

ARTICLE IX

ADMINISTRATION

SECTION 901 **General.** This Section outlines the procedures for enforcement and amendment of this Ordinance, as well as procedures for challenges and appeals of decisions rendered under this Ordinance.

SECTION 902 **Amendment**

902.01 **Procedures for Amendment.** Amendments to this Ordinance shall become effective only after a public hearing held thereon pursuant to public notice in the manner prescribed within Section 902.04 of this Ordinance.

902.02 **Review by Planning Commission Required.** In the case of an amendment other than that prepared by the Planning Commission, the Board of Supervisors shall submit each such amendment to the Planning Commission for recommendations at least thirty (30) days prior to the date fixed for the public hearing on such proposed amendment.

902.03 **Review by County Planning Commission.** At least thirty (30) days prior to the date fixed for the public hearing on the amendment, the Board of Supervisors shall submit the proposed amendment to the County Planning Commission for its recommendations.

902.04 **Publication, Advertisement and Availability of Amendment.** Proposed amendments to this Ordinance 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 Township where copies of the proposed amendment may be examined without charge or obtained for a charge not greater than the cost thereof. The Board of Supervisors shall publish the proposed amendment once in one (1) newspaper of general circulation in the Township not more than sixty (60) days nor less than seven (7) days prior to passage. Publication of the proposed amendment shall include either the full text thereof or the title and a brief summary, prepared at the direction of the Board of Supervisors and setting forth all the provisions in reasonable detail. If the full text is not included:

- A. A copy thereof shall be supplied to a newspaper of general circulation in the Township at the time the public notice is published.

- B. An attested copy of the proposed amendment shall be filed in the Lancaster County law library or other county office designated by the Lancaster County Commissioners, who may impose a fee no greater than that necessary to cover the actual costs of storing said ordinances.

In the event substantial amendments are made in the proposed amendment, before voting upon enactment, the Board of Supervisors shall, at least ten (10) days prior to enactment readvertise, in one (1) newspaper of general circulation in the Township, a brief summary setting forth all the provisions in reasonable detail together with a summary of the amendments.

902.05 Forwarding of Certified Copy to County Planning Commission. Within thirty (30) days after adoption, the Board of Supervisors shall forward a certified copy of any amendment to this Ordinance to the County Planning Commission.

902.06 Official Ordinance Books. Subdivision and land development ordinances and amendments may be incorporated into official ordinance books by reference with the same force and effect as if duly recorded therein.

SECTION 903 Acceptance of Conditions of Plan Approval. When a plan, whether preliminary or final has been approved subject to conditions, and when the applicant rejects the conditions, the applicant shall so notify the Board of Supervisors in writing within thirty (30) days of the date of the Board of Supervisors action. Such notification of rejection of the conditions of approval shall serve to automatically rescind the approval of the plan.

Failure by the applicant to notify the Board of Supervisors of acceptance or rejection of the conditions of approval within the time so specified shall serve to automatically rescind approval of the plan.

SECTION 904 Waivers

904.01 Review by the Board of Supervisors. The provisions of this Ordinance are intended as a minimum standard for the protection of the public health, safety and welfare. If the literal compliance with any mandatory provision of this Ordinance is shown by the applicant, to the satisfaction of the Board of Supervisors, to be unreasonable and to cause undue hardship because of peculiar conditions pertaining to the lot in question, provided that such modification will not be contrary to the public interest and that the purpose and intent of this Ordinance is observed, the Board of Supervisors may grant a waiver from such mandatory provision so that

substantial justice may be done and the public interest secured while permitting the reasonable utilization of the property.

904.02 Authority to Impose Conditions. In granting waivers, the Board of Supervisors may impose such conditions as will, in its judgment, secure substantially the objectives of the standards and requirements of this Ordinance.

904.03 Procedures for Processing Waivers. All requests for waivers shall be processed in accordance with the requirements of this Ordinance.

SECTION 905 Challenges and Appeals

905.01 Right to Appeal. Any person aggrieved by a finding, decision, or recommendation of the Board of Supervisors with respect to the approval or disapproval of a plan or waiver request may appeal as provided for in the Municipalities Planning Code.

905.02 Mediation. As an alternative to an adjudicatory appeal proceeding, a party entitled to appeal a decision of the Board of Supervisors may request the utilization of mediation as an aid in resolving the dispute. Participation in mediation shall be wholly voluntary by the parties, and shall be conducted as prescribed in the Municipalities Planning Code.

SECTION 906 Violations and Remedies

906.01 Enforcement Remedies.

- A. District justices shall have initial jurisdiction in proceedings brought under this Section.
- B. Any person, partnership or corporation who or which has violated 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 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 (1) such violation until the fifth (5th) 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.

- C. The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgment pending a final adjudication of the violation and judgment.
- D. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Township the right to commence any action for enforcement pursuant to this section.

906.02 Preventive Remedies.

- A. In addition to other remedies, the Township may institute and maintain appropriate actions by law or in equity to restrain, correct or abate violations, to prevent unlawful construction, to recover damages and to prevent illegal occupancy of a building, structure or premises. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.
- B. The Township may refuse to issue any permit or grant any approval necessary to further improve or develop any real property which has been developed or which has resulted from a subdivision of real property in violation of this Ordinance. This authority to deny such a permit or approval shall apply to any of the following applicants:
 - (1) The owner of record at the time of such violation.
 - (2) The vendee or lessee of the owner of record at the time of such violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.
 - (3) The current owner of record who acquired the property subsequent to the time of violation without regard as to whether such current owner had actual or constructive knowledge of the violation.

- (4) The vendee or lessee of the current owner of record who acquired the property subsequent to the time of violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.

As an additional condition for issuance of a permit or the granting of an approval to any such owner, current owner, vendee or lessee for the development of any such real property, the Township may require compliance with the conditions that would have been applicable to the property at the time the applicant acquired an interest in such real property.

906.03

Abatement of Violations Prior to Additional Plan Approvals. No approval shall be granted to any subsequent phases of a development until all outstanding violations are abated and the project is in full compliance both with the standards and conditions of this Ordinance and the Township Zoning Ordinance.

SECTION 907

Records. The Board of Supervisors shall keep an accurate, public record of its findings, decisions, and recommendations relevant to all applications filed with it for review or approval.

SECTION 908

Validity. Should any section, subsection or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decisions shall not affect the validity of the Ordinance as a whole, or of any other part thereof.

SECTION 909

Conflicts. Whenever there is a difference between the minimum applicable standards specified herein and those included in other applicable Township regulations, the more stringent requirement shall apply.

SECTION 910 Effective Date

This Ordinance shall become effective five (5) days after its enactment by the Board of Supervisors.

ORDAINED AND ENACTED the 4 day of December, 1997, by the Board of Supervisors of Fulton Township, Lancaster County, Pennsylvania, in lawful session duly assembled.

BOARD OF SUPERVISORS OF FULTON TOWNSHIP
Lancaster County, Pennsylvania

By: Allen P. Arment
Chairman

Paul E. Arment
Vice-Chairman

William A. Taylor
Member

Attest: Margaret A. Gordon
Secretary

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