

BOROUGH OF AVALON

ORDINANCE NO. 1376

AN ORDINANCE OF THE BOROUGH OF AVALON, ALLEGHENY COUNTY, COMMONWEALTH OF PENNSYLVANIA, TO BE KNOWN AS THE COMMERCIAL FIRE SAFETY INSPECTION ORDINANCE; REQUIRING OWNERS, LANDLORDS, MANAGERS AND AGENTS OF COMMERCIAL PROPERTIES TO OBTAIN A COMMERCIAL FIRE SAFETY OPERATING LICENSE; ESTABLISHING REGULATIONS FOR THE ISSUANCE OF COMMERCIAL FIRE SAFETY OPERATING LICENSES; SETTING FORTH AN APPLICATION PROCEDURE; REQUIRING YEARLY INSPECTIONS OF COMMERCIAL PROPERTIES AND ESTABLISHING COMMERCIAL INSPECTION FEES; REQUIRING THE BUILDING INSPECTOR TO OBTAIN AN ADMINISTRATIVE SEARCH WARRANT IF CONSENT TO CONDUCT A COMMERCIAL FIRE SAFETY INSPECTION IS REFUSED OR IF REASON TO BELIEVE A VIOLATION EXISTS BASED UPON A COMPLAINT RECEIVED; PROVIDING PENALTIES.

SECTION 1: ENACTING CLAUSE.

Be it ordained and enacted by the Council of the Borough of Avalon and it is hereby ordained and enacted by the authority of the same, that from and after the effective date of this Ordinance, the following Ordinance shall be in full force and effect in the Borough of Avalon.

SECTION 2: SHORT TITLE.

This Ordinance shall be known as the Borough of Avalon Commercial Fire Safety Inspection Ordinance.

SECTION 3: AUTHORITY.

This Ordinance is adopted pursuant to the Borough Code of the Commonwealth of Pennsylvania, the Act of February 1, 1966, P.L. (19650, - NO. 581, § 1202, as amended, 53 P.S. § 46202, et seq., and the provisions hereof and all sections contained herein shall be

construed as having been adopted in the interests of the health, safety, and general welfare of the people of the Borough of Avalon, Allegheny County, Pennsylvania.

SECTION 4: PURPOSE.

A. To promote protect and facilitate the public health, safety and the general welfare of the community and to protect and to promote the safety of commercial tenants and other inhabitants in the Borough from fire and the hazards of fire

B. To prevent one or more of the following: loss of health, life or property from fire, explosions, noxious gases and other dangers or hazards of fire.

C. To provide protection against fire, explosion and other fire hazards in the interest of the public health, safety, and general welfare.

D. To define and limit the powers and duties of those officers and bodies that are assigned responsibilities under this ordinance.

E. To require prompt fire safety inspections even without a warrant if emergency conditions exist.

SECTION 5: RULES OF CONSTRUCTION.

In the construction of this Ordinance, the rules and definitions contained in this Section shall be observed and applied, except when the context clearly indicates otherwise:

A. Words used in the singular shall include the plural, and the plural the singular.

B. Words used in the present tense shall include the future tense.

C. Words used in the masculine gender shall include the feminine and neuter.

D. The word “person includes corporations, associations, and partnerships and other similar entities.

E. The word “shall” is always mandatory and not discretionary.

F. The word “may” is permissive.

G. This Ordinance shall be liberally construed to accomplish its purpose to protect the public’s health, safety and welfare.

H. That the Borough intends to favor the public interest as against any private interest.

SECTION 6: DEFINITIONS.

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein:

AGENT FOR AN OWNER: Any person who provides written proof that he/she is/are authorized to act on behalf of a property owner.

BOROUGH: The Borough of Avalon.

BOROUGH MANAGER: The Manager of the Borough of Avalon.

BUILDING INSPECTOR: The Building Inspector of the Borough of Avalon.

COMMERCIAL PROPERTY: (Also known as Commercial Real Estate) Building/buildings or land intended to generate a profit, either from capital gain or rental income from commercially zoned buildings or five (5) or more residential units. Commercial property includes office buildings, industrial property, medical centers, hotels, malls, retail stores, farmland, multifamily housing buildings, warehouses, and garages. Commercial real estate is divided in the following categories:

- A. **OFFICE BUILDINGS** – includes single-tenant properties, small professional office buildings, serviced offices, downtown skyscrapers, and everything in between.
- B. **INDUSTRIAL** – includes smaller properties, often called “Flex” or “R&D” properties, to larger office service or office warehouse properties to the very large “big box” industrial properties; garages, distribution centers.
- C. **RETAIL** – includes pad sites on highway frontages, single tenant retail buildings, small neighborhood shopping centers, shops, and larger centers with grocery store anchor tenants, “power centers” with large anchor stores.
- D. **LEISURE** – includes hotels, public houses, restaurants, fast food restaurants, cafes, and sports facilities.
- E. **HEALTHCARE** – includes medical centers, hospitals, and nursing homes.
- F. **LAND** – includes investment properties on undeveloped, raw, rural land in the path of future development. Or, infill land with an urban area, pad sites, and more.
- G. **MISCELLANEOUS** – includes any other nonresidential properties such as hospitality and self-storage developments.

FIRE SAFETY INSPECTION: A critical examination by the Building Inspector to determine compliance with the 2009 International Building Codes (“IBC”), International Fire Codes (“IFC”), & International Property Maintenance Codes (“IPMC”),

including means of egress, general precautions against fire and fire protection systems, a checklist of which is attached hereto and made a part hereof as Exhibit A.

FIRE SAFETY COMMERCIAL OPERATING LICENSE: A certificate or document issued by the Building Inspector after conducting a fire safety inspection and granting permission to the owner of a commercial property to conduct business in the Borough of Avalon.

OWNER: Every person who owns a commercial property in the Borough of Avalon.

PERSON: Shall mean an individual, proprietorship, partnership, corporation, association, or other legal entity.

**SECTION 7: FIRE SAFETY COMMERCIAL OPERATING LICENSE
REQUIRED.**

Every person who owns a commercial property in the Borough of Avalon must hold a current, properly issued, and unrevoked fire safety commercial operating license issued by the Building Inspector for the specified commercial property.

**SECTION 8: APPLICATION FOR FIRE SAFETY COMMERCIAL
OPERATING LICENSE AND AGREEMENT TO COMPLY.**

Every owner who owns a commercial property in the Borough of Avalon for a period of time in excess of thirty (30) days shall apply for a fire safety commercial license and shall agree to comply with all provisions of the 2009 IBC, IFC & IPMC, or such other more recent International Codes duly adopted by the Borough of Avalon. The application form shall be accompanied by a check or money order, payable to the Borough of Avalon in the specified amount of the fire safety commercial operating license.

**SECTION 9: REQUIREMENT OF INSPECTION AND COMPLIANCE WITH
BOROUGH'S CODES PRIOR TO ISSUANCE OF FIRE SAFETY
COMMERCIAL OPERATING LICENSE.**

Upon application, all commercial properties shall be inspected annually by the Building Inspector for compliance with the provisions of this Ordinance. In the event the Borough Building Inspector refuses to issue a fire safety-operating license, the Building Inspector shall note all fire safety violations, and shall leave with the owner a copy of any notice of violation.

**SECTION 10: ISSUANCE OF FIRE SAFETY COMMERCIAL OPERATING
LICENSE.**

Prior to the issuance of a fire safety commercial operating license, all violations noted on a notice of violation shall be corrected, as required. Every fire safety commercial operating license shall be issued for a period of one (1) year, unless sooner revoked.

SECTION 11: ADOPTION OF REGULATIONS.

A. **Pennsylvania Statues Govern.** All matters regulated by the Pennsylvania Construction Code Act or by any other laws of the Commonwealth of Pennsylvania or by regulations of departments or agencies of the Commonwealth promulgated by authority of law, as the case may be, the promulgated by authority of law, as the case may be, shall control all inspections where the requirements thereof are the same as, or in excess of, the provisions of the Borough's Fire Safety Ordinance duly adopted by the Borough of Avalon.

B. **Inspection Mandatory.** The Borough Building Inspector shall not issue a fire safety commercial operating license in the Borough of Avalon until he/she has first inspected

the commercial property for the purpose of insuring compliance with the Borough's Fire Prevention Code and the law.

C. **Inspections To Be Conducted At Reasonable Times With Prior Notice To Residents: Display of Proper Credentials Required.** All fire safety inspections under this Ordinance shall be conducted at reasonable times with prior notice to the owner and subject to constitutional restrictions on unreasonable searches and seizures. Prior to seeking entry to conduct a fire safety inspection, the Borough Building Inspector shall display proper credentials, which shall have been approved by Borough Council.

D. **Procedure If Entry To Permit Lawful Fire Inspection Is Refused.** If entry is not obtained or upon the refusal of an owner applying for a fire safety commercial operating license to permit entry to conduct the fire safety commercial operating license to permit entry to conduct the fire safety inspection mandated under this Ordinance, the fire safety inspection shall not be conducted and the Building Inspector is hereby authorized to pursue recourse as provided by law.

E. **Expiration Of Permits And Renewals.** Each fire safety commercial operating license shall expire one (1) year after the date of issuance. A license may be renewed only by making application as provided in this Ordinance. Applications for renewal should be made at least thirty (30) days prior to the expiration date and, when made fewer than thirty (30) days before the expiration date, the pendency of the application will not prevent the expiration of the license.

F. **Correction Of Violations Required Prior To Renewal Of License.** If the Building Inspector denies renewal of a license, the owner shall not be issued a license until all violations noted on the notice of violation are corrected, as required.

**SECTION 12: ADMINISTRATIVE SEARCH WARRANT REQUIRED TO
CONDUCT FIRE SAFETY COMMERCIAL INSPECTIONS IF
ENTRY REFUSED UNLESS AN EMERGENCY SITUATION
EXISTS.**

A. If entry to conduct a fire safety inspection under this Ordinance is refused, the Borough Building Inspector is hereby authorized and directed to apply to an Issuing Authority having jurisdiction over such commercial property for an Administrative Search Warrant to enter and to conduct a fire safety inspection unless an emergency situation exists which requires immediate entry.

B. If an emergency situation exists demanding immediate access to the commercial property, the Borough Building Inspector may conduct a prompt fire safety inspection even if entry is refused or even if an administrative search warrant is not obtained.

SECTION 13: COST OF COMMERCIAL FIRE SAFETY OPERATING LICENSES.

A. Commercial Fire Safety Operating License Fee shall be \$100.00 per year.

B. Fee of \$100.00 shall be charged for two (2) consecutive cancellations of a fire inspection.

C. Re-inspection Fee of \$100.00 shall be charged if all noted violations are not corrected and/or if the commercial property is not violation free and/or if the commercial property is not re-inspected within ten (10) business days of the initial inspection.

D. The above Schedule of Fees for Commercial Inspection Licenses shall remain in full force and effect until modified from time to time by Resolution of Borough Council.

SECTION 14: PENALTY AND REMEDIES.

A. Any person, partnership or corporation who violates any of the provisions of this Ordinance shall upon conviction in a summary proceeding, be fined not less than One Thousand, Two Hundred (\$1,200.00) Dollars and in default of the payment of the fine and costs, shall be committed to the Allegheny County Jail for a period not to exceed thirty (30) days.

B. A person, partnership or corporation commits a summary offense if, he/she refuses to permit a Borough Building Inspector to have access or to gain entry to any premises specified in an Administrative Search Warrant to conduct a fire safety inspection and upon conviction in a summary proceeding, shall be fined not less than One Thousand, Two Hundred (\$1,200.00) Dollars and in default of the payment of the fine and costs, shall be committed to the Allegheny County Jail for a period not to exceed thirty (30) days.

C. Nothing contained herein shall be deemed to preclude the Borough to seek other relief or avail itself of any remedy that may be at law or in equity to prevent continuing violations of the terms of this Ordinance.

SECTION 15: ADDITIONAL RELIEF; NUISANCES.

No provision of this Ordinance shall prevent the Borough from instituting proceedings and seeking relief in the courts of equity of the Commonwealth of the Borough shall deem such action necessary to abate any violation of this Ordinance, which constitutes a public nuisance.

SECTION 16: APPEAL PROCESS IF OPERATING LICENSE IS DENIED.

Any person aggrieved by an adjudication hereunder and who has a direct interest in such adjudication may appeal to the court vested with jurisdiction of such appeals as provided by the Pennsylvania Local Agency Law, 2 Pa.C.S. § 752.

SECTION 17: DUTY TO FILE ORDINANCE WITH DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT.

The Borough Manager shall file an exact copy of this Ordinance with the Department of Community and Economic Development together with the name, position and telephone number of the Building Inspector responsible for compliance with this Ordinance.

SECTION 18: VALIDITY.

The provisions of this Ordinance are severable, and if any of its provisions or any part of any provisions shall be held unconstitutional or otherwise held to be invalid, the decision of the Court shall not affect or impair any of the remaining provisions. It is hereby declared to be the intent of the Borough Council that this Ordinance would have been enacted had such unconstitutional provisions or parts thereof not been included herein.

SECTION 19: EFFECTIVE DATE.

This Ordinance shall become effective when it is recorded in the Ordinance Book of the Borough of Avalon.

ORDAINED AND ENACTED into law this 16th day of January,

2018.

ATTEST:

Lorraine Makatura
Lorraine Makatura
Borough Manager

BOROUGH OF AVALON:

Joshua Klicker
Joshua Klicker
President of Council

Examined and approved by me this 16th day of

January, 2018.
Thomas Lloyd
Mayor