a. All institutional uses.
- b. All commercial uses.
- c. All utilities.
- d. All industrial uses.
- e. The following residential uses:
  - (1) Multi-family dwellings
  - (2) Mobile home parks
  - (3) Boarding houses
  - (4) Recreation vehicle parks
  - (5) Nursing homes
  - (6) Planned residential development
  - (7) Cluster development

s. 906 **FEES:** Each applicant shall at the time of making application, pay a fee in accordance with a fee schedule adopted by resolution of the Council. No application, certificate, permit or appeal shall be processed or approved without payment of the appropriate fee.

s.907 **ENFORCEMENT**

s. 907.1 **Remedies:** 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 Council or with the approval of the Council, an officer of the Borough, or any aggrieved owner or tenant of real property who shows that the 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 Borough at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the Council. No such action shall be maintained until such notice has been given. Also follow the procedures as set forth in Article 6 of the Pennsylvania Municipalities Planning Code.

s. 907.2

Penalties: Any person, partnership or corporation who or which has violated or permitted the violation of any provision of this ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than five hundred (\$500.00) dollars 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 submits a timely appeal of the judgment, the 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 the aforementioned event there shall be deemed to have been only one (1) such violation until the fifth day following the date of the determination of a violation by the District Justice. 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 Ordinance shall be paid over to the Borough. Also follow the procedures as set forth in Article 6 of the Pennsylvania Municipalities Planning Code.