

ARTICLE VII

ADMINISTRATION AND ENACTMENT

SECTION 701 PERMITS

- A. **Building permits.** Where required by the Dallastown Borough Building Permit Ordinance for the erection, enlargement, repair, alteration, moving or demolition of any structure, a building permit must be obtained from the Zoning Officer. The permit application must be accompanied by a site plan to demonstrate conformity to this Ordinance.
1. Lot: the location and dimensions of the lot.
 2. Streets: names and widths of abutting streets and highways.
 3. Structures and yards: locations, dimensions and uses of existing and proposed structures and yards on the lot and, as practical, of any existing structures within 100 feet of the proposed structure but off the lot.
 4. Improvements: proposed off-street parking and loading areas, access drives and walks; proposed sewage disposal system, water supply system and other utilities.
- B. **Use certificates.** A use certificate certifying compliance with this Ordinance must be obtained from the Zoning Officer for any new structure as below or for any change of use of a structure or land as set forth below before such new structure or use or change of use is occupied or established.
1. Use of a building or structure erected, structurally altered or extended or moved after the effective date of this Ordinance.
 2. Use of vacant land except for horticultural purposes.
 3. Any change in a conforming use of a building or structure or land.
 4. Any change from a nonconforming use of a building or structure or land to a conforming use.
 5. Any change in the use of a building or structure or land from that permitted by any variance of the Zoning Hearing Board.
 6. Temporary garage, yard, attic, barn or similar types of sales. The application for a use certificate must include a statement of the intended use and any existing use of the structure or land. The certificate continues in effect as long as the use of the structure or land for which it is granted conforms with this Ordinance or until change of occupancy.

- C. **Use certificate for an existing use.** An owner may, in writing, request the Zoning Officer to issue a use certificate for any existing structure or land, after the effective date of this Ordinance or on the effective date of any amendment and at that time in conformity with this Ordinance.
- D. **Temporary permits; application.** A person may request a temporary special exception for a nonconforming structure or use which is or will be seasonal or is or will be in the public interest.

SECTION 702 ENFORCEMENT - ZONING OFFICER; POWERS AND DUTIES

A. Appointment and powers.

- 1. For the administration of this Ordinance, a Zoning Officer, who may not hold any elective office in the Borough, shall be appointed by the Borough Council. The Zoning Officer shall meet the qualifications established by the Borough and shall be able to demonstrate to the satisfaction of the Borough 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.
- 2. The Zoning Officer is the enforcement officer for this Ordinance. She/he issues all building permits, use certificates and, at the direction of the Zoning Hearing Board, special exceptions and variances. The Zoning Officer may conduct inspections and surveys to determine compliance or noncompliance with the terms of this Ordinance with consent of the owner. The Zoning Officer may identify and register nonconforming uses and nonconforming structures together with the reasons why they were identified as nonconformities.

B. Forms. The Zoning Officer must provide a form or forms prepared by the Borough Solicitor for:

- 1. Building permits.
- 2. Special exceptions.
- 3. Use certificates.
- 4. Appeals.
- 5. Variances.
- 6. Registration of nonconforming uses and nonconforming buildings or structures.

C. Transmittal of papers. Upon receipt of an application for a special exception, variance or a notice of appeal, the Zoning Officer must transmit to the Secretary of the Zoning Hearing Board and to the Borough Planning Commission copies of all papers constituting the record upon the special exception, variance or appeal.

- D. **Action on building permits.** Within fifteen (15) days, except for holidays, after receipt of an 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, he must state in writing the grounds of his refusal.
- E. **Action on use certificates.** Within fifteen (15) days, except for holidays, after receipt of an application for a use certificate, the Zoning Officer must grant or refuse the certificate. If the specifications and intended use conform in all respects with the provisions of this Ordinance, she/he must issue a certificate to that effect. Otherwise, he must state in writing the grounds of his refusal.
- F. **Revoking permits/approvals.** The Zoning Officer shall revoke a permit or approval issued under the provisions of this Ordinance in the case of any false statement or misrepresentation of a fact in an application or on the plans on which the permit or approval was based. Any permit issued in error shall in no case be construed as waiving any provision of this Ordinance and such permit may be revoked.
- G. **Enforcement.** Upon determining that a violation of any of the provisions of this Ordinance exists, the Zoning Officer may initiate civil enforcement proceedings. To initiate a civil enforcement proceeding, the Zoning Officer must send an enforcement notice 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. An enforcement notice shall state, at least, the following:
1. The name of the owner of record and any other person against whom the Borough intends to take action.
 2. The location of the property in violation.
 3. The specific violation with a description of the requirements which have not been met, citing in each instances the applicable provisions of this Ordinance.
 4. The date before which the steps for compliance must be commenced (within fifteen [15] days of issuance of notice) and the date before which the steps must be completed within forty (45) days of issuance of notice.
 5. That the recipient of the notice has the right to appeal to the Zoning Hearing Board (within fifteen [15] days of issuance of said notice) in accordance with procedures set forth in ARTICLE V.
 6. That failure to comply with the notice within the time specified unless extended by appeal to the Zoning Hearing Board, constitutes a violation in accordance with SECTION 708 of this Ordinance.

H. Records.

1. The Zoning Officer must keep record of:
 - a. All applications for building permits, use certificates, special exceptions and variances and all actions taken on them, together with any conditions imposed by the Zoning Hearing Board.
 - b. All complaints of violations of provisions of this Ordinance and the action taken on them.
 - c. All plans submitted.
 - d. Nonconforming uses and nonconforming buildings and structures. The record must indicate the type of nonconformity, its location, ownership and any changes in the structure or use.
 2. All such records and plans shall be available for public inspection.
- I. **Reports.** At intervals of not greater than six (6) months, the Zoning Officer must report to the Borough Council.
1. The number of building permits and use certificates issued.
 2. The number of complaints of violations received and the action taken on these complaints.

SECTION 703 AMENDMENTS

- A. The Borough Council may from time to time amend, supplement or repeal any of the regulations and provisions of this Ordinance.
- B. **Public hearing(s).** Before voting on the enactment of an amendment, the Borough Council shall hold a public hearing thereon, pursuant to public notice. In the case of an amendment other than that prepared by the Borough Planning Commission, the Borough Council shall submit each such amendment to the Borough Planning Commission at least thirty (30) days prior to the hearing on such proposed amendment to provide the Planning Commission an opportunity to submit recommendations. If after any public hearing held upon an amendment the proposed amendment is changed substantially or is revised to include land previously not affected by it, the Borough Council shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.
- C. **County Planning Commission review.** At least thirty (30) days prior to the hearing on any amendment by the Borough Council, the Borough shall submit the proposed amendment to the York County Planning Commission for recommendations.

D. **Amendments involving Zoning Map changes.** If the proposed amendment involves a Zoning Map change, notice of the required public hearing shall be conspicuously posted by the Borough along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one (1) week prior to the date of the hearing. In addition, written notice of the hearing shall be sent to the property owner and all adjoining property owners.

E. **Enactment of amendments.**

1. Proposed amendments shall not be enacted unless notice of proposed enactment is given in the manner set forth in this section and shall include the time and place of the meeting at which passage will be considered, a reference to a place within the Borough where copies of the proposed amendment may be examined without charge or obtained for a charge not greater than the cost thereof. The Borough Council shall publish the proposed amendment once in one (1) newspaper of general circulation in the Borough not more than sixty (60) days nor less than seven days prior to passage. Publication of the proposed amendment shall include either the full text thereof or the title and a brief summary, prepared by the Borough Solicitor and setting forth all the provisions in reasonable detail. If the full text is not advertised, then a copy thereof shall be supplied to the newspaper in general circulation in the Borough at the time the public notice is published and an attested copy of the proposed ordinance shall be filed in the York County Law Library or other county offices designated by the York County Commissioners, who may impose a fee no greater than that necessary to cover the actual costs of storing the ordinance.
2. In the event that substantial amendments are made in the proposed amendment, before voting upon enactment, the Borough shall, at least ten (10) days prior to enactment, re-advertise in one newspaper of general circulation in the Borough a brief summary setting forth all the provisions in reasonable detail, together with a summary of the amendments.
3. Within thirty (30) days after enactment of any amendment to the Zoning Ordinance, a copy of the amendment shall be forwarded to the York County Planning Commission.

F. **Landowner curative amendments.** A landowner who desires to challenge on substantive grounds the validity of an ordinance or map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the Borough Council with a written request that his challenge and proposed amendment be heard and decided as provided in Sections 609.1 and 916.1 of the Pennsylvania Municipalities Planning Code (Act 247), as reenacted and amended.

G. **Municipal curative amendments.** If the Borough determines that its Zoning Ordinance or any portion thereof is substantially invalid, the Borough shall declare, by formal action, its Zoning Ordinance or portions thereof substantially invalid and propose to prepare a curative amendment to overcome such invalidity as provided for and in accordance with the procedures set forth in Section 609.2 of the Pennsylvania Municipalities Planning Code (Act 247), as reenacted and amended.

SECTION 704 FEES

The Borough Council shall by resolution establish fees for all applications, permits or appeals provided for by this Ordinance to defray the costs of advertising, mailing notices, processing, inspecting and copying applications, permits and use certificates. The fee schedule shall be available at the Borough Office for inspection.

SECTION 705 APPEALS

Any person aggrieved or affected by a provision of this Ordinance or decision of the Zoning Officer, Borough Engineer, Zoning Hearing Board or Borough Council may appeal in the manner set forth in either ARTICLE IX or X-A of the Pennsylvania Municipalities Planning Code, as reenacted and amended, whichever is applicable.

SECTION 706 REPEALER

All Borough ordinances or parts thereof in conflict with this Zoning Ordinance or inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

SECTION 707 INTERPRETATION

The provisions of this Ordinance shall be held to be minimum requirements to meet the purposes of this Ordinance. When provisions of this Ordinance impose greater restrictions than those of any statute, other ordinance or regulation, the provisions of this Ordinance shall prevail. When provisions of any statute, other ordinance or regulation impose greater restrictions than those of this Ordinance, the provisions of such statute, ordinance or regulation shall prevail.

SECTION 708 VIOLATIONS

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 Council or, with approval of the Borough Council, an officer of the Borough or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure 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 Council at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the Borough. No such action may be maintained until such notice has been given.

SECTION 709 PENALTIES

- A. Any person, partnership or corporation who or which has violated or permitted the violation of a provision of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the 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 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 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 this Ordinance to have believed that there was not such violation, in which event there shall be deemed to have been only one (1) such violation until the fifth (5) 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.
- B. All judgments, costs and reasonable attorney fees collected for the violation of this Ordinance shall be paid over to the Borough.

SECTION 710 VALIDITY

If any section, clause, provision or portion of this Ordinance shall be held invalid or unconstitutional by a recognized court of the Commonwealth, such decision shall not affect the legality of the remaining sections, clauses, provisions or portions of this Ordinance.

SECTION 711 EFFECTIVE DATE/ENACTMENT

This Ordinance shall take effect immediately upon adoption and publication according to law.

This Ordinance shall revoke and repeal the prior Zoning Ordinance of Dallastown Borough adopted September 1, 1963 and all amendments thereto effective upon enactment of this Ordinance. Adopted by the Borough Council of Dallastown Borough, York County, Pennsylvania into an ordinance the 23rd day of January, 1995.

Attest:

David J. Rainone
Secretary/Treasurer

Borough Council
Dallastown Borough
York County, Pennsylvania

By: Beverly A. Scott
President

By: Christopher B. Reilly
Mayor