

ORDINANCE NO. 185

**AVONDALE BOROUGH
CHESTER COUNTY, PENNSYLVANIA**

AN ORDINANCE OF THE BOROUGH OF AVONDALE, CHESTER COUNTY, PENNSYLVANIA, ENACTED FOR THE PROMOTION OF THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE BY THE ADOPTION FOR ENFORCEMENT WITHIN THE MUNICIPAL LIMITS OF THE BOROUGH OF AVONDALE CERTAIN CODES AS PUBLISHED BY THE BUILDING OFFICIALS AND CODE ADMINISTRATORS INTERNATIONAL, INC., AND THE INTERNATIONAL CODE COUNCIL, AS SAID CODES ARE LISTED IN THE BODY OF THIS ORDINANCE, AND ALL SUBSEQUENT REVISIONS AND AMENDMENTS TO EACH CODE LISTED HEREIN.

BE IT ORDAINED AND ENACTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF AVONDALE, CHESTER COUNTY, PENNSYLVANIA, AND IT IS HEREBY ORDAINED AND ENACTED BY THE AUTHORITY OF THE SAME AS FOLLOWS:

SECTION I ENACTMENT OF CERTAIN CODES

A. Except as modified by the provisions of this Ordinance, the following Codes (and the provisions contained therein) and all amendments, supplements, additions and later editions which may, from time to time, be promulgated as an amendment, supplement, addition or later edition are hereby incorporated by reference and thus adopted for enforcement within the municipal limits of the Borough of Avondale, Chester County, Pennsylvania:

1. The BOCA Basic National Building Code, 1999 Edition.
2. The International Plumbing Code, 1997 Edition.
3. The BOCA National Fire Protection Code, 1999 Edition.

4. The International Mechanical Code, 1998 Edition.
5. The International Property Maintenance Code, 1998 Edition.
6. The NFPA National Electrical Code, 1999 Edition.
7. The International One and Two Family Dwelling Code of 1998.

SECTION II **FEES**

- A. If any provision of any Code adopted pursuant to this Ordinance permits the assessment, collection and receipt by the Borough of any fee, such fee shall be established and assessed pursuant to a Fee Schedule adopted by the Avondale Borough Council by Resolution, which may be amended from time to time by subsequent Resolutions.

SECTION III **ENFORCEMENT OFFICERS**

- A. The Chief of the Avondale Fire Department is hereby designated as the Enforcement Officer for purposes of enforcing the BOCA National Fire Protection Code, 1999 Edition, its supplements or amendments. The Chief of the Avondale Fire Department may, in writing, appoint any Member or Members of the Avondale Fire Department who shall exercise all the powers of the Chief in his or her capacity as the Enforcement Officer. Further, the Code Enforcement Officer of the Borough of Avondale is hereby designated as a "Deputy Code Enforcement Officer" for purposes of enforcing the BOCA National Fire Protection Code, 1999 Edition, its supplements or amendments.

- B.** For purposes of enforcing the remaining Codes listed in Section I, the Code Enforcement Officer of the Borough of Avondale is hereby designated as the Enforcement Officer for purposes of enforcing those Codes; the Code Enforcement Officer is hereby authorized, with the approval by Resolution of the Avondale Borough Council, to designate one or more individuals as Deputy Code Enforcement Officers who shall exercise all powers of the Code Enforcement Officer.

SECTION IV **VIOLATIONS AND NOTICE OF VIOLATIONS**

- A.** If the Code Enforcement Officer observes an apparent or actual violation of any provision of any Code adopted pursuant to Ordinance, the Code Enforcement Officer shall prepare a written Notice of Violation.
- B.** The written Notice of Violation prepared by the Code Enforcement Officer shall contain at least the following information:
- 1.** The name of the owner of record and any other person against whom Avondale Borough intends to take action.
 - 2.** The location (including postal address, if possible) of the property or structure in question.
 - 3.** The section and/or subsection of any Code which the Code Enforcement Officer believes to have been violated, with a description of the nature of the violation.

4. The date by which the violation must be corrected; this date shall not be less than fourteen (14) days nor more than twenty-one (21) days after service of the Notice of Violation.

C. The Notice of Violation prepared by the Code Enforcement Officer shall be served upon:

1. The owner of record of the premises or structure; and
2. Any person responsible for correcting any violation specified in the Notice of Violation.

D. Service of the Notice of Violation prepared by the Code Enforcement Officer shall be made by:

1. Any form of United States mail requiring a receipt signed by any person identified in Subsection C., above (or his authorized agent); and
2. Handing a copy to the person identified in Section C., above, or to any adult occupant of the premises on which the alleged violation exists; and
3. Affixing a copy of the Notice of Violation to a conspicuous place at the primary entrance door or avenue of access of any structure or premises, or by posting the property.

- E. If any Code adopted pursuant to this Ordinance contains provisions for "Emergency Measures," or their functional equivalent, the Code Enforcement Officer shall act in accordance with those sections of any Code adopted hereby and need not comply with the provisions of Subsection D., above.

SECTION V

**SUMMARY PROCEEDINGS, CIVIL PROCEEDINGS, ADDITIONAL
REMEDIES OF AVONDALE BOROUGH AND PENALTIES**

- A. A person who violates any provision of this Ordinance, including failing to correct any violation by a required date, shall upon conviction in a Summary Proceeding before a District Justice be sentenced to pay a fine of not less than One Hundred and Fifty Dollars (\$150.0) nor more than One Thousand Dollars (\$1,000.00) per violation, plus costs of prosecution. In default of the payment of any fine and costs, that person shall be imprisoned for a period of not more than thirty (30) days.
- B. In addition to the enforcement of this Ordinance by a Summary Proceeding as provided for in Subsection A, above, the Borough, at its election, shall have the right to institute appropriate actions At Law or In Equity to restrain, correct, or abate any violation of any of the Codes adopted by this Ordinance. If the Borough elects to enforce the provisions of this Ordinance by an action At Law or In Equity, any person who has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable therefor in a Civil Enforcement action commenced by the Borough of Avondale, pay a judgment of not more than Five Hundred Dollars (\$500.00) per violation, plus costs and attorneys' fees incurred by the Borough.

- C. Each day's continuance of a violation shall constitute a separate offense.
- D. If any Summary Proceeding or Civil Enforcement Action authorized by this Section V brought against any person pursuant to this Ordinance becomes final and:
 - 1. No appeal to the Court of Common Pleas or other Appellate Court is then pending;
and
 - 2. Any violation specified by the Code Enforcement Officer in the written Notice of Violation still exists

then the Borough of Avondale, through any duly authorized agent, shall be and is hereby empowered to correct any violation by repair, removal, demolition or otherwise of any structure or part or parts thereof or premises or parts thereof.

- E. All costs (including attorneys' fees) and expenses incurred by the Borough of Avondale for any repair, removal, demolition, etc., of the violation as permitted in Subsection D., above, together with an administrative charge of ten percent (10%) may be charged against the real property on which the violation exists as a Municipal Claim or Lien.

SECTION VI **APPLICABILITY OF PENNSYLVANIA DEPARTMENT OF LABOR AND
INDUSTRY STANDARDS**

- A. If any provision, requirement, or regulation of the Commonwealth of Pennsylvania Department of Labor and Industry is more stringent than a provision or requirement of any

of the Codes adopted pursuant to this Ordinance, the applicable provision, requirement, or regulation of the Commonwealth of Pennsylvania Department of Labor and Industry shall supersede any provision or requirement of any Code pursuant to this Ordinance.

SECTION VII **APPEALS**

- A.** Any person shall have the right to appeal, provided such appeal is based solely on a claim that:
- 1.** The provisions of any Code adopted pursuant to this Ordinance do not fully apply; and/or
 - 2.** An equivalent or better method, material, or form of construction is to be used.
- B.** The Board of Appeals shall consist of two (2) Members of the Avondale Borough Council and the Borough Engineer.
- C.** The Board of Appeals shall hold a public hearing within thirty (30) days after the filing of an appeal; the hearing to be held by the Board of Appeals and any adjudication rendered by it shall be held in accordance with the provisions of the "Local Agency Law", i.e., the Act of April 28, 1978 (P.L. 202[2], Pa.C.S.A. §551, *et seq.*), as amended.
- D.** The fee for the filing of an Appeal shall be established by Resolution of the Avondale Borough Council.

RESOLUTION NO. 99-06-01
(Non-Legislative)

AVONDALE BOROUGH
CHESTER COUNTY, PENNSYLVANIA

WHEREAS, on May 18, 1999, Avondale Borough enacted Ordinance 185 adopting for enforcement within its municipal limits certain Building Codes and other Codes; and

WHEREAS, Section VII ("Appeals") of Ordinance 185 requires the establishment of a "Board of Appeals" for purposes of hearing Appeals pursuant to Section VII of Ordinance 185.

NOW, THEREFORE, it is hereby **RESOLVED** that the following individuals are appointed to constitute the Board of Appeals in accordance with Ordinance 185:

1. The Chairperson of the Water Committee of Avondale Borough.
2. The Chairperson of the Sewer Committee of Avondale Borough.
3. The Avondale Borough Engineer.

BE IT FURTHER RESOLVED that a fully executed duplicate original of this Resolution shall be inserted into the official Ordinance Book of Avondale Borough immediately following Ordinance 185, and prior to Ordinance 186.

ADOPTED THIS 15th DAY OF JUNE, 1999.

ATTEST:

AVONDALE BOROUGH COUNCIL

Becky McAlau
BECKY McALEER, Secretary
Avondale Borough

BY: R. N. McCue
ROBERT N. McCUE, President