

## **Chapter 27**

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**Part 1****General and Special Provisions****§27-101. General Provisions.**

1. *Short Title.* This Chapter shall be known and may be cited as the "Zoning Ordinance of Cumberland Township of 2003."

2. *Authority and Purpose.* The regulations in this Chapter are made in accordance with the conditions and procedures of the Pennsylvania Municipalities Planning Code for promoting the health, safety, morals, convenience, order, prosperity, and general welfare of the community. These regulations have been designed to lessen congestion in the streets, to secure safety from fire, panic, and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, and to facilitate the adequate provision of transportation, water, sewage, parks, and other public requirements. These regulations reflect the policy goals of Cumberland Township as contained in the "Goals and Policies" section of the Cumberland Township Comprehensive Plan; nonetheless the Board of Supervisors hereby expresses its intent that neither this Chapter nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

3. *Applicability.* Subject to Part 17 of this Chapter (Nonconformance), no person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his control except in accordance with all of the applicable provisions of this Chapter. For purposes of this Section, the "use" or "occupancy" of a building or land relates to anything and everything that is done to, on, or in that building or land.

4. *Effective Date and Repealer.* This Chapter shall take effect and be in force from and after its approval as required by law. *Ord. 63A* adopted by Cumberland Township on November 24, 1987, and all amendments thereto is hereby repealed in its entirety. The Zoning Map of Cumberland Township is hereby amended pursuant to the provisions of this Chapter and the Zoning Map dated November 24, 1987, and last revised June 8, 1993.

5. *Severability.* The provisions of this Chapter are severable, and if any Section, sentence, clause, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such a decision of the court shall not affect or impair this Chapter. It is the intent of the Board of Supervisors that this Chapter would have been adopted if such illegal, invalid, or unconstitutional Section, sentence, clause, part, or provision had not been included herein.

6. *Other Ordinances.* In interpreting and applying the provisions of this Chapter, they shall be held to be the minimum requirements for the promotion of the health, safety, morals, and general welfare of the Cumberland Township. It is not intended to interfere with, abrogate, or annul other rules, regulations, or ordinances of the township, provided that where this Chapter imposes a greater restriction upon the use of land or buildings or the configuration of improvements than are imposed by such other rules, regulations, or ordinances, the provisions of this Chapter shall control.

7. *Enforcement.* The provisions of this Chapter shall be enforced by the Zoning Officer, or such person as designated by the Board of Supervisors. The Zoning Officer shall require that applications for building permits shall contain all the information necessary to enable him to ascertain whether the proposed building, alteration, or use complies with the provisions of this Chapter. No building permit shall be issued until the Zoning Officer has certified that the proposed building, alteration, or use complies with all the provisions of this Chapter.

8. *Remedies.* In case any building, structure, or sign is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used, or any hedge, tree, shrub, wall, or other growth is maintained in violation of this Chapter or of any regulations made pursuant thereto, in addition to other remedies provided by law, any appropriate action or proceeding, whether by legal process or otherwise, may be instituted or taken to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises.

9. *Violations and Penalties.* For any and every violation of the provisions of this Chapter, the owner, general agent, or contractor of a building or premises where such violation has been committed or shall exist, and the lessee or tenants of an entire building or entire premises where such violation has been committed or shall exist, and the owner, general agent, contractor, lessee, or tenant of any part of a building or premises in which part such violation has been committed or shall exist, and the general agent, architect, builder, contractor, or any other person who knowingly commits, takes part or assists in any such violation or who maintains any building or premises in which any such violation shall exist, shall be liable upon conviction thereof, to a fine or penalty not exceeding \$1,000, which shall inure to the benefit and use of the Township, with the costs of suit and reasonable attorney fees; and in default of payment thereof, the District Justice may, in his discretion, commit the offender to prison in the county jail for a period not exceeding 30 days for each and every offense, and whenever such person shall have been notified by the Zoning Officer, or by service of a summons in a prosecution or in any other way, that he is committing such violation, each day's continuance of such violation after such notification shall constitute a separate offense punishable by a like fine or penalty.

(Ord. 11/25/2003, §100)

#### **§27-102. Hours of Operation for Business.**

1. *Normal Business Hours.* Except in the case of hotels, motels, inns, or bed and breakfast establishments, and as provided for in §27-102.2, any occupation, employment, or enterprise that is carried on for profit shall deal directly with customers or clients on the premises only between the hours of 6 a.m. and 11 p.m.

2. *Extended Business Hours by Special Exception.* The Zoning Hearing Board is authorized to grant special exceptions for such businesses to operate outside of the hours specified in §27-102.1 for applications meeting the following criteria:

A. The use shall not generate high levels of vehicular traffic, nor noise, noxious odors, air pollution, or glare.

B. The manner, location, and hours of operations and of deliveries to the premises shall be compatible with the daily cycle of active and quiet periods associated with any adjacent residential uses.

3. *Interpretation.* As used in this Chapter, words expressed in their singular include their plural meanings, and words expressed in their plural include their singular meanings. The word "person" includes a corporation, unincorporated association, and/or a partnership, as well as an individual. The word "may" is permissive; the words "shall" and "must" are mandatory. Words used in the present include the future tense. Words importing the masculine gender include the feminine and neuter. In interpreting the language of this Chapter to determine the extent of the restriction upon the use of property, the language shall be interpreted, where doubt exists as to the intended meaning of this Chapter, in favor of the property owner and against any implied extension of the restriction.

(Ord. 11/25/2003, §101)

### **§27-103. Illumination.**

1. *Intent.* The intent of this Section is to regulate the use of outdoor illumination. Where safety and security concerns warrant it, outdoor illumination is required to be installed, operated, and maintained. For commercial, industrial, multifamily residential, recreational, institutional, and public uses, outdoor illumination is required for all off-street parking and loading areas and for all driveways providing access. All outdoor illumination shall avoid producing glare.

2. *Illumination Levels.* All outdoor illumination shall have intensities and uniformity ratios consistent with the standards in the current edition of the Lighting Handbook and/or Recommended Practices of the Illuminating Engineering Society of North America (IESNA). Illumination levels shall be defined as maintained horizontal footcandles on the task and average illumination values shall not exceed minimum values by more than the product of the minimum value and the specified IESNA uniformity ratio for the activity in question.

3. *Control of Glare.* Glare control shall be achieved primarily through the use of such means as fixture cutoffs, shields, and baffles and appropriate application of fixture mounting height, wattage, aiming angle, and fixture placement. Outdoor illumination shall be installed so that the glare or reflection visible from a street or residence adjacent to the property being illuminated shall not be greater than 0.1 foot candle at the property or boundary line.

4. *Fixture Design.* Except as otherwise permitted for recreational and sports lighting, below, all outdoor illumination fixtures, including mounting base, shall not exceed 16 feet in height above the finished grade of the surface being illuminated. All fixtures shall be of a type and design appropriate to the outdoor illumination application, as follows:

A. For lighting predominantly horizontal task surfaces such as, but not limited to, roadways, areas of pedestrian and vehicular passage, merchandising and storage areas, automotive fuel dispensing facilities, automotive sales areas, loading docks, active and passive sports and recreational areas, building entrances, sidewalks, paths, site entrances and parking areas, fixtures shall be aimed straight down and meet TESNA full cutoff criteria.

B. For decorative outdoor illumination and the lighting of predominantly non-horizontal tasks, such as, but not limited to, facades, landscaping, signs, fountains, displays, flags and statuary, the use of floodlighting, spotlighting, wall-mounted fixtures, decorative globes and other fixtures not meeting IESNA full cutoff criteria, fixtures shall be selected and installed so that only the non-horizontal task is directly illuminated and shall be equipped with or be capable of being equipped with devices such as shields, visors or hoods when necessary to redirect offending light distribution.

C. The height of the outdoor illumination poles for recreational and sports lighting shall be dictated by that setup which best satisfies the lighting illumination levels specified by TRSNA standards and recommended practices and also controls glare visible from adjacent properties or streets.

5. *Hours of Illumination for Floodlighting or High-intensity Outdoor Illumination.* No floodlighting or high-intensity outdoor illumination, except surveillance, security, or safety outdoor illumination, shall be permitted after 10 p.m. Sundays through Thursdays and 11 p.m. Fridays and Saturdays. All outdoor illumination, including surveillance, security, or safety outdoor illumination, shall conform with the standards of §27-103.3, "Control of Glare," at all hours.

6. *Recreational and Sports Lighting.* Outdoor illumination for active recreational facilities shall be permitted only by conditional use. In determining the appropriateness of proposed outdoor illumination for active recreational facilities, the Board of Supervisors shall apply the general criteria and standards for conditional uses of Part 18 and 19 and shall approve an application for outdoor illumination for active recreational facilities only in cases when the Board is able to ascertain that the proposed outdoor illumination will:

- A. Represent appropriate application of fixture mounting heights, wattage, aiming angle, and fixture placement.
- B. Control glare through the use of cutoff fixtures, shield, and baffles.
- C. Not represent a hazard to drivers or pedestrians by impairing their ability to safely traverse streets, driveways, sidewalks, pathways, and trails.
- D. Not project output into the windows of neighboring residences or businesses or into private or public open space on adjoining or nearby properties.
- E. Not project output skyward.
- F. Not be used after 10 p.m. Sundays through Thursdays and 11 p.m. Fridays and Saturdays.

7. *Temporary Outdoor Illumination.* Temporary floodlighting and spotlighting for such uses as, but not limited to, public festivals, celebrations, sporting and recreation events is permitted, subject to the following conditions:

- A. Illumination shall conform with the standards of §27-103.3, "Control of Glare."
- B. Illumination shall conform with the standards of §27-103.5, "Hours of Illumination for Floodlighting or High-Intensity Outdoor Illumination."
- C. Permits issued by the Township for temporary illumination shall be valid for up to 7 consecutive days and shall be issued no more than three times for a

parcel of land in any calendar year.  
(Ord. 11/25/2003, §102)

**§27-104. Projections.**

1. *Projections into Front Yard.* No building and no part of a building shall be erected within or shall project into the required front yard that falls between the street and the foremost portion of a principal use building except:

- A. Cornices, eaves, gutters.
- B. Chimneys, projecting not more than 18 inches.
- C. Bay windows not extending through more than one story and not projecting more than 5 feet.
- D. One-story, open porches projecting not more than 10 feet.
- E. Steps, projecting not more than 10 feet.
- F. Balconies, projecting not more than 4 feet.

2. *Projections into Side Yards.* No principal use building and no part of a principal use building shall be erected within or project into a required side yard, except:

- A. Cornices, eaves, gutters.
- B. Chimneys, projecting not more than 18 inches.
- C. Steps, projecting not more than 36 inches.

3. *Projections into Rear Yard.* No principal use building and no part of a principal use building shall be erected within or shall project into a required rear yard except:

- A. Cornices, eaves, gutters.
- B. Chimneys, projecting not more than 18 inches.
- C. Bay windows not extending through more than one story and not projecting more than 5 feet.
- D. One-story, open porches projecting not more than 10 feet.
- E. Steps, projecting not more than 8 feet.
- F. Balconies, projecting not more than 4 feet.

4. *Projections into Yards; Obstruction of Views.* No wall, fence, or other structure shall be erected or altered and no hedge, tree, shrub, or other growth shall be maintained that may cause danger to traffic on a street, sidewalk, or public way by obscuring the view.

(Ord. 11/25/2003, §103)

**§27-105. Prohibited Uses.**

*Vehicles and Trailers as Accessory Uses.* No vehicle trailer shall be parked on any lot and used as an accessory building or storage shed. No recreational vehicle, boat, camper, or pickup component shall be used for living or sleeping quarters on any lot in the Township.

(Ord. 11/25/2003, §104)

**§27-106. Conditional Uses for Historic Resources.**

In addition to the uses permitted by right, special exception, or conditional uses in the various zoning districts in this Chapter, the Board of Supervisors may authorize special uses for historic resources in order to encourage their retention and facilitate appropriate adaptive re-use. Such conditional uses may include professional or business offices, cultural facilities, eating and drinking establishments, and guest houses or inns in residential districts; residences, cultural facilities, guest houses or inns in mixed-use districts; and any such similar uses in agricultural, industrial, institutional, airport, or open space districts.

A. Applications for such conditional uses shall meet the following criteria:

(1) The use shall not generate high levels of vehicular traffic, nor noise, noxious odors, air pollution, or glare.

(2) The manner, location, and hours of operations and of deliveries to the premises shall be compatible with the daily cycle of active and quiet periods associated with any adjacent residential uses.

(3) The use shall complement other uses in the district, creating a mixed-use character that contributes towards an increased rate of pedestrian access to local services, minimized auto-trip generation, and additional security for district businesses.

(4) Mixed-use structures containing residences shall have non-residential uses only on a level or floor below residential uses.

B. The Board of Supervisors is authorized to grant modifications to the development standards dimensions relevant to a historic resource for applications meeting the following criteria:

(1) Granting of a modification is necessary to encourage the retention and appropriate adaptive reuse of the historic resource.

(2) Granting of a modification will have minimal detrimental effect on adjacent and neighboring properties.

(3) Any proposed rehabilitation, alteration, or enlargement of a historic resource shall be in substantial compliance with the Secretary of the United States Department of Interior's Standards for Rehabilitation.

*(Ord. 11/25/2003; as added by Ord. 110-2004, 11/1/2004, Art. I)*

**Part 2****Definitions****§27-201. Words and Terms Defined.**

Unless otherwise expressly stated, the following words shall, for the purpose of this Chapter, have the meanings indicated:

*Abandonment* - to cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

*Accessory structure* - see “accessory use.”

*Accessory use* - a structure or use that: (1) is clearly incidental to and customarily found in connection with a principal building or use; (2) is subordinate to and serves a principal building or a principal use; (3) is subordinate in area, extent, or purpose to the principal building or principal use served; (4) contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal building or principal use served; and (5) is located on the same lot as the principal building or use served.

*Adult* - a person who has attained 18 years of age.

*Adult arcade* - an establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

*Adult bookstore* - an establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following: (1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or (2) instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

*Adult cabaret* - a nightclub, bar, restaurant, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

*Adult cinema* - an establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted

to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

*Adult theater* - a theater, concert hall, auditorium, or similar establishment characterized by activities of which a substantial portion of the presentation time features the exposure of specified anatomical areas or by specified sexual activities.

*Adult uses* - any of the following uses: adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult cinema, adult theater, escort agency, nude model studio, peep show, sexual encounter establishment.

*Aircraft* - any machine or structure supported for flight in the air by buoyancy or by the dynamic action of air on its surfaces, including powered airplanes, gliders, helicopters, ultralights, and hot-air and gas-filled balloons.

*Airport* - a landing area that may be used for flight operations, including charter or leasing of aircraft, aircraft sales, aircraft rental, flight instruction, air freight, aircraft maintenance and repair, but excluding scheduled airlines.

*Air strip* - a paved or cleared strip on which aircraft land and take off. Such an area shall not include charter or leasing of aircraft, aircraft sales, aircraft rental, flight instruction, air freight, or aircraft maintenance and repair.

*Agriculture* - tilling of the soil, raising of crops, horticulture, and animal husbandry.

*Alley* - a public thoroughfare that affords only a secondary means of access to abutting property and not intended for general traffic circulation.

*Alteration* - a change or rearrangement in the structural parts or in the existing facilities of a building or structure, or an enlargement, whether by extending on a side or by increasing height, or the moving from one location or position to another.

*Alteration, structural* - see “structural alteration.”

*Animal* - equivalent unit 1,000 live weight of livestock or poultry, regardless of the actual number of individual animals comprising the unit.

*Animal hospital* - a building used for the treatment, housing, or boarding of small domestic animals such as dogs, cats, rabbits, and birds or fowl by a veterinarian.

*Antenna* - any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves external to or attached to the exterior of any building.

*Assisted living facility* - a facility for the housing and personal care of persons age 55 or older who require only intermittent care to maintain the basic needs of daily living, including hygiene, cooking, cleaning, eating, nutrition, ambulatory care, recreation, community activities, and mobility, general safety, and similar activities of everyday living. An assisted living facility does not include a nursing home, retirement community, halfway house, drug or alcohol rehabilitation center, or similar facility.

*Barn* - a building for storing livestock, forage, or crops associated with agricultural activities occurring on the same tract of land as the building in question.

*Basement* - any area of a building having a floor below ground level on all sides.

*Bed and breakfast* - a single-family detached dwelling where between one and five sleeping accommodations are rented to overnight guests on a daily basis for periods not exceeding 2 weeks. Meals may be offered only to registered overnight guests.

*Boat* - a vehicle for traveling in or on water, not exceeding 30 feet in body length, 8 feet in width, or 12 feet in overall height. Height includes the trailer, if the boat is mounted on a trailer.

*Buffer* - a landscaped area intended to separate and sometimes partially or fully obstruct the view of two adjacent land uses or properties from one another. Unless otherwise specified, buffers may be included as part of required setbacks and yard areas.

*Building* - a structure or appendage to a structure that is permanently affixed to the land, has one or more floors or stories, and is bounded by either lot lines or yards.

*Building area* - the aggregate of the maximum horizontal cross-section area of the buildings on a lot, excluding cornices, eaves, or gutters projecting not more than 24 inches, steps, chimneys, balconies, and terraces, none of which shall project more than 2 feet.

*Building coverage* - the percentage of the lot area covered by the legally prescribed building area.

*Building envelope* - that portion of a lot in which buildings may be erected, as determined by the minimum required front, side, and rear yard setbacks.

*Building line* - the line, parallel to the street line, that passes through the point of the principal building nearest the front lot line.

*Building setback-*

A. *Front yard building setback line* - the line parallel to the public street right-of-way line at a distance equal to the minimum depth of the front yard designated for each district in this Chapter. All yards adjacent to a public street right-of way shall be considered front yards.

B. *Side yard* - the required open space extending along the side lot line from the front yard to the rear yard.

C. *Rear yard* - the required open space extending along the rear lot line (not a street line) throughout the whole width of the lot.

*Caliper* - the diameter of a tree trunk measured at a point 4 ½ feet from the ground surface at the center of the base of the tree (also known as "DBH").

*Camping ground* - a parcel of land used by campers for seasonal, recreational, or other similar temporary living purposes, in buildings of a movable, temporary, or seasonal nature, including a travel trailer camp or travel trailer court.

*Carport* - a roofed area projecting from the side of a building or standing alone, used as a shelter for motor vehicles.

*Cartway* - that area of a road or other street within which vehicles are permitted, including travel lanes but not including shoulders, curbs, gutters,

sidewalks, or drainage swales.

*Cemetery land* - used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery. Crematories are excluded from cemeteries.

*Church* - a building or group of buildings, including customary accessory buildings, designed or intended for organized religious services. For the purpose of this Chapter, the word "church" shall include chapels, cathedrals, temples, and similar designations.

*Clinic* - a building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities.

*Club* - a private, noncommercial, and not-for-profit association or corporation, organized and engaged in common recreational, swimming, and social purposes or other common objectives related to community, charitable, educational, or political purposes and consisting solely of a limited membership that operates and controls the association or corporation, excluding churches, synagogues, or other houses of worship.

*Cluster development* - a development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally-sensitive areas.

*Commercial use* - an occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee.

*Common open space* - see "open space."

*Community center* - a place, structure, area, or other facility used for and providing social and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.

*Completely dry space* - a space that will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and water vapor.

*Concentrated animal operations* - agricultural operations that exceed an animal density of two animal equivalent units per acre.

*Conditional use* - a use permitted in a particular zoning district by the Board of Supervisors pursuant to the provisions of this Chapter and Article VI of the Pennsylvania Municipalities Planning Code.

*Condominium* - real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions and organized in accordance with the Pennsylvania Uniform Condominium Act.

*Demolition* - destruction of a building or structure, all or in part, whether systematic or by neglect. Demolition shall include the extensive removal or stripping of significant interior or exterior architectural features and leaving a building or structure open or vulnerable to vandalism or decay by the elements.

*Developable acreage* - the gross acreage of a tract or lot minus the area of

public rights-of-way, utility easements or rights-of-way, floodplains, wetlands, 50% of steep slopes greater than 25%, and 25% of steep slopes between 15% and 25%.

*Developer* - any landowner, equitable owner or authorized agent of such landowner who makes or causes to be made a subdivision of land or a land development.

*Development* - any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets, and other paving; utilities; filling; grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.

*Development plan* - the provisions for the development of a residential, commercial, or industrial site prepared in accordance with this Chapter including, but not limited to, a plat of subdivision, location of various uses, all covenants relating to use, location, and bulk of buildings and other structures, intensity of use or density of development, streets, parking facilities, common open space, and public facilities. The phrase "provisions of the development plan," when used in this Chapter, shall mean both the verbal and graphic materials referred to in the proposal.

*District* - an area that includes all buildings, lots, and tracts within certain designated boundaries as indicated on the Zoning Map or Maps.

*Drive-in facility* - an establishment that, by design of physical facilities or by service or packaging procedures, encourages or permits customers to receive a service or obtain a product that may be used or consumed in a motor vehicle on the premises or to be entertained while remaining in an automobile.

*Driveway* - a private way providing for vehicular and pedestrian access between a public street and a parking area within a lot or tract.

*Dwelling* - a building or portion thereof that is used exclusively for residential purposes:

A. *Single-family detached dwelling* - a building designed for and occupied by one Family and having no wall in common with an adjoining building.

B. *Two-family dwelling* - a building designed for and occupied by two families.

(1) *Twin or semi-detached* - a building with one unit on each side of a common wall.

(2) *Duplex* - a building with one unit placed above the other so that they share a common horizontal partition.

C. *Single-family attached dwelling* - a building containing not more than six dwelling units separated by parallel party walls, each of which has only one dwelling from ground to roof, independent outside access, not more than two walls in common with adjacent units and open-space exposures to the front and rear (internal units) or front, rear and one side (end units). Such dwellings shall include, but not be limited to, the following types: triplex, quadruplex, townhouses (in rows of no more than six units).

D. *Multi-family dwelling* - a building designed for and occupied by more than two families. Such dwellings shall include, but not be limited to, the following types: townhouses (in rows of more than six units), stacked townhouses, multiplex, garden apartments, mid-rise apartments.

*Dwelling unit* - two or more rooms used exclusively for occupancy by one person or family, containing living, sleeping, cooking, and bath facilities for the use of and under the control of the occupants.

*Easement* - a grant of one or more property rights by the property owner to and/or for the use by the public, a corporation, or another person or entity.

*Employee, sexually-oriented business* - a person who performs any service on the premises of a sexually-oriented business on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and whether or not said person is paid a salary, wage, or other compensation by the operator of said business. "Employee, sexually-oriented business" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

*Environmentally-sensitive area* - an area consisting of any of the following:

- (1) Floodplain areas.
- (2) Areas of steep slope and very steep slope.
- (3) Areas identified as wetlands in accordance with the U.S. Army Corps of Engineers, "Wetland Delineation Manual."

*Escort* - a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

*Escort agency* - a person or business association that furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

*Essential services* - the erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies or private corporations under contract to a municipality, of gas, electrical, telephone, steam or water transmission or distribution system, and sewer and solid waste disposal systems, including buildings, enclosures, wells, pumping stations, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic light signals, hydrants, sanitary landfills, incinerator waste disposal areas, and other similar equipment and accessories and services in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or private corporations under contract to a municipality including firehouses of fire companies and emergency services under agreement with the municipality or for the public health or safety or general welfare.

*Essentially dry space* - a space that will remain dry during flooding, except for the passage of some water vapor or minor seepage; the structure is substantially impermeable to the passage of water.

*Establishment, sexually-oriented business* - any of the following:

- A. The opening or commencement of any sexually-oriented business as a new business.
- B. The conversion of an existing business, whether or not a sexually-oriented business, to any sexually-oriented business.
- C. The addition of any sexually-oriented business to any other sexually-oriented business.
- D. The relocation of any sexually-oriented business.

*Family* - any number of individuals living and cooking together as a single housekeeping unit, provided that not more than three of such number are unrelated to all of the others by blood, marriage, or legal adoption. Domestic servants shall be considered an adjunct to the term "family." A "family" as herein defined specifically excludes individuals and groups occupying a boarding or rooming house, lodging house, club, group home, fraternity, hotel, or similar living environment.

*Farm, enrolled* - a farm that has enrolled in a Federal, State, or local governmental farmland preservation program, in which the development rights have been transferred to the government program in perpetuity.

*Fence* - the enclosing or dividing framework for land, yards, or gardens; a barrier of posts, wire, or other suitable materials.

*Fence, wire* - a fence consisting of, except for basic structural support, a series of longitudinal and transverse wires arranged at right angles to each other and welded or otherwise joined together at all points of intersection. Openings in such a fence shall be a minimum of 24 square inches.

*Flood* - a temporary inundation of normally dry land.

*Floodplain* - an area adjoining a creek, stream, or other watercourse, that is subject to partial or complete inundation; an area subject to the accumulation or runoff of surface waters from any source.

*Floodproofing* - any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

*Floodway* - the designated area of floodplain required to carry and discharge flood water of a given magnitude. For the purposes of this Chapter, a floodway shall be capable of accommodating a flood of the 100-year magnitude.

*Floor area, gross* - the sum of the areas of the several floors of a building, including areas used for human occupancy in basements, attics, and penthouses, as measured from the exterior faces of the walls. It does not include cellars, unenclosed porches, or attics not used for human occupancy, or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet the parking requirements of this Chapter, or any such floor space intended and designed for accessory heating and ventilating equipment. It shall include the horizontal area at each floor level devoted to stairwells and elevator shafts.

*Floor area ratio* - determined by dividing the gross floor area of all buildings on a lot by the developable acreage of that lot.

*Footcandle* - a unit of illumination equal to one lumen per square foot. (1 footcandle = 10.76 lux).

*Frontage* - the length of any one property line of a premises, which property line abuts a legally accessible street right-of-way.

*Funeral home* - a building or part thereof used for human funeral services. Such building may contain space and facilities for: (1) embalming and the performance of other services used in preparation of the dead for burial; (2) the performance of autopsies and other surgical procedures; (3) the storage of caskets, funeral urns, and other related funeral supplies; and (4) the storage of funeral vehicles, but shall not include facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted.

*Game preserve* - an enclosed area of land of at least 1 acre, for the not for profit protection and managed care of wildlife.

*Garage Private* - an accessory building or part of a permitted principal building capable of the storage of automobiles or trucks owned and used by the owner or tenant of such building. Such building shall not be utilized at any time for commercial or business purposes.

*Garage, commercial* - a building other than a private garage, one or more stories in height, used for the storage, maintenance, and repair of motor vehicles.

*Garage, storage* - a building, not a private or commercial garage, used solely for the temporary parking or storage of motor vehicles and not intended for the sale of gasolines or other flammable products.

*Gasoline service station* - a lot or area of land, together with any structure thereon, used for the retail sale of motor fuel and lubricants, and incidental services such as the sale, installation, or minor repair of tires, batteries, or other automotive accessories.

*Glare* - a sensation of brightness within the visual field that causes annoyance, discomfort, or loss in visual performance and visibility.

*Governing Body* - the Board of Supervisors of Cumberland Township, Adams County, Pennsylvania.

*Grade* - the average of the finished ground level at the center of all walls of a building.

In cases where walls are parallel to and within 5 feet of a sidewalk, the ground level shall be measured at the sidewalk.

*Greenhouse* - an enclosed building used for the cultivation of plants.

*Ground floor* - the floor of a building nearest the mean grade of the front of the building.

*Hazardous materials* - substances that are carcinogenic, flammable, and that may be toxic to human beings and that may contaminate the air, land, or water and that include, but are not limited to, inorganic mineral acids of sulfur, fluorine, chlorine, nitrogen, chromium, phosphorus, selenium, and arsenic and their common salts; asbestos; lead, nickel, and mercury, and their inorganic salts or

metallo-organic derivatives; coal tar acids, including phenol and cresol and their salts; and all radioactive substances.

*Height* - the vertical distance to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip, and gambrel roofs, measured from the curb level if the building is not more than 10 feet from the front lot line or from the grade in all other cases.

*Heliport* - an area to accommodate landings, take-off, and storage of helicopters. Such an area may also include support services such as fueling, maintenance equipment, and storage hangers.

*Historic resource* - any building, structure, road, road corridor, bridge, marker, fence, sign, tree, hedgerow, site, encampment, district, passage, object, or vista contained on the list and/or map of Historic Resources in the Cumberland Township Comprehensive Plan, adopted June 2000, and as may be amended by the Board of Supervisors.

*Home occupation* - any single lawful commercial use of a dwelling unit as customarily incidental and accessory to a permitted residential use, conducted by any one person who makes the residence his or her primary dwelling.

*Hospital* - an institution that:

(1) Is primarily engaged in providing, by or under the supervision of physicians, to inpatients:

(a) Diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons.

(b) Rehabilitation services for the rehabilitation of injured, disabled, or sick persons.

(2) Maintains clinical records on all patients.

(3) Has bylaws in effect with respect to its staff of physicians.

(4) Has a requirement that every patient must be under the care of a physician.

(5) Provides 24-hour nursing service rendered or supervised by a registered professional nurse and has a licensed practical nurse or registered professional nurse on duty at all times.

(6) Is licensed as a hospital pursuant to the laws of the Commonwealth of Pennsylvania or is approved by the agency of the Commonwealth of Pennsylvania or locality covering Cumberland Township responsible for licensing hospitals as meeting the standards established for such licensing.

*Hospital, animal* - a structure used for the care and treatment of sick or wounded domestic animals.

*Hotel, motel, or inn* - a building or group of buildings containing a specified number of guest rooms especially designed for the temporary lodging of transient guests, provided that no room shall have cooking facilities of any kind. Such establishment shall furnish to the occupants customary services, such as maid service and the furnishing and laundering of linen. Eating facilities may be added as an accessory use to the hotel, motel, or inn.

*Identified floodplain area* - the floodplain area specifically identified in this

Chapter as being inundated by the 100-year flood.

*Impervious surface* - any surface on a lot that blocks the natural percolation of water. Examples include, but are not limited to, structures, including eaves, roofs, and roof overhangs; parking areas; driveways; sidewalks; patios; sport courts; and pools.

*Improvements* - physical additions and changes to land, such as grading, paving, curbing, fire hydrants, water mains, sanitary sewers, capped sewers, storm sewers, storm drains, catch basins, culverts, sidewalks, monuments, crosswalks, bridges, earthworks, street lights, street trees, other plantings, and other structures.

*Institutional use* - any use of land, buildings, and structures for educational, religious, social, or health care facilities, including dependent, family and group care facilities; clinics and hospitals; schools for basic and higher education; churches and other places of worship; child care centers including day camps; cemeteries, and any philanthropic use.

*Junkyard* - a lot, land, or structure, or part thereof, used primarily for the collecting, storage, and sale of waste paper, rags, scrap metal, or discarded material, or for the collecting, dismantling, storage, and salvaging of machinery or vehicles not in running condition, and for the sale of parts thereof.

*Kennel* - a use of land, except when related to farming, where three or more animals are kept, boarded, raised, bred, treated, or trained for a fee.

*Land development* - any of the following activities:

A. The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:

(1) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure.

(2) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups, or other features.

B. A subdivision of land.

*Landowner* - the legal or beneficial owner or owners of land, including the holder of an option or contract to purchase (whether or not such option or contract is subject to any conditions), a lessee having a remaining term of not less than 40 years, or other person having a proprietary interest in land.

*Livestock* - swine, cattle, sheep, goats, horses, or fowl raised or kept on a farm.

*Loading space* - an off-street parking space on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

*Lot* - one duly recorded plot or parcel of land on which a permitted use or building and an accessory use or building may be placed, together with the required yards and areas required by this Chapter, not including any land within the limits of a street right-of-way upon which said lot abuts, even if a portion of the

right-of-way is maintained by the owner of the lot.

*Lot area* - the area of land contained within the property lines of a lot, including the area of any easement, but excluding any area with an existing or designated future road right-of-way.

*Lot, corner* - a lot abutting upon two or more streets, or upon two parts of the same street, forming an interior angle of less than 135 degrees.

*Lot coverage* - the percentage of the lot area that is occupied by the building area.

*Lot depth* - the distance along a straight line drawn from the midpoint of the front lot line to the midpoint of the rear lot line.

*Lot frontage* - the distance measured along the street line of the lot abutting a public road, street, or highway.

*Lot line* - a property boundary line shown on a recorded plan or described in a recorded deed. In the case of any lot abutting a street, the "lot line" for the portion of the lot abutting the street shall be deemed to be the same as the street line and shall not be the center line of the street or any other line within the street right-of-way.

(1) *Front lot line* - the lot line abutting a street and coinciding with the street line. In the case of a corner lot, both street lines shall be deemed the "front lot line."

(2) *Rear Lot Line* - a lot line opposite and most distant from the front lot line. If the "rear lot line" is less than 10 feet in length or if the lot forms a point at the rear, the "rear lot line" shall be deemed to be a line 10 feet in length within the lot, between the side lot lines, parallel to and at the maximum distance from the front lot line. For a corner lot, of the two lot lines opposite the front lot lines, that which is most distant will be the "rear lot line."

(3) *Side lot line* - any lot line that is not a street line or a rear lot line.

*Lot, nonconforming* - a lot the area or dimension of which was lawful prior to the adoption or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located. by reasons of such adoption or amendment.

*Lot width* - the horizontal distance measured between the side lot lines at the required or proposed building setback line. In the case of a unit of a twin or semi-detached dwelling, the lot width shall be measured between the side lot line and the center line of the party wall, and in the case of a unit of a single-family attached dwelling the lot width shall be measured either between the side lot line and the center line of the party wall or between the center lines of adjacent party walls. In each of the aforementioned cases involving party walls, the center line of the party walls shall be construed as a side lot line.

*Lowest floor* - the lowest floor of the lowest fully enclosed area (including basement) of a building. An unfinished, flood resistant, partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area, is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in

violation of the applicable non-elevation design requirements of §27-1102 of this Chapter.

*Lux* - a unit of illumination equal to one lumen per square meter. (1 lux = .0929 footcandle)

*Manufactured home* - see “mobile home.”

*Minor repair* - the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting away of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent, or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

*Mobile home* - a transportable single-family detached dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, that arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

*Mobile home lot* - a parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home.

*Mobile home park* - a parcel or contiguous parcels of land that has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes.

*New construction* - structures for which the start of construction commenced on or after the effective date of this Chapter, including subsequent improvement hereto.

*No-impact home-based business* - a business or commercial activity administered or conducted as an accessory use that is clearly secondary to the use as a residential dwelling and that involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with residential use. The business or commercial activity must satisfy the following requirements:

- A. The business activity shall be compatible with the residential use of the property and surrounding residential uses.
- B. The business shall employ no employees other than family members residing in the dwelling.
- C. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- D. There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.
- E. The business activity may not use any equipment or process which

creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, that is detectable in the neighborhood.

F. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.

G. The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area.

H. The business may not involve any illegal activity.

*Nonconforming structure* - a structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions of this Chapter or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of this Chapter or amendment.

*Nonconforming use* - a use, whether of land or of structure, that does not comply with the applicable use provisions of this Chapter or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of this Chapter or amendment.

*Nude model studio* - any place where a person who appears semi-nude, in a state of nudity, or who displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. "Nude model studio" shall not include a proprietary school licensed by the State of Pennsylvania or a college, junior college, or university supported entirely or in part by public taxation; a private college or university that maintains or operates educational programs in which credits are transferrable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

(1) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing.

(2) Where in order to participate in a class a student must enroll at least 3 days in advance of the class.

(3) Where no more than one nude or semi-nude model is on the premises at any one time.

*Nudity or a state of nudity* - the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft, or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernible turgid state.

*Nursing home* - an institution that:

(1) Is primarily engaged in providing to inpatients:

(a) Skilled nursing care and related services for patients who require medical or nursing care.

(b) Rehabilitation services for the rehabilitation of injured, disabled or sick persons.

(2) Has policies that are developed with the advice of, and with provision of review of such policies from time to time by, a group of professional personnel, including one or more physicians and one or more registered professional nurses to govern the skilled nursing care and related medical or other services it provides.

(3) Has a physician, a registered professional nurse or a medical staff responsible for the execution of such policies.

(4) Has a requirement that the health care of every patient must be under the supervision of a physician and provides for having a physician available to furnish necessary medical care in case of emergency.

(5) Maintains clinical records on all patients.

(6) Provides 24 hour nursing services and has at least one registered professional nurse employed full time.

(7) Provides appropriate methods and procedures for the dispensing and administering of drugs and biologicals.

(8) Is licensed as a "nursing home" pursuant to the laws of the Commonwealth of Pennsylvania or is approved by the agency of the Commonwealth of Pennsylvania or locality covering Cumberland Township responsible for licensing institutions of this nature as meeting the standards established for such licensing.

*Odor, noxious* - an airborne emission that creates a nuisance.

*Office* - a building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

*One hundred year flood* - a flood that, on average, is likely to occur once every 100 years (i.e., that has 1% chance of occurring each year, although the flood may occur in any year).

*Open space* - a parcel or parcels of land or an area of water or a combination of land and water within a development site, logically interrelated and interconnected, and designed and intended for the use and enjoyment of the residents of the development and/or community, not including streets, stormwater management facilities, required off-street parking areas, and required yards. Open space shall be substantially free of structures but may contain such improvements as are in the development plan as finally approved and as are appropriate for the recreation of the residents served thereby.

*Park* - a parcel of land designated for outdoor enjoyment that is open and may include such facilities as play area, bike trails, hiking paths, and family picnic areas.

*Parking space* - a reasonably level space, available for the temporary parking of one motor vehicle, exclusive of passageways, driveways, or other means of circulation or access. A "parking space" shall include either covered garage spaces or uncovered parking lot space located off the street right-of-way. Such spaces may include but not be limited to parking lots, private garages, or, when permitted, other structures and accessories or service facilities or facilities above or under the ground.

*Party wall* - a fire wall on an interior lot line used or adapted for joint service between two buildings.

*Paved area* - a portion of land paved with a weatherproof surface for parking space, driveways, or streets. A "weatherproof" surface may include crushed stone or similar materials when the surface is maintained in good condition.

*Peep show* - the presentation of material distinguished or characterized by an emphasis on matter depicting or describing "specified sexual activity" or "specified anatomical areas" for observation by parties in a viewing booth.

*Pennsylvania Municipalities Planning Code* - Pennsylvania Act 247 of 1968 (P.L. 805) as amended, also cited as 53 P.S. §10101 *et seq.* or any subsequent act of the Commonwealth of Pennsylvania that replaces, supplements, or repeals any or all of the provisions of Act 247.

*Permanent open space* - see "open space."

*Permit* - a document issued by the Zoning Officer of Cumberland Township authorizing an applicant to undertake certain activities, as further defined below:

(1) *Building permit* - A permit indicating that a proposed construction, alteration, or reconstruction of a structure is in accordance with the construction provisions of any Building Code that may be adopted by Cumberland Township and authorizing an applicant to commence said construction, alteration, or reconstruction.

(2) *Certificate of occupancy* - A certificate issued upon completion of the construction of a structure, or changes in use of a structure or parcel of land, indicating that the premises comply with the provisions of this Chapter and other regulations of Cumberland Township and may be used for the purposes set forth in the certificate.

(3) *Zoning permit* - A permit issued indicating that a proposed use, building, or structure is in accordance with the provisions of this Chapter or with an order of the Zoning Hearing Board and authorizing the applicant to proceed with said use, building, or structure.

*Person* - an individual, partnership, public or private association or corporation, firm, trust, estate municipality, governmental unit, public utility, or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.

*Personal care home* - a facility in which room and/or board are provided to any person having limited or diminished ability to care for themselves due to conditions of age. A personal care home shall include rest home, nursing home, and convalescent home. Planning Commission An agency of Cumberland Township as duly appointed for specified terms by the Board of Supervisors of Cumberland Township for duties as prescribed in the Pennsylvania Municipalities Planning Code.

*Plantings, planting screen* - trees, shrubs, and ground covers that are installed and maintained in accordance with a landscaping plan approved by the Board of Supervisors.

*Principal use* - the main use of land or structures, as distinguished from a

secondary or accessory use.

*Public hearing* - a formal meeting held pursuant to public notice by the Board of Supervisors or Planning Commission, intended to inform and obtain public comment, prior to taking action in accordance with the Pennsylvania Municipalities Planning Code.

*Public notice* - notice published once each week for 2 successive weeks in a newspaper of general circulation in the Township. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than 7 days from the date of the hearing.

*Recreation, active* - those recreational pursuits that require physical alteration to the area in which they are performed. Such areas are intensively used and include, but are not limited to, playgrounds, ball courts, golf courses, and swimming pools.

*Recreation, passive* - recreational pursuits that can be carried out, with little alteration or disruption in the area in which they are performed. Such uses include, but are not limited to, hiking, biking, and picnicking.

*Regulatory flood elevation* - the 100-year flood elevation plus a freeboard safety factor of 1½ feet.

*Religious use* - a use involving a structure or place in which worship and ceremonies pertaining to a particular system of beliefs are held.

*Restaurant* - an establishment furnishing prepared food to the public to be consumed on or off the premises.

*Riding academy* - an establishment where horses are kept for riding or driving, or are stabled for compensation, or incidental to the operation of any club, association ranch, or similar establishment.

*Right-of-way* - a strip of land occupied or intended to be occupied by street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or other special use.

*Right-of-way, ultimate* - the expected future right-of-way width for a public street, computed from the center line of an established right-of-way and delineated by a line parallel to the center line.

*Ringelmann number* - the number of the area on a Ringelmann chart that most nearly matches the light obscuring capacity of smoke as described in the U.S. Bureau of Mines Information Circular No. 6888. Smoke below the density of Ringelmann No. 1 shall be considered as Ringelmann No. 0 or no smoke.

*Semi-nude or in a semi-nude condition* - the state of dress in which clothing partially or opaquely covers specified anatomical areas.

*Setback* - the required minimum horizontal distance between the building line and the related front, side, or rear property line.

*Sewer facility, central* - a system, whether publicly or privately owned, for the collection of sewage from two or more lots, and for the treatment or disposal of the sewage on one or more of the lots or at any other site.

*Sexual encounter establishment* - an establishment other than a hotel, motel,

or similar establishment offering public accommodations, which, for any form of consideration, provides a place where two or more persons may congregate, associate, or consort in connection with specified sexual activities or the exposure of specified anatomical areas. This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person engages in sexual therapy which they are licensed to perform.

*Sexually-oriented business* - an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

*Sight triangle* - a triangular-shaped area of unobstructed vision at the intersection of any combination of streets, roads, rights-of-way, private roads, alleys, or driveways. Two sides of the triangle shall be considered to extend 15 feet horizontally from the intersection of the vehicle traveled areas, unless otherwise specified. The height of the sight triangle area shall be considered to be from 36 inches above grade to 10 feet above grade.

*Sign* - any permanent or temporary structure or part thereof inclusive of but not limited to flags, banners, or whirly gigs or any device attached, painted, or represented directly or indirectly on a structure or other surface that shall display or include any letter, word, insignia, flag, or representation used as or that is in the nature of an advertisement, announcement, visual communication, direction, or is designed to attract the eye or bring the subject to the attention of the public. Flags of any governmental unit or branch of any charitable or religious organization, interior signs not visible from a public right-of-way or adjoining property, and cornerstones built into or attached to a wall of a building shall not be construed to be "signs."

*Special event* - an assembly of people for the purpose of business or public amusement or entertainment, reasonably anticipated to number 200 or more participants for a continuous period of 2 hours or more.

*Special exception* - a use permitted in a particular zoning district pursuant to the provisions of this Chapter and Articles VI and IX of the Pennsylvania Municipalities Planning Code.

*Specified anatomical areas* - human genitals, pubic region, anus, buttocks, female breast(s) below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state, even if completely covered.

*Specified sexual activities* - any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy.
- (3) Excretory functions as part of or in connection with any of the activities set forth in subparagraphs (1) and (2) above.

*Steep slope* - an area of land that is characterized by a change in elevation of 15% or more over a horizontal distance of 2 feet or greater.

*Steep slope, very* - an area of land that is characterized by a change in

elevation of 25% or more over a horizontal distance of 2 feet or greater.

*Storage facility, self-service* - a building consisting of individual, compartmentalized, self-contained units that are leased or owned for the storage of business and household goods or contractor's supplies.

*Story* - the space between the surface of two successive floors in a building or between the top floor and the ceiling or underside of the roof framing. The number of stories shall be counted at the point from which the height of building is measured. For the purposed of determining the maximum number of permitted stories, the term story shall not include cellars, stair or elevator penthouses, or other roof structures, provided the total area of all roof structures located above the top story does not exceed one-third of the total roof area.

*Story, half* - a story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not over 2 feet above the finished floor of such story.

*Street* - a right-of-way, municipally or privately owned, serving as a means of vehicular and pedestrian travel and furnishing access to abutting properties and space for sewers and public utilities.

*Street, arterial* - major and minor arterials as designated by the Current Roadway Functional Classification Map of the Cumberland Township Comprehensive Plan.

*Street, collector* - collectors and minor collectors as designated by the Current Roadway Functional Classification Map of the Cumberland Township Comprehensive Plan.

*Street line* - the line dividing a lot from a street.

*Street, local* - a street or road used primarily as the principal means of access to adjacent residential properties.

*Structural alteration* - any change in or addition to the supporting or structural members of a building, such as the bearing walls, partitions, columns, beams, or girders, or any change that would convert an existing building into a different structure or adapt it to a difference use, or that, in case of a nonconforming use, would prolong the life of such use.

*Structure* - any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

*Subdivision* - the division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels, or other divisions of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building, or lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

*Substantial damage* - damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% or more of the market value of the structure before the

damaged occurred.

*Substantial enlargement* - see “substantial improvement.”

*Yard* - an occupied space, open to the sky, extending from the lot line to a structure. The size of a required yard shall be measured as the shortest distance between the structure and lot line.

*Yard sale* - a sale of limited duration of clothing and household items belonging to the residents of a dwelling and conducted from the yard, porch, or garage of that dwelling.

*Zoning district* - a contiguous area of land on all parts of which the same uniform zoning regulations apply.

*Zoning district boundary* - the perimeter line completely enclosing a zoning district.

*Zoning Hearing Board* - a board appointed by the Board of Supervisors to examine and decide appeals for the relief from strict conformance to this Chapter or relief from a decision of the Zoning Officer, to hear and render final adjudications for applications for special exceptions, and to hear testimony regarding the validity of any zoning regulations upon development in the Township.

*Zoning Map* - the official plan of zoning districts in the Township showing precisely the boundaries and titles of each zoning district, which map is a part of this Chapter.

(Ord. 11/25/2003, §200)



**Part 3****Establishment of Districts****§27-301. General Provisions.**

1. *Creation and Classification of Districts.* For the purposes of this Chapter, the land contained within the boundaries of Cumberland Township is divided into districts. Each district is constituent of one of the seven general classifications for districts according to this Chapter, as follows:

- A. Agricultural Districts (Part 4).
- B. Residential Districts (Part 5).
- C. Mixed-Use Districts (Part 6).
- D. Industrial Districts (Part 7).
- E. Institutional Districts (Part 8).
- F. Airport Districts (Part 9).
- G. Open Space Districts (Part 10).

2. *Zoning Map.* The boundaries of districts in subsection .1 shall be as shown upon the map attached to and made a part of this Chapter, which shall be designated the "Cumberland Township Zoning Map." Said map and all the notations, references, and other data shown thereon are hereby incorporated by reference into this Chapter and shall be as much a part of this Chapter as if all fully described herein.

3. *Boundaries.* When uncertainty exists as to boundaries of any district as shown on the Zoning Map, the following rules shall apply:

A. District boundary lines are intended to follow or be parallel to the center line of street or railroad rights-of-way and lot or property lines as they exist on plans of record at the time of adoption this Chapter, unless such district boundary lines are specifically fixed by dimensions as shown on the Zoning Map.

B. Where a district boundary is not fixed by dimensions and where said boundary approximately follows a lot line, and where it does not scale more than 10 feet therefrom, such lot line shall be construed to be such boundary line unless specifically shown otherwise.

C. The permitted use of a lot of less than on  $\frac{1}{2}$  acre shall be determined by the most restrictive zoning classification of the lot.

(Ord. 11/25/2003, §300)



**Part 4**

**Agricultural Districts**

**§27-401. General Provisions.**

1. *Permitted Uses.* Uses are permitted by right, as special exceptions, and as conditional uses in Agricultural Districts in accordance with §27-402.

2. *Special Exception Uses.* The Zoning Hearing Board is authorized to grant special exceptions for uses specified in §27-402 for applications meeting the following criteria:

A. The proposed use shall not undermine the general agricultural character of the district and shall not reduce the likelihood of additional agricultural operations being attracted to locate in the district.

B. The use shall not generate high levels of vehicular traffic, air pollution, or glare, nor levels of noise and odors that exceed those for the district in general.

C. The manner, location, and hours of operations and of deliveries to the premises shall be compatible with the daily cycle of active and quiet periods associated with the general practice of agriculture in the district.

3. *Accessory Uses.* The following accessory uses are permitted when used in conjunction with a principal use or structure:

A. Produce stands, subject to the conditions of Part 16.

B. Storage garages for vehicles used in the operation of the principal use.

4. *Off-Street Parking and Loading.* Off-street parking and loading shall be provided in accordance with Part 13.

5. *Home Occupations.* Home occupations shall be in accordance with Part 5.

6. *Buffers.* Buffers shall be provided in accordance with Part 12.

7. *Keeping and Housing of Animals.* Buildings housing animals and storage areas for animal waste shall have a minimum setback distance from any property line in accordance with the following schedules:

A. *Permitted Use.*

| Types of Animals                             | Total Weight of Animals<br>(in aggregate)               | Minimum Setback Distance |
|--|---|--------------------------|
| Swine, cattle, sheep, goats,<br>horses, fowl | up to 2 animal equivalent units<br>per developable acre | 100 feet                 |

B. *Conditional Use.* Requires a manure management plan and minimum of 25 acres for housing of animals.

| Types of Animals                             | Total Weight of Animals<br>(in aggregate)                      | Minimum Setback Distance |
|--|--|--------------------------|
| Swine, cattle, sheep, goats,<br>horses, fowl | greater than 2 animal equivalent<br>units per developable acre | 200 feet                 |

C. *Conditional Use:* Requires a Manure Management Plan.

| Type of Animals  | Total Number of Animals<br>(in aggregate) | Minimum Setback Distance |
|--|---|--------------------------|
| Domestic dogs and cats   | greater than 6                            | 50 feet                  |
| Domestic dogs and cats in approved kennels regulated by the Pennsylvania Bureau of Dog Law Enforcement |   | 100 feet                 |

8. *Manure Management Plan.* When the number of animals meets the requirements for a conditional use as specified in §27-401.7, the applicant shall prepare a manure management plan with the assistance and concurrence of the Adams County Soil Conservation Service and the Pennsylvania State University Cooperative Extension Office. The applicant shall then submit the plan to the Township.

A. All manure management plans shall, at a minimum, follow the guidelines and comply with the criteria set forth in the final regulations of the Pennsylvania Manure Management Act of 1993, and all technical supplements thereto, as revised and amended as of the date the manure management plan is submitted.

B. The manure management plan shall include provisions for control of runoff, odor, vectors, and other nuisances. When wastes are stored outdoors, waste material shall not be less than 200 feet from any property line, potable water supply, surface water body, stormwater drainage channel, or occupied residential dwelling, excluding the subject property owner's or tenant's residence. Any land application of treatment of wastes shall be done in accordance with accepted practices recommended by the County Conservation District. Such application shall be prohibited on lands exceeding 15% in slope and where bedrock lies less than 2 feet below the ground surface.

C. The manure management plan shall include a statement that periodic inspections by Cumberland Township Zoning Officer will be permitted to verify that conditions of the plan have been met and continue to be in compliance.

D. When the manure management plan includes the use of leased or rented land for disposal of manure, a lease or rental agreement specifically stating that manure disposal is permitted on the leased or rented property shall be included.

E. Except for composted poultry, disposal of dead animals on all land, including that land intended for manure management, is expressly prohibited. Poultry shall be composted in accordance with a composting plan approved by the County Conservation District; otherwise, dead animals must be disposed of by rendering.

9. *Removal of Topsoil.* No topsoil shall be removed or sold from a parcel of land within Agricultural Districts, excluding areas being developed for farm-related improvements, except that topsoil can be removed from residential lots. Topsoil that is integral with the matted roots of grasses, when occurring in conjunction with the normal and accepted practices and operations of sod farming, shall be considered exempt from this topsoil removal prohibition.

(Ord. 11/25/2003, §400)

**§27-402. Permitted Uses - Agricultural Districts.**

| Use Classifications  | A  | Districts<br>AR |
|--|----|-----------------|
| Crop farming, truck gardening, and similar uses  | P  | P               |
| Animal husbandry, pasturing, aviaries, hatcheries and similar uses, but excluding concentrated animal operations   | P  | P               |
| Horticultural activities, including nurseries and greenhouses  | P  | P               |
| Forestry   | P  | P               |
| Single-family detached residential dwellings   | P  | P               |
| Bed and breakfast establishments   | SE | SE              |
| Public or private not-for-profit game preserve or similar conservation purpose   | SE | SE              |
| Public or private not-for-profit open space and recreation uses (but excluding golf courses)   | SE | SE              |
| Not-for-profit museums, libraries or other educational, cultural, religious, civic or philanthropic uses of a similar nature                                 |    | CU              |
| Federal, State, and Local municipal agricultural buildings and agricultural uses, and essential services commonly related to standard agricultural practices |    | CU              |
| For-profit open space and recreation uses  | CU | CU              |
| For-profit game preserve or similar conservation purpose   | CU | CU              |
| Concentrated animal operations   | CU | CU              |
| Kennels  |    | CU              |
| Animal hospital, veterinarian  |    | CU              |
| Farm equipment sales and service   | CU | CU              |
| Feed and grain mill  | CU | CU              |
| Golf Course  |    | CU              |
| Sawmill  | CU | CU              |
| Cemetery   | CU | CU              |
| Places of Worship  |    | CU              |
| Schools, day care and geriatric centers  |    | CU              |
| Campground   |    | CU              |
| Air Strip  | CU | CU              |
| For enrolled farms, accessory uses as permitted by a local, state or federal governmental farm land preservation program                                     | P  | P               |

P Permitted

SE Special Exception

CU Conditional Use

(Ord. 11/25/2003, §401)

**§27-403. Development Standards.**

1. *A Agricultural Districts.*

| <b>Standards</b>  | <b>Districts<br/>A</b> |
|---|------------------------|
| Minimum Tract Area (acres)  | 5                      |
| Maximum Building Coverage (% of tract)  | 5                      |
| Maximum Impervious Coverage (% of tract)  | 6                      |
| Maximum Height - Principal Structures (feet)  | 40                     |
| Maximum Height - Accessory Structures (feet)  | 20                     |
| Maximum Height - Farm Silos (feet)  | 80                     |
| Minimum Lot Width at Right-of-Way Line (feet)   | 50                     |
| Minimum Lot Width at Building Setback Line (feet)   | 100                    |
| Minimum Lot Area -- Single-family detached dwelling (acres)                                       | 0.5                    |
| Maximum Lot Area -- Single-family detached dwelling (acres)                                       | 2                      |
| Maximum Building Coverage (% of single-family detached dwelling lot)                              | 10                     |
| Maximum Impervious Coverage (% of single-family detached dwelling lot)                            | 15                     |
| Minimum Side Yard -- Single-family detached dwelling lot (aggregate)(feet)                        | 40                     |
| Minimum Side Yard -- Single-family detached dwelling lot (one side)(feet)                         | 20                     |
| Minimum Rear Yard -- Single-family dwelling lot (feet)  | 30                     |
| Minimum setbacks from streets (feet):   |                        |
| Any building face to arterial street ultimate right-of-way  | 60                     |
| Any building face to collector or local street ultimate right-of-way                              | 40                     |
| Any building face to common parking area  | 8                      |
| Surface parking areas to arterial street ultimate right-of-way                                    | 20                     |
| Surface parking areas to collector or local street ultimate right-of-way                          | 15                     |
| Minimum principal structure setbacks from tract perimeter (feet):                                 |                        |
| From other like-zoned tracts  | 20                     |
| From any residential district boundary line   | 50                     |
| From other district boundary lines  | 25                     |
| Minimum accessory structure setbacks from tract perimeter (feet):                                 |                        |
| From other like-zoned tracts  | 10                     |
| From any residential district boundary line   | 35                     |
| From other district boundary lines  | 20                     |
| Minimum surface parking areas, driveways, interior roadways setbacks from tract perimeter (feet): |                        |

|   |    |
|---|----|
| From other like-zoned tracts                | 5  |
| From any residential district boundary line | 30 |
| From other district boundary lines          | 15 |

2. *AR Agricultural Districts.*

| <b>Standards</b>                                  | <b>Districts<br/>AR</b> |
|---|-------------------------|
| Minimum Lot Area (square feet)                    |                         |
| On lot water and on lot sewer                     | 80,000                  |
| On lot water, central sewer                       | 30,000                  |
| Central water, on lot sewer                       | 40,000                  |
| Central water and central sewer                   | 20,000                  |
| Maximum Building Coverage (% of tract or lot)     | 15                      |
| Maximum Impervious Coverage (% of tract or lot)   | 20                      |
| Maximum Height - Principal Structures (feet)      | 35                      |
| Maximum Height - Accessory Structures (feet)      | 30                      |
| Maximum Height - Farm Silos (feet)                | 80                      |
| Minimum Lot Width at Right-of-Way Line (feet)     |                         |
| On lot water and on lot sewer                     | 200                     |
| On lot water, central sewer                       | 150                     |
| Central water, on lot sewer                       | 125                     |
| Central water and central sewer                   | 100                     |
| Minimum Lot Width at Building Setback Line (feet) |                         |
| On lot water and on lot sewer                     | 200                     |
| On lot water, central sewer                       | 150                     |
| Central water, on lot sewer                       | 125                     |
| Central water and central sewer                   | 100                     |
| Minimum lot depth (feet)                          |                         |
| On lot water and on lot sewer                     | 200                     |
| On lot water, central sewer                       | 180                     |
| Central water, on lot sewer                       | 150                     |
| Central water and central sewer                   | 130                     |
| Minimum Side Yard (feet)                          | 20                      |
| Minimum Rear Yard (feet)                          | 25                      |
| Minimum setbacks from streets (feet):             |                         |

|                      |    |
|----------------------|----|
| Arterial streets     | 50 |
| Collector street     | 40 |
| Local street         | 25 |
| Common parking areas | 20 |

(Ord. 11/25/2003, §402)

**§27-404. A Agricultural District.**

1. *Intent.* The A Agricultural District is intended to provide for the conservation of agricultural lands and uses within Cumberland Township. Furthermore, it is the intent to:

A. Protect and stabilize general agriculture as an ongoing economic activity in Cumberland Township by encouraging those land uses and activities which are agricultural in nature or act in direct support thereof.

B. Discourage development from occurring on productive farm lands and productive agricultural soils.

C. Protect agriculture from incompatible uses that may also interfere with normal and customary agricultural practices.

D. Minimize the amount of land consumed for non-agricultural purposes by encouraging non-agricultural development to occur on small parcels.

E. Retain the expansive, open farmlands of the Cumberland Township countryside that strongly contribute to the rural beauty of the central portion of Adams County and provide an appropriate context for the Gettysburg National Military Park and Eisenhower National Historic Site.

2. *Permitted Uses.* Uses are permitted by right, as special exceptions, and as Conditional uses in A Agricultural Districts in accordance with §27-402.

3. *Development Standards.* Development undertaken in this district shall be in accordance with the standards of §27-403.1.

4. *Residential Development.* Single-family detached dwellings are permitted subject to the following conditions:

A. Upon each parcel as it existed on January 1, 2003, there shall be permitted the following number of dwelling units, including those existing on January 1, 2003:

| Size of Parcel    | No. of Dwelling Units Permitted |
|-------------------|---------------------------------|
| 5 acres           | 1                               |
| 5.1 – 15 acres    | 2                               |
| 15.1 – 30 acres   | 3                               |
| 30.1 – 60 acres   | 4                               |
| 60.1 – 90 acres   | 5                               |
| 90.1 – 120 acres  | 6                               |
| 120.1 – 150 acres | 7                               |

over 150 acres

8 plus 1 dwelling for each 30 acres  
over 150 acres

B. Each such additional dwelling shall be located upon a separate and approved lot whether intended for transfer of title or not. Such additional lots shall meet all the requirements of this Chapter and the Cumberland Township Subdivision and Land Development Ordinance [Chapter 22].

C. Lots for the location of single family dwellings and the access drives or driveways providing access thereto, shall consist in their entirety of land included within the soil capability classes III, IV, V, VI, VII, or VIII as classified by the Soil Survey of Adams County, issued May, 1967; provided, however, that lots may include minor isolated areas of higher quality soils that cumulatively do not exceed 20% of the lot.

D. In cases where the requirements of this Section that require that all lots for the location of single family dwellings be located on land with soil capability classes III, IV, V, VI, VII, or VIII serve to preclude the utilization of a parcel's entire allocation of dwellings, such allocation may not be fully utilized, with the exception that dwelling units, including those existing on January 1, 2003, will be permitted on a parcel as it existed on January 1, 2003, as follows:

| Size of Parcel    | No. of Dwellings Permitted |
|-------------------|----------------------------|
| 5 acres           | 1                          |
| more than 5 acres | 2                          |

E. In all cases, residential lots shall be located on the least agriculturally productive land feasible so as to minimize interference with agricultural use of the land and so as to minimize likely adverse impact from agricultural activities, including runoff, odor, noise, and spray drift from adjacent farms.

F. If a new dwelling is proposed to be located on a tract that is not already improved with a dwelling, that dwelling must be located on the least agriculturally productive land feasible, so as to minimize interference with agriculture production and so as to minimize likely adverse impact from agricultural activities including runoff, odor, dust, noise, and spray drift from adjoining farms.

G. The applicant for residential development shall have the burden of proving that the land he seeks to utilize as a lot for the location of a single-family dwelling meets the criteria set forth in this Section. Any land owner who disagrees with the classification of his land or any part of it by the Soil Survey of Adams County, issued May 1967, may submit an engineering analysis of the soils on the portion of the land that he seeks to have reclassified and if the Township finds his study valid, then the Township copy of the relevant map sheet from the Soil Survey of Adams County shall be altered to reflect the results of such analysis.

H. The provisions of this Section shall apply exclusively to parcels of land legally existing on January 1, 2003. Regardless of size, no lot subsequently subdivided from its parcel shall qualify for additional single-family detached dwellings pursuant to this Section. Similarly, any subsequent owner of any parcel of land legally existing on January 1, 2003, shall be bound by the actions of previous owners in that such current owner may subdivide for purposes of

additional single family dwellings only that number of lots, if any, remaining from the original number permitted by this Section.

5. *Subdivision of a Tract - Residential Lots.* Residential lots shall not be separated from the original tract or parcel unless it is determined that:

A. The entire area being separated from the original tract is land of lower soil capability units as defined in subsection .4.

B. There is being separated from the original tract no more than 1 acre for each dwelling unit assigned to the tract undergoing subdivision, excepting that this stipulation shall not prevent approval of a larger area where necessary in order to provide suitable locations for each of the dwelling units assigned to the tract undergoing subdivision, including providing with each of the dwelling units a well, a driveway, an on-site sewage disposal system, a sewage reserve area, and any required storm water management facilities or other required improvements.

6. *Subdivision of a Tract - One Area Remaining After Separation of Residential Lots.* Subdivision of a tract is permitted to create an area representing all of the balance of land within the original tract after separating that tract's total permitted dwelling unit lots.

7. *Subdivision of a Tract - Two Areas Remaining After Separation of Residential Lots.* Subdivision of a tract is permitted to create 2 areas representing all of the balance of land within the original tract after separating that tract's total permitted dwelling unit lots, subject to the following requirements:

A. All of the contiguous land (for this purpose, land shall be considered contiguous even if separated by public or private roads and/or by the presence of lots subdivided from the original parcel since January 1, 2003) owned by the applicant seeking to divide land, excluding that approved in the tract's quota of dwelling unit lots pursuant to the provisions of subsection .4, shall be divided into or among two or more "tracts," each of which will, after transfer, contain at least 50 acres of crop land.

B. Any new division line being created between the two "tracts" shall be agriculturally reasonable and shall not be as to render the agricultural use of the tracts less efficient, i.e., under normal circumstances fields and contour strips will not be split.

C. Any tracts transferred to another tract pursuant to this Section shall be effectively merged with such tract and shall not subsequently be separated therefrom.

8. *Subdivision of a Tract - Transfer of Entire Tract to be Joined With Adjacent Tract.* Subdivision of a tract is permitted that would transfer the entire tract to be joined with an adjacent tract, subject to the following requirements:

A. The tract of contiguous land owned by the applicant (for this purpose land shall be considered contiguous even if separated by public or private roads and/or by the presence of lots subdivided from the original parcel since January 1, 2003) consists of less than 50 acres and land is proposed to be transferred to another tract which will after such transfer be at least as large as and contain at least as much crop land as the applicant's tract prior to such transfer.

B. The new division line shall be agriculturally reasonable and shall not be

so as to render the agricultural use of the tract less efficient, i.e., under normal circumstances fields and contour strips will not be split.

C. Any tract transferred to another tract pursuant to this Section shall be effectively merged with such tract and shall not subsequently be separated therefrom.

D. The land transferred pursuant to this Section shall not subsequently be separated from the tract to which it is transferred.

9. *Subdivision of a Tract - Special Exception or Conditional Uses.* Subdivision of a tract is permitted when all the land proposed to be separated is of soil capability classes III, IV, V, VI, VII, or VIII and the use being proposed has been approved as a Special Exception or Conditional Use as permitted by §27-402.

10. *Subdivision Plan Submission.*

A. Each submission for subdivision approval must contain an assignment, both to the land being separated from the original tract and the remaining portion of the original tract, at least one of the original tract's permitted allocation of dwellings permitted by subsection .4 unless the land being separated from the original tract is being permanently joined to an adjacent tract that either contains an existing dwelling or has allocated to it the right to construct at least one dwelling.

B. A property owner submitting a subdivision plan will be required to specify on his plan which lot or lots shall carry with them the right to erect dwellings pursuant to subsection .4. Such plan shall also contain such information as is necessary to enable the Board of Supervisors to determine whether or not the requirements set forth in this Part and in other Parts of this Chapter will be met. No lot or parcel may be subdivided or separated from the original tract without such plan having been approved by the Board of Supervisors.

C. Existing buildings shall not be separated from the original parcel unless it is determined that they have no functional utility in connection with the agricultural use of the original tract.

11. *Agricultural Protection Plan.* All applications for subdivision or land development in agricultural districts shall be accompanied by an agricultural protection plan that provides the following information:

A. The area, shape, and dimensions of the property and the size and location of all existing buildings.

B. Land under active cultivation, land used as pasture, and forested land or land within woodlots.

C. Soil information for the tract, including soil series and soil capability class, subclass, and unit, as classified within the Soil Survey of Adams County, Pennsylvania and Agricultural Handbook 210 of the United States Department of Agriculture Soil Conservation Service.

D. The area, shape, dimension, location, and use of all proposed lots. The applicant shall demonstrate that the following location and design considerations have been fully addressed:

(1) All uses or lots shall be established on non-prime farmland (Soil

Capability Classes III-VIII), when such land is available, or on lands which cannot reasonably be farmed, due to existing features of the site such as rock out croppings or heavily wooded areas, or due to the fact that the size and/or shape of an area suitable for farming is insufficient to permit the efficient use of farm machinery.

(2) Where a property is comprised entirely of prime farmland (Soil Capability Classes I and II), the least suitable land shall be utilized for the development.

(3) Where all non-prime farmland areas have been shown by the applicant to be unsuitable for development because of slope, drainage, flooding, sewage disposal, or other characteristics, the least suitable remaining farmland shall be utilized for development.

(4) Lots and uses shall be grouped, where possible, adjacent to other similar lots and uses, both within the subject property and in consideration of adjacent properties, to avoid a scattering of development.

(Ord. 11/25/2003, §403)

**§27-405. AR Agricultural-Residential District.**

1. *Permitted Uses.* Uses are permitted by right, as special exceptions, and as conditional uses in AR Agricultural-Residential Districts in accordance with §27-402.

2. *Development Standards.* Uses shall occur in accordance with the standards of §27-403.2.

(Ord. 11/25/2003, §404)

**Part 5**

**Residential Districts**

**§27-501. General Provisions.**

1. *Permitted Uses.* Uses are permitted by right, as Special exceptions, and as conditional uses in residential districts in accordance with §27-502.
2. *Accessory Uses.* Accessory uses are permitted in accordance with Part 15.
3. *Off-Street Parking and Loading.* Off-street parking and loading shall be provided in accordance with Part 13.
4. *Buffers.* Buffers shall be provided in accordance with Part 12.
5. *Performance Standards.* Any activity or use in residential districts shall comply with the performance standards of Part 12.
6. *Permanent Open Space – Offer of Dedication.* Permanent open space to be provided in accordance with certain Sections of this Part shall be offered for dedication to the Township, although the Township need not accept any such offers.  
(Ord. 11/25/2003, §500)

**§27-502. Permitted Uses.**

1. *Residential Districts.*

| Use Classification                                 | Districts<br>R | R Cluster | RMH |
|--|----------------|-----------|-----|
| Single-family detached residential dwellings (SFD) | P              | P         | P   |
| Two-family residential dwellings (2F)              | P              | P         | P   |
| Single-family attached residential dwellings (SFA) |                | P*        | P   |
| Multi-family residential dwellings (MF)            |                |           | P   |
| Mobile home parks (MHP)                            |                |           | P   |
| Public and not-for-profit private recreation       | CU             |           |     |
| Transit stations, public utility facilities        | CU             |           | CU  |
| Forestry   | P              | P         | P   |

- P Permitted
- SE Special Exception
- CU Conditional Use
- \* Under conditions specified in §27-503.2

(Ord. 11/25/2003, §501)

**§27-503. Development Standards.**

1. *Residential Districts (Excepting Cluster).*

| Standards   | Districts |       |
|---|-----------|-------|
|   | R         | RMH   |
| Maximum Tract Density (units per developable acre)  | 3.5       | 9.0   |
| Minimum Tract Area (acres)  | 0.3       | 2.0   |
| Maximum Building Coverage (% of tract or lot)   | 20        | 30    |
| Maximum Impervious Coverage (% of tract or lot)   | 25        | 50    |
| Central Water & Sewer Facilities Required   | Yes       | Yes   |
| Minimum Lot Area (square feet)  | 12,000    | 4,000 |
| Maximum Height - Principal Structures (feet)  | 35        | 35    |
| Maximum Height - Principal Structures (stories)   | 2.5       | 3     |
| Minimum Lot Width at Right-of-Way Line (feet)   | 40        | 40    |
| Minimum Lot Width at Building Setback Line (feet)   | 80        | 40    |
| Minimum Side Yard (aggregate)(feet)   | 30        | 20    |
| Minimum Side Yard (one side)(feet)  | 12**      | 8**   |
| Minimum Rear Yard (feet)  | 25        | 20    |
| Minimum Accessory Structures Setback from Property Lines (feet)                                   | 10***     | 10*** |
| Maximum Height -- Accessory Structures (feet)   | 16        | 16    |
| Maximum Height -- Accessory Structures (stories)  | 1.5       | 1.5   |
| Minimum setbacks from streets (feet):   |           |       |
| Any building face to arterial street ultimate right-of-way  | 50        | 50    |
| Any building face to collector street ultimate right-of-way                                       | 40        | 40    |
| Any building face to local street ultimate right-of-way   | 25        | 25    |
| Any building face to common parking area  | --        | 10    |
| Surface parking areas to arterial street ultimate right-of-way                                    | 20        | 20    |
| Surface parking areas to collector street ultimate right-of-way                                   | 15        | 15    |
| Surface parking areas to local street ultimate right-of-way                                       | 10        | 10    |
| Minimum principal building setbacks from tract perimeter (feet)                                   |           |       |
| From other residential tracts   | 20        | 20    |
| From non-residential tracts or district boundary  | 20        | 20    |
| Minimum surface parking areas, driveways, interior roadways setbacks from tract perimeter (feet): |           |       |
| From other residential tracts   | 10        | 10    |
| From non-residential tracts or district boundary  | 10        | 15    |
| Minimum principal building spacing (feet):  |           |       |

|                                |    |    |
|--------------------------------|----|----|
| Window wall to windowless wall | -- | 20 |
| Window wall to window wall     |    |    |
| a) Front to front              | -- | 40 |
| b) Rear to rear                | -- | 35 |
| c) End to end                  | -- | 25 |
| d) Front to rear               | -- | 40 |
| e) Front to end                | -- | 40 |
| f) Rear to end                 | -- | 35 |

\*\*Common walls for 2-family (twin) & attached dwellings excepted

\*\*\* 5 if property line adjoins a non-residential district

2. *R District Cluster Overlay.*

| <b>Standards</b>   | <b>Minimum Percent of Tract as Permanent Open Space</b> |            |                    |                    |                    |
|--|---|------------|--------------------|--------------------|--------------------|
|  | 20%   | 30%        | 40%                | 50%                | 60%                |
| Minimum Permanent Open Space Area (% of tract)           | 20  | 30         | 40                 | 50                 | 60                 |
| Maximum Tract Density (units per developable acre)       | 3.65  | 3.85       | 4.05               | 4.25               | 4.45               |
| Minimum Tract Area (acres)                               | 10  | 10         | 10                 | 10                 | 10                 |
| Maximum Building Coverage (% of tract)                   | 20  | 19         | 18                 | 17                 | 16                 |
| Maximum Impervious Coverage (% of tract)                 | 26  | 25         | 24                 | 23                 | 22                 |
| Public Water & Sewer Facilities Required                 | Yes   | Yes        | Yes                | Yes                | Yes                |
| Minimum Lot Area per Unit (Square Feet)                  | 8000  | 6500       | 5000               | 4000               | 3000               |
| Permitted Dwelling Types                                 | SFD,<br>2F  | SFD,<br>2F | SFD,<br>2F,S<br>FA | SFD,<br>2F,S<br>FA | SFD,<br>2F,S<br>FA |
| Maximum Building Coverage (% of lot)                     | 25  | 30         | 35                 | 40                 | 45                 |
| Maximum Impervious Coverage (% of lot)                   | 33  | 40         | 45                 | 55                 | 65                 |
| Minimum Lot Width at Right-of-Way Line (feet)            | 35  | 35         | 35                 | 30                 | 20                 |
| Minimum Lot Width at Building Setback Line (feet)        | 50  | 45         | 40                 | 35                 | 25                 |
| Minimum Side Yard (aggregate)(feet)                      | 20  | 17         | 15                 | 12                 | 10                 |
| Minimum Side Yard one side)(feet)                        | 0   | 0          | 0                  | 0                  | 0                  |
| Minimum Rear Yard (feet)                                 | 25  | 20         | 18                 | 16                 | 15                 |
| Minimum Accessory Structures Setback from Property Lines | 6   | 6          | 6                  | 6                  | 6                  |
| Maximum Height - Accessory Structures (feet)             | 16  | 16         | 16                 | 16                 | 16                 |
| Maximum Height - Accessory Structures (stories)          | 1.5   | 1.5        | 1.5                | 1.5                | 1.5                |
| Minimum setbacks from streets (feet)                     |   |            |                    |                    |                    |

|   |     |     |     |     |     |
|---|-----|-----|-----|-----|-----|
| Any building face to existing arterial street ultimate right-of-way                               | 100 | 100 | 100 | 100 | 100 |
| Any building face to existing collector street ultimate right-of-way                              | 80  | 80  | 80  | 80  | 80  |
| Any building face to existing local street ultimate right-of-way                                  | 50  | 50  | 50  | 50  | 50  |
| Any building face to common parking area  | 10  | 10  | 10  | 10  | 10  |
| Surface parking areas to existing arterial street ultimate right-of-way                           | 40  | 40  | 40  | 40  | 40  |
| Surface parking areas to existing collector street ultimate right-of-way                          | 30  | 30  | 30  | 30  | 30  |
| Surface parking areas to existing local street ultimate right-of-way                              | 20  | 20  | 20  | 20  | 20  |
| Minimum building setbacks from tract perimeter (feet):  |     |     |     |     |     |
| From other residential tracts   | 30  | 30  | 30  | 30  | 30  |
| From non-residential tracts or district boundary lines  | 50  | 50  | 50  | 50  | 50  |
| Minimum surface parking areas, driveways, interior roadways setbacks from tract perimeter (feet): |     |     |     |     |     |
| From other residential tracts   | 15  | 15  | 15  | 15  | 15  |
| From non-residential tracts or district boundary lines  | 20  | 20  | 20  | 20  | 20  |
| Minimum principal building spacing (feet):  |     |     |     |     |     |
| Window wall to windowless wall  | 20  | 17  | 15  | 12  | 10  |
| Window wall to window wall  |     |     |     |     |     |
| a) Front to front   | 50  | 45  | 40  | 40  | 40  |
| b) Rear to rear   | 50  | 40  | 36  | 32  | 30  |
| c) End to end   | 30  | 25  | 20  | 20  | 20  |
| d) Front to rear  | 50  | 45  | 40  | 40  | 40  |
| e) Front to end   | 40  | 35  | 30  | 30  | 30  |
| f) Rear to end  | 35  | 30  | 25  | 25  | 25  |

(Ord. 11/25/2003, §502)

**§27-504. R Residential District.**

1. *Intent.* The intent of the R Residential District is to provide appropriate locations and development standards for single-family detached and two-family residential dwellings (and in specified cases in cluster developments, single-family attached residential dwellings) in designated growth areas of the township. R Residential Districts are intended for medium-low density development and may serve as transition areas from mixed-use districts to low-intensity residential-agricultural districts along the perimeter of the growth area. R Residential Districts are appropriate for residential clustering (see §§27-503.2 and 27-506).

2. *Permitted Uses.* Uses are permitted in R Residential Districts in accordance with §27-502.

3. *Development Standards.* Uses shall occur in accordance with the standards of §§27-503.1 and 503.2.

4. *Cluster Development.* Cluster development may be undertaken in R Residential Districts under the provisions of §§27-503.2 and 27-506.

(Ord. 11/25/2003, §503)

**§27-505. RMH Residential District.**

1. *Intent.* The intent of the RMH Residential District is to provide appropriate locations and development standards for single-family detached, single-family attached, and multi-family residential dwellings in medium and medium-high density developments within designated growth areas of the Township and in locations where such developments already exist. RMH Residential Districts are appropriately located in association with mixed-use districts within designated growth areas of the township and as transition areas from mixed-use districts to medium-low density residential districts. RMH Residential Districts are also appropriate settings for mobile home parks.

2. *Permitted Uses.* Uses are permitted by right in RMH Residential Districts in accordance with §27-502.

3. *Development Standards.* Uses shall occur in accordance with the standards of §§27-503.1 and 503.2.

(Ord. 11/25/2003, §504)

**§27-506. Cluster Development Overlay District.**

1. *Cluster Development - Intent.* The intent of this Section is to establish standards and criteria that permit the clustering of homes on reduced-sized lots in the R Residential District, in return for the permanent preservation of usable and/or environmentally-sensitive open space. Furthermore, it is the intent of this Section to encourage the following objectives:

A. Permit a more attractive, varied arrangement of dwelling units and open space on a particular tract and encourage the preservation of views of open land.

B. Allow specific parcels of land to be developed more efficiently and economically, and with greater environmental sensitivity, than is possible under standard lot-by-lot zoning.

C. Preserve natural features such as tree masses, stream valleys, woodlands, scenic vistas, and other natural features that are appropriate for park, recreation, and/or other open space purposes.

D. Preserve and enhance the character and integrity of historically-and architecturally-significant structures and their settings.

E. Enable the creation and maintenance of open space in order to accomplish the above stated objectives.

F. Allow for a reasonable amount of development while providing maximum design and planning flexibility in order to accomplish the above stated objectives.

2. *Eligibility/Prerequisites for Cluster Development.* Development may be undertaken under the provisions of this Section on sites meeting the following criteria:

A. *Tract Location.* The land shall be located in the R Residential District.

B. *Tract Size.* Minimum tract sizes shall be subject to the underlying district designations and according to the schedule outlined in §27-503.2.

C. *Open Space Provision/Suitability.* At least 20% of the gross area of the tract must be suitable for use as open space, in conformance with the standards of §27-501, and shall be permanently reserved for open space uses.

D. *Sewer and Water Facilities.* All cluster development shall be served by central water facilities and public sanitary sewers or other centralized facilities acceptable to the Board of Supervisors and subject to the approval of the Pennsylvania Department of Environmental Protection or its successor agency and the appropriate servicing authority.

E. *Ownership.* The tract of land to be developed shall be in one ownership, or shall be the subject of an application filed jointly by owners of the entire tract, and it shall be agreed that the tract will be developed under single direction in accordance with an approved plan.

F. *Development Plan.* The application for development shall be accompanied by a plan, or plans, showing the detailed use of the entire tract. The plan shall clearly designate the proposed use(s) and building and facility locations of each area of the tract.

G. *Development Stages and Permits.* The development of a tract carried out in either a single phase or in stages shall be executed in accordance with a development agreement. The owner, developer, and Township shall enter into the agreement embodying all details regarding compliance with this Section to assure the binding nature thereof for the overall tract and its development. The agreement shall be recorded with the final development plan.

H. *Subdivision of Tract.* The subdivision of the tract into lots may occur only for financial purposes and not so as to permit individual lots to be treated as independent parcels for separate land development at a future time. Subdivision of the tract may occur only when deed restrictions are executed and recorded that maintain the lots as an integral part of the total tract land development.

3. *Use Regulations.* A building may be erected, altered, or used and a lot may be used or occupied for any of the following purposes, and no other:

A. Residential dwellings, according to the schedule outlined in §27-503.2.

B. Open space and recreation areas, including indoor recreation facilities, community facilities or similar uses, provided they are intended for the prospective residents of the development or in public not-for-profit neighborhood or municipal facilities.

C. Accessory uses normally allowed in a residential district and permitted in the R Residential District.

D. Uses authorized by special exception in the R Residential District.

4. *Density Regulations.* The total number of dwelling units per developable acre shall not exceed the maximums indicated in the schedule outlined in §27-503.2. The

maximum density for a tract of land determined by this method shall supersede any lot area regulations that may allow greater densities.

5. *Development Standards.* Development shall occur in conformance with standards as outlined in §27-503.2.

6. *Historic Resources.* In a development undertaken under the provisions for cluster development, the maximum permitted tract density may be increased by 10% above the respective district maximum density per developable acre for cluster development, as outlined in §27-503.2, where the tract of land for development contains a Township Historic Resource to be preserved as part of the development plan.

(Ord. 11/25/2003, §505)

#### **§27-507. Home Day Care.**

1. *Operations.* Home day care for no more than six children (excluding children living in the home and related to the care-giver by blood, marriage, or legal adoption), located only in a single-family detached dwelling in which the care-giver resides, shall be considered a home occupation, when authorized as a special exception and subject to the following additional requirements:

A. The care-giver shall be registered or licensed by the Commonwealth of Pennsylvania to provide child-care services in the dwelling.

B. The care-giver shall register yearly with the Township and pay an annual registration fee in accordance with a Fee Schedule adopted by resolution of the Board of Supervisors as shall be determined from time to time by the Board of Supervisors.

C. There shall be no structural change to the exterior of the single-family detached dwelling to accommodate the day care use.

D. There shall be a minimum of 40 square feet of floor space per child, inclusive of space occupied by furniture and equipment but exclusive of closets, halls, bathrooms, kitchens, and related areas, which shall be on the first floor of the single-family detached dwelling.

E. A minimum of 100 square feet of outdoor space per child shall be available on the same lot.

F. A driveway shall be provided to allow off-street pickup and drop-off of children.

G. No home day care use shall be permitted within 750 feet of any other home daycare use.

(Ord. 11/25/2003, §506)

#### **§27-508. Home Occupations.**

1. *Standards Applicable to Professional Services Home Occupations and General Home Occupations.* All home occupation uses are subject to the following conditions:

A. Off-street parking shall be provided in accordance with Part 13.

B. Persons engaged in the use shall comply with Township mercantile, occupational privilege, and business privilege tax regulations.

- C. No goods shall be publicly displayed.
- D. No vehicles bearing exterior identification or signs related to the use shall be maintained on the premises or adjacent streets.
- E. No oversized vehicles shall be associated with the use.
- F. No sales of goods shall be made from the premises.
- G. The use shall not produce high levels of vehicular traffic, nor noise, odors, air pollution, or glare.
- H. The residential character of the premises and the neighborhood shall be maintained.

2. *Additional Standards Applicable to Professional Services Home Occupations.* Customary professional services such as, but not limited to, doctors, lawyers, dentists, engineers, architects, and accountants are permitted home occupations, subject to the following conditions:

- A. The use shall be carried on entirely within a single-family detached dwelling and only one such professional use shall be permitted in a single-family detached dwelling.
- B. A maximum of one person not a permanent resident of the dwelling unit may be employed in the use.
- C. No more than 25% of the gross floor area of the dwelling may be used for the use.
- D. The use shall not alter or change the exterior character or appearance of the dwelling, except for signs as permitted by Part 14.

3. *Additional Standards Applicable to General Home Occupations.* Home occupations not qualifying as professional services are permitted subject to the following conditions:

- A. The use shall be carried on entirely within a dwelling unit or a building accessory thereto.
- B. The use shall be carried on only by permanent residents of the dwelling unit.
- C. No more than 15% of the gross floor area of the dwelling unit may be used for the use.
- D. The use shall not alter or change the exterior character or appearance of the dwelling unit.
- E. No signs shall be erected.
- F. Not more than one customer or client shall be on the premises at any one time and no more than two customers or clients shall come to the premises in any 24-hour period.

4. *No-impact Home-based Businesses.* No-impact home-based businesses are permitted by right in all residential districts and in dwellings in all mixed-use districts. (Ord. 11/25/2003, §507)

**Part 6****Mixed-Use Districts****§27-601. General Provisions.**

1. *Permitted Uses.* Uses are permitted in by right, as special exceptions, and as conditional uses in mixed-use districts in accordance with §27-602.

2. *Special Exception Uses.* The Zoning Hearing Board is authorized to grant special exceptions for uses specified in §27-602 for applications meeting the following criteria:

A. The use shall not generate high levels of vehicular traffic, nor noise, noxious odors, air pollution, or glare.

B. The manner, location, and hours of operations and of deliveries to the premises shall be compatible with the daily cycle of active and quiet periods associated with any adjacent or nearby residential uses.

C. The use shall complement other uses in the district, creating a mixed-use character that contributes towards an increased rate of pedestrian access to local services, minimized auto-trip generation, and additional security for district businesses.

D. Additional special exception criteria specified in Sections of this Part are met, when appropriate.

3. *Off - Street Parking and Loading.* Off-street parking and loading shall be provided in accordance with Part 13.

4. *Buffers.* Buffers shall be provided in accordance with Part 12.

5. *Sewer and Water Facilities.* All development in mixed-use districts shall be served by water and sanitary sewer facilities acceptable to the Board of Supervisors and subject to the approval of the Pennsylvania Department of Environmental Protection or its successor agency and the appropriate municipal authority providing water or sewer facilities.

6. *Natural and Landscaped Areas.* Except as provided for in specific Sections of this Part, all portions of a tract not occupied by buildings and required improvements shall be maintained as landscaped areas consisting of natural environmental features and/or planted vegetation.

7. *Performance Standards.* Any activity or use in mixed-use districts shall comply with the performance standards of Part 7.

(Ord. 11/25/2003, §600)

**§27-602. Permitted Uses – Mixed-Use Districts.**

| Use Classification  | Districts | VMX | MX | BP | TND |
|---|-----------|-----|----|----|-----|
| Retail commerce, including:   |           |     |    |    |     |
| 1. Stores and personal service shops dealing directly with customers.   |           | SE  | P  |    | SE  |
| 2. Restaurants or other similar establishments, but excluding drive-in facilities.  |           | SE  | P  |    | SE  |
| 3. Banks, which may include drive-in facilities.  |           | CU  | SE | CU | CU  |
| 4. Cinemas or similar recreational or cultural establishments.  |           | CU  | P  |    | CU  |
| 5. Exercise or fitness facilities.  |           | SE  | P  |    | SE  |
| 6. Studios for dance, art, music or photography.  |           | SE  | P  |    | SE  |
| 7. Nursery schools or day care centers.   |           | SE  | P  | CU | SE  |
| 8. Self-service storage facilities.   |           | CU  | CU |    |     |
| Business or professional offices, including;  |           |     |    |    |     |
| 1. Operations designed to attract and serve customers or clients on the premises, such as the offices of physicians, lawyers, other professions, veterinarians (but excluding animal boarding facilities), insurance & stock brokers, travel agents, & government entities. |           | SE  | P  | P  | SE  |
| 2. Operations designed to attract little or no customer or client traffic other than employees of the entity operating the principal use  |           | P   | P  | P  | P   |
| Hotels, motels or inns  |           | CU  | P  | CU | CU  |
| Bed & breakfast establishments  |           | CU  | P  |    | CU  |
| Not-for-profit museums, libraries or other educational, cultural, religious, civic or philanthropic uses of a similar nature  |           | CU  | P  |    | CU  |
| Golf courses  |           |     |    |    | CU  |
| Campgrounds   |           | CU  | CU |    |     |
| Public and not-for-profit private recreation  |           | CU  | P  | CU | CU  |
| Transit stations, public utility facilities   |           | CU  | CU | CU | CU  |
| Single-family detached residential dwellings (SFD)  |           | CU  | CU | CU | P   |
| Two-family residential dwellings (2F)   |           | P   | CU |    | P   |
| Single-family attached residential dwellings (SFA)  |           | P   | P  |    | P   |
| Multi-family residential dwellings (MF)   |           | P   | P  |    | P   |
| Residences, in mixed-use commercial-residential or institutional-residential buildings  |           | P   | P  |    | P   |
| Drive-in facility   |           |     | CU |    |     |
| Public garage, motor-vehicle sales, service or repair shop, gasoline service station and motor vehicle parking lot  |           | CU  | CU | CU |     |
| Media Operations  |           |     | P  |    |     |
| Forestry  |           | P   | P  | P  | P   |
| P Permitted   |           |     |    |    |     |
| SE Special Exception  |           |     |    |    |     |
| CU Conditional Use  |           |     |    |    |     |

(Ord. 11/25/2003, §601)

**§27-603. Development Standards – Mixed-Use Districts.**

| Standards   | Districts |        |                                     |        |      |
|---|-----------|--------|-------------------------------------|--------|------|
|   | RO        | VMX    | MX                                  | BP     | TND  |
| Maximum Tract Density (units per developable acre)                | 4.0       | 4.0    | 12.0                                | –      | 4.0  |
| Maximum Tract Density (floor-area ratio[FAR])                     | 0.3       | 0.3    | 0.6                                 | 0.4    | 0.15 |
| Minimum Tract Area (square feet)                                  | 10,000    | 10,000 | 40,000                              | 80,000 | --   |
| Minimum Tract Area (acres)  | --        | –      | –                                   | –      | 100  |
| Maximum Building Coverage (% of tract)                            | 35        | 35     | 30                                  | 25     | 25   |
| Maximum Impervious Coverage (% of tract)                          | 50        | 50     | 45                                  | 40     | 35   |
| Central Water and Sewer Facilities Required                       | No        | No     | Yes                                 | Yes    | Yes  |
| Maximum Height - Principal Structures (feet)                      | 35        | 35     | 45                                  | 35     | 35   |
| Maximum Height - Accessory Structures (feet)                      | 16        | 16     | 50% height of tallest prin. Struct. |        | 16   |
| Minimum Lot Width at Right-of-Way Line (feet)                     | 40        | 40     | 100                                 | 200    | 20   |
| Minimum Lot Width at Building Setback Line (feet)                 | 40        | 40     | 120                                 | 250    | 40   |
| Minimum setbacks from streets (feet):                             |           |        |                                     |        |      |
| Any building face to local street [ <i>Ord. 110-2004</i> ]        | 25        | 25     | 25                                  | 25     | 25   |
| Any building face to arterial street ultimate right-of-way        | 40        | 40     | 50                                  | 50     | 50   |
| Any building face to collector street ultimate right-of-way       | 30        | 30     | 40                                  | 40     | 30   |
| Any building face to common parking area                          | 10        | 10     | 10                                  | 10     | 10   |
| Surface parking areas to arterial street ultimate right-of-way    | 20        | 20     | 20                                  | 20     | 20   |
| Surface parking areas to collector street ultimate right-of-way   | 15        | 15     | 15                                  | 15     | 15   |
| Surface parking areas to local street ultimate right-of-way       | 10        | 10     | 10                                  | 10     | 10   |
| Minimum principal structure setbacks from tract perimeter (feet): |           |        |                                     |        |      |
| From other like-zoned tracts                                      | 10        | 10     | 10                                  | 20     | 10   |
| From any residential district boundary line                       | 15        | 15     | 40                                  | 50     | 30   |
| From other district boundary lines                                | 20        | 15     | 20                                  | 30     | 20   |
| Minimum accessory structure setbacks from tract perimeter (feet): |           |        |                                     |        |      |
| From other like-zoned tracts                                      | 8         | 10     | 10                                  | 10     | 10   |
| From any residential district boundary line                       | 15        | 15     | 35                                  | 40     | 15   |

| Standards   | Districts |     |    |    |     |
|---|-----------|-----|----|----|-----|
|   | RO        | VMX | MX | BP | TND |
| From other district boundary lines  | 10        | 10  | 20 | 20 | 20  |
| Minimum surface parking areas, driveways, interior roadways setbacks from tract perimeter (feet): |           |     |    |    |     |
| From other like-zoned tracts  | 5         | 5   | 10 | 10 | 10  |
| From any residential district boundary line   | 10        | 10  | 30 | 30 | 30  |
| From other district boundary lines  | 10        | 10  | 15 | 15 | 15  |
| Minimum principal building spacing (feet):  |           |     |    |    |     |
| Window wall to windowless wall  | 20        | 20  | 20 | 20 | 20  |
| Window wall to window wall  |           |     |    |    |     |
| a) Front to front   | 40        | 40  | 50 | 60 | 40  |
| b) Rear to rear   | 35        | 35  | 45 | 55 | 35  |
| c) End to end   | 25        | 25  | 35 | 45 | 25  |
| d) Front to rear  | 40        | 40  | 50 | 60 | 40  |
| e) Front to end   | 40        | 40  | 50 | 60 | 40  |
| f) Rear to end  | 35        | 35  | 45 | 55 | 35  |

(Ord. 11/25/2003, §602; as amended by Ord. 110-2004, 11/1/2004)

**§27-604. VMX Village Mixed-Used District.**

1. *Intent.* The intent of the VMX Village Mixed-use District is to maintain and reinforce the historic, mixed-use, and pedestrian-oriented character of existing low-to-moderate intensity residential and commercial areas on Routes 97 (Baltimore Pike), 134 (Taneytown Road), Business 15 (Emmitsburg Road), and 34 (Biglerville Road). Furthermore, it is the intent to:

A. Reinforce these low-intensity, mixed-use areas, following the precedent of traditional villages, by keeping a variety of different, reasonably compatible uses together in a closely-knit setting.

B. Encourage the use and re-use of existing structures and discourage their demolition.

C. Sustain the historic character of these areas through the sensitive integration of new development into the physical structure of a village.

D. Reinforce the pedestrian-scaled and -oriented character of these areas by encouraging a diversity of relatively-small-scaled land uses and business enterprises.

E. Allow for the development of land and buildings within these areas for a variety of uses, either individually or as part of compatible mixed-use developments incorporating both residential and non-residential uses, and for

civic, public, and semi-public uses.

F. Provide for convenient, local services for township residents living in and near to these areas and opportunities for short-distance trips by automobile or alternate means, such as by bicycle or on foot.

2. *Permitted Uses.* Uses are permitted in VMX Village Mixed-Use Districts in accordance with §27-602.

3. *Development Standards.* Uses shall occur in accordance with the standards of §27-603.

4. *Commercial Uses.* Commercial uses shall be contained in multi-story, mixed-use structures with commercial uses on the ground level and office and/or dwellings on the upper levels. The greatest dimension of a structure, measured parallel to exterior walls, shall not exceed 75 feet. The maximum ground level footprint of a commercial building shall be 5,000 square feet. The minimum distance between structures shall be 10 feet, except that all structures connected by a common roof line or effectively connected by means of intervening covered areas shall be considered as one structure.

5. *Orientation of Commercial Premises.* Patron access to commercial premises shall be by way of a door or similar opening giving access directly from the sidewalk along the front of the property or directly from the street right-of-way.

(Ord.11/25/2003, §603)

#### **§27-605. MX Mixed-Use District.**

1. *Intent.* The intent of the MX Mixed-Use District is to provide for the combining of offices, stores and shops, hotels and inns, higher-intensity residential uses, and civic, public, and semi-public uses in the township center in the vicinity of the intersection of US Route 30 and Herr's Ridge Road (as defined in the Comprehensive Plan) and secondary Township centers (as delineated in the Land Use Plan of the Comprehensive Plan) on Business Route 15 (Emmitsburg Road), Route 34 (Biglerville Road), and Business Route 15 (Old Harrisburg Road). It is the purpose of these regulations to encourage a diversification of uses in each MX Mixed-Use District and to promote close interrelationships among different uses; high-quality, visually-attractive, and environmentally-responsible site design and buildings; efficient circulation systems; conservation of land and energy resources; reduced rates of auto-trip generation; and increased opportunities for pedestrian circulation. In addition, the specific intent of the district is to:

A. Encourage the development of land and buildings along designated roadways for a variety of uses, either individually or together within the same building, for compatible mixed-use developments.

B. Permit the development of functionally-related land uses in a manner that is more efficient, environmentally-sensitive, and mutually-supporting than conventional sprawling, strip-type, low-intensity suburban development.

C. Minimize potential traffic hazards by encouraging planned, physically-integrated, multiple-use facilities that utilize a reduced number of access driveways when compared to conventional strip-type development.

D. Minimize auto-trip generation through maximizing opportunities for pedestrian movement and patronage of multiple facilities in a development district

that emphasizes the interrelationship of uses and structures.

E. Establish a framework for development that anticipates and encourages the necessary conditions for a high level of pedestrian circulation.

F. Provide for natural and landscaped areas convenient to office and commercial concentrations, so as to function for the general benefit of the community as places for relaxation, recreation, and social activity.

G. Preserve and enhance the functional values of natural and landscaped areas for developed areas, including groundwater recharge, runoff control, and microclimate moderation.

2. *Permitted Uses.* Uses are permitted in MX Mixed-Use Districts in accordance with §27-602.

3. *Development Standards.* Uses shall occur in accordance with the standards of §27-603.

4. *Building Size and Spacing.* The greatest dimension of a structure, measured parallel to exterior walls, shall not exceed 200 feet. The minimum distance between structures shall be 10 feet, except that all structures connected by a common roof line or effectively connected by means of intervening covered areas shall be considered as one structure.

5. *Pedestrian Circulation Provisions for Natural and Landscaped Areas.* Natural and landscaped areas, as provided for in §27-601, shall predominantly consist of natural environmental features or planted and maintained vegetation, but up to 20 percent of the total area may also consist of exterior common use areas such as pedestrian paths, sidewalks, plazas, courtyards, and recreational amenities. Whenever practicable, ground surfaces in common use areas shall be constructed of pavers in a sand setting bed with permeable joints, or similar partly-pervious surface treatments. (Ord. 11/25/2003, §604)

#### **§27-606. BP Business Park District.**

1. *Intent.* The intent of the BP Business Park District is to provide for business and professional offices that require large floor areas in their operations. Furthermore, it is the intent to:

A. Create a setting for development that ensures compatibility with adjacent and neighboring uses and that anticipates and accommodates subsequent development.

B. Coordinate access for development alongside highways, and to support the maintenance of a high level of service on roadways, especially with respect to traffic safety.

C. Preserve and enhance the functional values of open space and landscaping for developed areas, including groundwater recharge, runoff control, microclimate moderation, noise attenuation, and visual buffering.

2. *Permitted Uses.* Uses are permitted in BP Business Park Districts in accordance with §27-602.

3. *Development Standards.* Uses shall occur in accordance with the standards of §27-603.

4. *Pedestrian Circulation Provisions for Natural and Landscaped Areas.* Natural and landscaped areas, as provided for in §27-601, shall predominantly consist of natural environmental features or planted and maintained vegetation, but up to 20 percent of the total area may also consist of exterior common use areas such as pedestrian paths, sidewalks, plazas, courtyards, and recreational amenities. Whenever practicable, ground surfaces in common use areas shall be constructed of pavers in a sand setting bed with permeable joints, or similar partly-pervious surface treatments. (Ord. 11/25/2003, §605)

**§27-607. TND Traditional Neighborhood Development.**

Traditional neighborhood development shall occur in compliance with the Traditional Neighborhood Development Ordinance, adopted June 21, 2001 and as may be amended by the Board of Supervisors.

(Ord. 11/25/2003, §606)



**Part 7****Industrial Districts****§27-701. General Provisions.**

1. *Permitted Uses.* Uses are permitted by right, as special exceptions, and as Conditional uses in Industrial Districts in accordance with §27-702.

2. *Special Exception Uses.* The Zoning Hearing Board is authorized to grant special exceptions for uses specified in §27-702 for applications meeting the following criteria:

A. The proposed use shall not undermine the general manufacturing, assembling, and warehousing character of the district and shall not reduce the likelihood of additional manufacturing, assembling, and warehousing operations being attracted to locate in the district.

B. The use shall not generate high levels of vehicular traffic, nor noise, noxious odors, air pollution, or glare.

C. The manner, location, and hours of operations and of deliveries to the premises shall be compatible with the daily cycle of active and quiet periods associated with any adjacent residential uses.

3. *Accessory Uses.* The following accessory uses are permitted when used in conjunction with a principal use or structure:

A. Security watch stations for watchmen or caretakers.

B. Cafeteria or canteen for the sole use of employees and visitors to the establishment.

C. Repair facilities for the maintenance of vehicles used in the operation of the principal use.

D. Storage garages for vehicles used in the operation of the principal use.

E. Parking for principal and accessory uses in conformance with Part 13.

F. Parking structures in accordance with §27-703 and Part 13.

4. *Prohibited Uses.* All uses not listed in §27-702 as permitted or special exception uses are prohibited, with the following uses expressly prohibited:

A. Sanitary landfill, incinerator, or other mass burn facility, resource recovery facility, or any form of municipal solid waste disposal or processing not specifically set forth in §27-702.

B. Manufacture, processing, or storage of explosives or explosive devices.

C. A facility the sole purpose of which is the manufacture, processing, or storage of hazardous material.

D. Abattoirs, breweries, tanning or leather curing, or storage of raw hides or skins or the rendering of fat.

E. Manufacture, processing, or storage of fertilizer, soaps, pesticides, wood pulp, disinfectant, or industrial gas production or separation.

F. Residential uses, except for those listed in subsection .3.

G. Churches, chapels, synagogues, or similar houses of worship, convents or monasteries, including rectory or parish houses.

H. Public and private schools.

I. Petroleum refining.

J. Metal smelting.

K. Coke ovens for the processing of coal.

L. Any use unable to meet the requirements of subsection .5 or that is, or may be, dangerous to the public health, safety, morals, or public welfare, or that constitutes a public hazard whether by fire, radioactivity, explosion, or otherwise, or that is noxious or offensive by reason or odor, dust, fumes, smoke, steam, gas, vibration, glare, noise, or toxicity.

5. *Off-Street Parking and Loading.* Off-street parking and loading shall be provided in accordance with Part 13.

6. *Buffers.* Buffers shall be provided in accordance with Part 12.

7. *Sewer and Water Facilities.* All development in industrial districts shall be served by central water facilities and central sanitary sewer facilities acceptable to the Board of Supervisors and subject to the approval of the Pennsylvania Department of Environmental Protection or its successor agency and the appropriate municipal authority providing water or sewer facilities.

8. *Performance Standards.* Any activity or use in industrial districts shall comply with the following performance standards:

A. *Airborne emissions.* No activity in any industrial district shall be re-activated, established, modified, constructed, or operated without having obtained valid permits and/or certificates from the Pennsylvania Department of Environmental Protection or its successor agency for airborne emissions. Such proof of compliance shall consist of duplicate copies of such permits and/or certificates for the current time period. In addition to the requirements of the Department of Environmental Protection or its successor agency, the following requirements shall apply:

(1) *Dust.* Dust and other similar types of air pollution borne by the wind from storage areas, the removal of natural materials, yards, parking areas, or other open areas shall be minimized by landscaping, sealing, or other acceptable means.

(2) *Particulate Matter.* No use shall exceed the national ambient air quality standards established in the federal Clean Air Act or the requirements of Titles 25 and 35 of the Pennsylvania Code as they are amended and adopted for particulate matter.

(3) *Odor.* No operation shall release materials capable of becoming odorous, either by bacterial decomposition or chemical reaction, that cause or will cause odorous matter or vapor to be generated so as to be readily discernible without instruments from any point along the boundaries of each property.

(4) *Smoke or Steam.* No use may emit from a vent, stack, chimney, or

combustion process any smoke that exceeds a density or equivalent capacity of Ringelmann No. 1, except that an emission that does not exceed a density of equivalent capacity of Ringelmann No. 2 is permissible for a duration of not more than 4 minutes during any 8-hour period if the source of such emission is not located within 250 feet of a residential district. All measurements shall be taken at the point of emission of the smoke. (For the purpose of determining the density of equivalent opacity of smoke, the Ringelmann Chart, as adopted and published by the United States Department of Interior, Bureau of Mines Information Circular 8333, May 1967, shall be used. The Ringelmann number referred to in this Section refers to the number of the area of the Ringelmann Chart that coincides most nearly with the visual density of equivalent opacity of the emission of smoke observed. For example, a reading of Ringelmann No. 1 indicates a 20% density of the smoke observed.)

(5) *Toxic Matter and Hazardous Material.* Emissions of chemicals, gases, components, or elements listed as being toxic matter or hazardous material by the American Conference of Governmental Industrial Hygienists, the Pennsylvania Department of Environmental Protection or its successor agency, or the U.S. Environmental Protection agency, shall not exceed any stated threshold limit value in any industrial district. No emission of toxic matter shall exceed 50% of the threshold limit value in any adjacent residential or commercial district.

B. *Electricity.* Electric or electronic equipment shall be shielded such that no interference of radio and television broadcasts shall be discerned beyond the operator's property.

C. *Glare.* No activity or use shall produce a strong, dazzling light or reflection of this light beyond its property lines. Exterior lighting shall be shielded, buffered, and directed so that glare, direct light, or reflection will not be a nuisance to adjoining properties, dwellings, streets, or districts. In no event shall a lighting intensity greater than .25 footcandle (2.7 lux), measured at grade, be permitted beyond property lines.

D. *Heat.* No activity or use shall produce heat perceptible beyond its property lines and no use shall be permitted that would cause the ambient water temperature, as defined by the Pennsylvania Department of Environmental Protection or its successor agency, to rise or fall more than 5° Fahrenheit (2.8° Celsius) during the 10-year, 7-day low flow in any natural pond, stream, river, or other watercourse.

E. *Noise.* No activity or use shall produce a sound pressure level on adjacent property in excess of the level permitted in the following table:

| Octave Band Frequency<br>(HZ) |     | Residential District<br>(decibels) | Non-Residential<br>(decibels) |
|-------------------------------|-----|------------------------------------|-------------------------------|
| >                             | ≤   |                                    |                               |
| 20                            | 75  | 72                                 | 79                            |
| 75                            | 150 | 67                                 | 74                            |
| 150                           | 300 | 59                                 | 66                            |

| Octave Band Frequency<br>(HZ) |      | Residential District<br>(decibels) | Non-Residential<br>(decibels) |
|-------------------------------|------|------------------------------------|-------------------------------|
| 300                           | 600  | 52                                 | 59                            |
| 600                           | 1200 | 46                                 | 53                            |
| 1200                          | 2400 | 40                                 | 47                            |
| 2400                          | 4800 | 34                                 | 41                            |
| 4800                          | -    | 32                                 | 39                            |

The maximum permitted sound levels for residential districts shall apply between the hours of 7 a.m. and 6 p.m. and shall be reduced by six decibels in each octave band for any other time of day. For the purposes of this Section, decibels shall mean "A" weighted decibels.

F. *Storage and Waste Disposal.* All materials or wastes shall be deposited upon a site in such a form or manner that prevents contamination of surface or groundwater resources. All waste products shall be disposed of in accordance with regulations as they are adopted and amended by County, State, and Federal agencies.

G. *Vibration.* No activity or operation shall produce at any point along the property line continuous earthborne vibrations greater than the maximum displacement as permitted in the following table:

| Frequency<br>(Hz) | Residential District<br>Displacement<br>(in inches) | Non-Residential District<br>Displacement<br>(in inches) |
|-------------------|---|---|
| > ≤               |   |   |
| 0 10              | .0004   | .0020   |
| 10 20             | .0002   | .0010   |
| 20 30             | .0001   | .0006   |
| 30 40             | .0001   | .0004   |
| 40 50             | .0001   | .0003   |
| 50 -              | .0001   | .0002   |

Discrete pulses that do not exceed 100 impulses per minute may not produce more than twice the displacement specified in the table.

9. *Natural and Landscaped Areas.* All portions of a tract not occupied by buildings and required improvements shall be maintained as landscaped areas consisting of natural environmental features and/or planted vegetation.

10. *Location Criteria for Adult Uses.* No adult use shall be located within:

A. One thousand feet of:

(1) An institutional use, including churches, schools, health care facilities, and child care facilities.

(2) Any other adult use.

- B. Five hundred feet of:
  - (1) Any residential district boundary line.
  - (2) Any private or public park or open space.

11. *General Provisions Pertaining to Adult Uses:*

A. *Permits Required.* A permit to operate an adult use shall only be issued if the applicant is successful in obtaining a conditional use for the proposed adult use and the applicant successfully meets all health, use, occupancy, and/or building permit requirements as defined in the pertinent codes and ordinances of Cumberland Township and the pertinent BOCA codes as the same may be from time to time amended.

B. *Application for a Permit.* The application for a permit to operate an adult use must be made on the form provided by the Zoning Officer of Cumberland Township. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including all of the interior walls, and including a statement of the total floor space occupied by the adult use.

C. *Initial Inspection.* The premises must be inspected by and found to be in compliance with all applicable codes and ordinances by the Zoning Officer and the Fire Marshall.

D. *Applicant's Identification.* Any person who wishes to operate an adult use as an individual must sign the application for permit as an applicant. If the applicant is other than an individual, each individual who has an interest in the business must sign the application for permit as an applicant. If a corporation desires to operate an adult use, each officer, director, and shareholder must sign the application for a permit as an applicant.

E. *Application Approval.* The Zoning Officer shall approve the issuance of a permit to an applicant within 60 days after the applicant has received conditional use approval by the Board of Supervisors of Cumberland Township and will not approve a permit if the Zoning Officer finds any one or more of the following to be true:

- (1) Applicant is under 18 years of age.
- (2) Applicant has failed to provide information reasonably necessary for the issuance of a permit or has falsely answered a question or request for information on the application form.
- (3) The premises have been inspected by the Zoning Officer or Fire Marshall and are found not to be in compliance with the applicable codes and ordinances.
- (4) The permit fee required by this Chapter has not been paid or the permit fees of health, use, occupancy, and/or building permits have not been complied with or the fees not paid.
- (5) Applicant of the proposed adult use is in violation of or is not in compliance with any of the provisions of this Chapter.

F. *Posting of Permit.* The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the adult use. The permit shall be posted in a conspicuous place at or near the

entrance of the adult use so it can be read at any time.

G. *Permit Renewal.* The permit, if granted, shall expire 1 year from the date of issuance. The applicant must, prior to the expiration date, file an additional application in order to continue operating the adult use without interruption. Applications for renewal should be made at least 30 days prior to the expiration date. When an application is made less than 30 days before the expiration date, the pendency of the application will not prevent the expiration of the permit.

H. *Certification.* The Zoning Officer and Fire Marshall shall complete their certification that the premises are in compliance or not in compliance with the applicable codes and ordinances within 30 days of receipt of an application. This certification shall be properly presented to the Zoning Officer.

I. *Denial of Renewal.* If the Zoning Officer denies a renewal of a license, the applicant shall not be issued a permit for 1 year from date of denial, except that after 90 days of lapse since the date of denial, the applicant may be granted a permit if the Zoning Officer finds that the basis for denial of the renewal permit has been corrected or abated.

#### 12. *Inspection of Adult Uses.*

A. *Inspection at Any Time.* An applicant or permittee shall permit the Zoning Officer, Fire Marshall, or other Township officials to inspect the premises of an adult use for the purpose of ensuring compliance with this Chapter and with the law. Said inspection shall occur any time when the adult use is occupied or open for business.

B. *Violation.* A person who operates an adult use, or its agent, servant, or employee, violates this Chapter for refusal to permit such lawful inspection on the premises.

13. *Fees for Adult Uses.* The annual fee for an adult use shall be in accordance with a Fee Schedule adopted by resolution of the Board of Supervisors as shall be determined from time to time by the Board of Supervisors.

14. *Suspension of Permits for Adult Uses.* The Zoning Officer shall suspend a permit for a period not to exceed 30 days if he determines that a permittee or an agent, servant, or employee of the permittee has:

A. Violated or is not in compliance with the provisions of this Chapter.

B. Refused to allow inspection of the adult use premises as authorized by this Chapter.

#### 15. *Revocation of Permits for Adult Uses.*

A. *Revocation for Cause for Suspension.* The Zoning Officer shall revoke a permit if a cause for suspension set forth in subsection .14 occurred and the permit has been suspended within the preceding 12 months.

B. *Revocation for Other Causes.* The Zoning Officer shall have the power to revoke a permit if it is determined that:

(1) A permittee or any agent, servant, or employee has given false or misleading information or materials submitted to the Township during the application process.

(2) A permittee or any agent, servant, or employee has knowingly allowed

any activity on the premises that is in violation of the Pennsylvania Crimes Code.

(3) A permittee or any agent, servant, or employee of the permittee operated the adult use during a period of time when the permit was suspended or revoked.

(4) A permittee or any agent, servant, or employee of the permittee knowingly allowed any action of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual conduct to occur in or on the permitted premises.

(5) A permittee is delinquent in the payment to the Township of any fees that are due.

C. *Period of Revocation.* When the Zoning Officer revokes the permit, the revocation shall continue for a period of 1 year and the permittee shall not be issued an adult use business permit for 1 year from the date when the revocation became effective. If, subsequent to revocation, the Zoning Officer finds that the basis for the revocation has been corrected or abated, the applicant may be granted a permit if at least 90 days has elapsed since the date the revocation became effective.

(Ord. 11/25/2003, §700)

**§27-702. Permitted Uses – Industrial Districts.**

| <b>Use Classifications</b>   | <b>Districts</b> |
|--|------------------|
|  | I                |
| Manufacturing of products from aluminum, brass, bronze, copper, iron, steel, tin, zinc or other metals; and from bone, glass, leather, paper, plastic, rubber, shell, wire or wood; or similar in kind uses; or casting of such products | P                |
| Fabrication of carpeting, clothing and clothing accessories, electric and electronic products, flooring, instruments, medical and testing equipment and similar in kind uses   | P                |
| Processing of food and beverages, medicine and personal care products (excluding soap), and similar in kind uses   | P                |
| Printing of paper, plastic and metal   | P                |
| Research, development and testing of new products, laboratories  | P                |
| Warehousing and distributing, including storage for personal household use   | P                |
| Cinema, radio and television stations or studios   | P                |
| Transit stations, public utility facilities  | P                |
| Commercial greenhouse, nursery and wholesale florist   | P                |
| Sales of burial monuments and burial vaults  | P                |
| Accessory office uses  | P                |
| Public garage, motor-vehicle sales, service or repair shop, gasoline service station and motor vehicle parking lot   | SE               |

| <b>Use Classifications</b>   | <b>Districts</b> |
|--|------------------|
|  | <b>I</b>         |
| Auto body shop   | SE               |
| Dry cleaning and dyeing facilities   | SE               |
| Animal hospital, veterinarian  | SE               |
| Sales, repair and service of business, office and household and garden machines, equipment and devices | SE               |
| Adult Uses   | CU               |
| Heliport   | CU               |
| Forestry   | P                |
| P Permitted  |                  |
| SE Special Exception   |                  |
| CU Conditional Use   |                  |

(Ord. 11/25/2003, §701)

**§27-703. Development Standards – Industrial Districts.**

| <b>Standards</b>   | <b>Districts</b>                      |
|--|---------------------------------------|
|  | <b>I</b>                              |
| Maximum Tract Density (floor-area ratio [FAR])                       | 0.4                                   |
| Minimum Tract Area (square feet)                                     | 80,000                                |
| Maximum Building Coverage (% of tract)                               | 25                                    |
| Maximum Impervious Coverage (% of tract)                             | 40                                    |
| Central Water & Sewer Facilities Required                            | Yes                                   |
| Maximum Height - Principal Structures (feet)                         | 60                                    |
| Maximum Height - Accessory Structures                                | 50% height of tallest prin. Structure |
| Minimum Lot Width at Right-of-Way Line (feet)                        | 200                                   |
| Minimum Lot Width at Building Setback Line (feet)                    | 250                                   |
| Minimum setbacks from streets (feet):                                |                                       |
| Any building face to arterial street ultimate right-of-way           | 60                                    |
| Any building face to collector or local street ultimate right-of-way | 60                                    |
| Any building face to common parking area                             | 80                                    |

| <b>Standards</b>  | <b>Districts</b> |
|---|------------------|
|   | <b>I</b>         |
| Surface parking areas to arterial street ultimate right-of-way                                    | 20               |
| Surface parking areas to collector or local street ultimate right-of-way                          | 20               |
| Minimum building setbacks from tract perimeter (feet):  |                  |
| From other like-zoned tracts  | 25               |
| From any residential district boundary line   | 100              |
| From other district boundary lines  | 50               |
| Minimum surface parking areas, driveways, interior roadways setbacks from tract perimeter (feet): | 10               |
| From other like-zoned tracts  |                  |
| From any residential district boundary line   | 50               |
| From other district boundary lines  | 25               |

(Ord. 11/25/2003, §702)

**§27-704. I Industrial District.**

1. *Permitted Uses.* Uses are permitted in I Industrial Districts in accordance with §27-702. Specified uses are allowed as special exception uses in accordance with §27-701.2 when authorized by the Zoning Hearing Board. Accessory uses are permitted in accordance with §27-701.3 and Part 13.

2. *Development Standards.* Uses shall occur in accordance with the standards of §27-703.

(Ord. 11/25/2003, §703)



**Part 8**

**Institutional Districts**

**§27-801. General Provisions.**

1. *Permitted Uses.* Uses are permitted by right, as special exceptions, and as conditional uses in institutional districts in accordance with §27-802.

2. *Special Exception Uses.* The Zoning Hearing Board is authorized to grant special exceptions for uses specified in §27-802 for applications meeting the following criteria:

A. The use shall not generate high levels of vehicular traffic, nor noise, noxious odors, air pollution, or glare.

B. The manner, location, and hours of operations and of deliveries to the premises shall be compatible with the daily cycle of active and quiet periods associated with any adjacent residential uses.

3. *Off-Street Parking and Loading.* Off-street parking and loading shall be provided in accordance with Part 13.

4. *Buffers.* Buffers shall be provided in accordance with Part 12.

5. *Performance Standards.* Any activity or use in institutional districts shall comply with the performance standards of Part 7.

6. *Natural and Landscaped Areas.* All portions of a tract not occupied by buildings and required improvements shall be maintained as landscaped areas consisting of natural environmental features and/or planted vegetation.

(Ord. 11/25/2003, §800)

**§27-802. Permitted Uses – Institutional Districts.**

| Use Classification   | Districts |   |
|--|-----------|---|
|  | INS       | C |
| Educational, cultural, religious, civic, philanthropic, social and fraternal uses, including places of worship and adjunct administrative and residential uses, schools, libraries, museums, and similar uses. | P         |   |
| Institutional residence or care or confinement facilities, including hospital, clinics, nursing homes, and similar uses.   | P         |   |
| Public schools, or private schools with a curriculum the same as ordinarily given in public elementary and high schools, and having no rooms regularly used for housing or sleeping rooms.                     | P         |   |
| Cemeteries   | P         | P |
| Crematoriums   | SE        |   |
| Forestry   | P         | P |
| P Permitted  |           |   |
| SE Special Exception   |           |   |

(Ord. 11/25/2003, §801)

**§27-803. Development Standards - Institutional Districts.**

| <b>Standards</b>  | <b>Districts<br/>INS</b>           | <b>C</b> |
|---|------------------------------------|----------|
| Maximum Tract Density (floor-area ratio [FAR])  | 0.4                                | 0.2      |
| Minimum Tract Area (square feet)  | 175,000                            | 130,000  |
| Maximum Building Coverage (% of tract)  | 25                                 | 20       |
| Maximum Impervious Coverage (% of tract)  | 40                                 | 35       |
| Central Water & Sewer Facilities Required   | Yes                                | No       |
| Maximum Height - Principal Structures (feet)  | 45                                 | 35       |
| Maximum Height - Accessory Structures   | 50%Height of tallest prin. Struct. | 16       |
| Minimum Lot Width at Right-of-Way Line (feet)   | 200                                | 60       |
| Minimum Lot Width at Building Setback Line (feet)   | 300                                | 250      |
| Minimum setbacks from streets (feet):   |                                    |          |
| Any building face to arterial street ultimate right-of-way  | 60                                 | 60       |
| Any building face to collector or local street ultimate right-of-way                              | 60                                 | 60       |
| Any building face to common parking area  | 8                                  | 8        |
| Surface parking areas to arterial street ultimate right-of-way                                    | 20                                 | 20       |
| Surface parking areas to collector or local street ultimate right-of-way                          | 20                                 | 20       |
| Minimum principal structure setbacks from tract perimeter (feet):                                 |                                    |          |
| From other like-zoned tracts  | 25                                 | 25       |
| From any residential district boundary line   | 100                                | 75       |
| From other district boundary lines  | 50                                 | 50       |
| Minimum accessory structure setbacks from tract perimeter (feet):                                 |                                    |          |
| From other like-zoned tracts  | 10                                 | 10       |
| From any residential district boundary line   | 50                                 | 50       |
| From other district boundary lines  | 25                                 | 25       |
| Minimum surface parking areas, driveways, interior roadways setbacks from tract perimeter (feet): |                                    |          |

|   |    |    |
|---|----|----|
| From other like-zoned tracts                | 10 | 5  |
| From any residential district boundary line | 40 | 30 |
| From other district boundary lines          | 20 | 15 |

(Ord. 11/25/2003, §802)

**§27-804. INS Institutional District.**

1. *Intent.* The intent of the INS Institutional District is to provide appropriate locations and development standards for a wide range of types of institutions. Uses in this district may expect employees and clients from throughout the region; suitable locations for these uses should be limited to sites on arterial roads easily accessible to regional highways.

2. *Permitted Uses.* Uses are permitted in INS Institutional Districts in accordance with §27-802. Specified uses are allowed as special exceptions in accordance with §27-801.2 when authorized by the Zoning Hearing Board. Accessory uses are permitted in accordance with Part 15.

3. *Development Standards.* Uses shall occur in accordance with the standards of §27-803.

(Ord. 11/25/2003, §803)



**Part 9****Airport Districts****§27-901. General Provisions.**

1. *Permitted Uses.* Uses are permitted by right, as special exceptions, and as conditional uses in airport districts in accordance with §27-902.

2. *Accessory Uses.* The following accessory uses are permitted when used in conjunction with a principal use or structure:

A. Security watch stations for watchmen or caretakers.

B. Cafeteria or canteen for the sole use of employees and visitors to the establishment.

C. Repair facilities for the maintenance of vehicles used in the operation of the principal use.

D. Storage garages for vehicles used in the operation of the principal use.

E. Parking for principal and accessory uses in conformance with Part 13.

F. Parking structures in accordance with §27-903 and Part 13.

3. *Facilities and Operations.* All facilities shall be designed and operated in strict compliance with all applicable State and Federal laws and regulations. Airport operators shall be in possession of a valid license from the Pennsylvania Department of Transportation Bureau of Aviation or its successor agency.

4. *Setbacks.* No part of any take-off/landing strip and/or pad shall be located nearer than 300 feet from the tract perimeter.

5. *Off-Street Parking and Loading.* Off-street parking and loading shall be provided in accordance with Part 13.

6. *Buffers.* Buffers shall be provided in accordance with Part 12.

7. *Sewer and Water Facilities.* All development in airport districts shall be served by central water facilities and central sanitary sewer facilities acceptable to the Board of Supervisors and subject to the approval of the Pennsylvania Department of Environmental Protection or its successor agency and the appropriate municipal authority providing water or sewer facilities.

8. *Performance Standards.* Any activity or use in airport districts shall comply with the performance standards of Part 7.

9. *Natural and Landscaped Areas.* All portions of a tract not occupied by buildings and required improvements shall be maintained as landscaped areas consisting of natural environmental features and/or planted vegetation.

(Ord. 11/25/2003, §900)

**§27-902. Permitted Uses - Airport Districts.**

| <b>Use Classifications</b>  | <b>Districts<br/>AIR</b> |
|---|--------------------------|
| Airports  | P                        |
| Warehousing and distributing, including storage for personal household use  | CU                       |
| Business offices, where operations are designed to attract little or no customer or client traffic other than employees of the entity operating the principal use | CU                       |
| Public and not-for-profit private recreation  | CU                       |
| Transit stations, public utility facilities   | CU                       |
| Forestry  | P                        |
| P Permitted   |                          |
| CU Conditional Use  |                          |

(Ord. 11/25/2003, §901)

**§27-903. Development Standards – Airport Districts.**

| <b>Standards</b>  | <b>Districts<br/>AIR</b>           |
|---|------------------------------------|
| Maximum Tract Density (units per developable acre)              | --                                 |
| Maximum Tract Density (floor-area ratio[FAR])                   | 0.4                                |
| Minimum Tract Area (square feet)                                | 80,000                             |
| Minimum Tract Area (acres)                                      | --                                 |
| Maximum Building Coverage (% of tract)                          | 25                                 |
| Maximum Impervious Coverage (% of tract)                        | 40                                 |
| Central Water & Sewer Facilities Required                       | Yes                                |
| Maximum Height - Principal Structures (feet)                    | 35                                 |
| Maximum Height - Accessory Structures (feet)                    | 50%Height of tallest prin. Struct. |
| Minimum Lot Width at Right-of-Way Line (feet)                   | 200                                |
| Minimum Lot Width at Building Setback Line (feet)               | 250                                |
| Minimum setbacks from streets (feet):                           |                                    |
| Any building face to arterial street ultimate right-of-way      | 50                                 |
| Any building face to collector street ultimate right-of-way     | 40                                 |
| Any building face to common parking area                        | 10                                 |
| Surface parking areas to arterial street ultimate right-of-way  | 20                                 |
| Surface parking areas to collector street ultimate right-of-way | 15                                 |
| Surface parking areas to local street ultimate right-of-way     | 10                                 |

| <b>Standards</b>  | <b>Districts<br/>AIR</b> |
|---|--------------------------|
| Minimum principal structure setbacks from tract perimeter (feet):                                 |                          |
| From other like-zoned tracts  | 20                       |
| From any residential district boundary line   | 50                       |
| From other district boundary lines  | 30                       |
| Minimum accessory structure setbacks from tract perimeter (feet):                                 |                          |
| From other like-zoned tracts  | 10                       |
| From any residential district boundary line   | 40                       |
| From other district boundary lines  | 20                       |
| Minimum surface parking areas, driveways, interior roadways setbacks from tract perimeter (feet): |                          |
| From other like-zoned tracts  | 10                       |
| From any residential district boundary line   | 30                       |
| From other district boundary lines  | 15                       |
| Minimum principal building spacing (feet):  |                          |
| Window wall to windowless wall  | 20                       |
| Window wall to window wall  |                          |
| a) Front to front   | 60                       |
| b) Rear to rear   | 55                       |
| c) End to end   | 45                       |
| d) Front to rear  | 60                       |
| e) Front to end   | 60                       |
| f) Rear to end  | 55                       |

(Ord. 11/25/2003, §902)

**§27-904. AIR Airport District.**

1. *Intent.* The intent of the AIR Airport District is to provide appropriate development standards for the airport on US Route 30 so that it may operate as a limited general aviation facility in a manner that is consistent with its strategic location within the Township's central-west designated growth area and compatible with other land uses in the northwestern quadrant of the municipality.

2. *Permitted Uses.* Uses are permitted in the AIR Airport District in accordance with §27-902. Accessory uses are permitted in accordance with Part 15.

3. *Development Standards.* Uses shall occur in accordance with the standards of §27-903.

(Ord. 11/25/2003, §903)



**Part 10**

**Open Space Districts**

**§27-1001. General Provisions.**

1. *Permitted Uses.* Uses are permitted by right, as special exceptions, and as conditional uses in open space districts in accordance with §27-1002.

2. *Special Exception Uses.* The Zoning Hearing Board is authorized to grant special exceptions for uses specified in §27-1002 for applications meeting the following criteria:

A. The use shall not generate high levels of vehicular traffic, nor noise, noxious odors, air pollution, or glare.

B. No commercial activity shall be permitted except the charging of admission, the sale of refreshments, or such other purpose that is clearly incidental to permitted outdoor activities.

C. The manner, location, and hours of operations and of deliveries to the premises shall be compatible with the daily cycle of active and quiet periods associated with any adjacent residential uses.

3. *Off-Street Parking and Loading.* Off-street parking and loading shall be provided in accordance with Part 13.

4. *Buffers.* Buffers shall be provided in accordance with Part 12.

5. *Performance Standards.* Any activity or use in open space districts shall comply with the performance standards of Part 7.

6. *Natural and Landscaped Areas.* All portions of a tract not occupied by buildings and required improvements shall be maintained as landscaped areas consisting of natural environmental features and/or planted vegetation.

(Ord. 11/25/2003, §1000)

**§27-1002. Permitted Uses - Open Space Districts.**

| <b>Use Classification</b>  | <b>Districts</b> |
|--|------------------|
|  | <b>OS</b>        |
| Public or private not-for-profit open space and recreation uses  | P                |
| Public or private not-for-profit game preserve or similar conservation purpose                                   | P                |
| Crop farming, truck gardening, and similar uses  | SE               |
| Animal husbandry, pasturing, aviaries, hatcheries and similar uses, but excluding concentrated animal operations | SE               |
| Horticultural activities, including nurseries and greenhouses  | SE               |
| For-profit open space and recreation uses  | SE               |
| For-profit game preserve or similar conservation purpose   | SE               |

| <b>Use Classification</b> | <b>Districts<br/>OS</b> |
|---------------------------|-------------------------|
| Cemetery                  | CU                      |
| Forestry                  | P                       |
| P Permitted               |                         |
| SE Special Exception      |                         |
| CU Conditional Use        |                         |

(Ord. 11/25/2003, §1001)

**§27-1003. Development Standards - Open Space Districts.**

| <b>Standards</b>   | <b>Districts<br/>OS</b> |
|--|-------------------------|
| Maximum Tract Density (floor-area ratio [FAR])                           | 0.01                    |
| Minimum Tract Area (acres)   | 5                       |
| Maximum Building Coverage (% of tract)                                   | 1                       |
| Maximum Impervious Coverage (% of tract)                                 | 4                       |
| Maximum Height - Principal Structures (feet)                             | 35                      |
| Maximum Height - Accessory Structures                                    | 16                      |
| Minimum Lot Width at Right-of-Way Line (feet)                            | 60                      |
| Minimum Lot Width at Building Setback Line (feet)                        | 250                     |
| Minimum setbacks from streets (feet):                                    |                         |
| Any building face to arterial street ultimate right-of-way               | 60                      |
| Any building face to collector or local street ultimate right-of-way     | 40                      |
| Any building face to common parking area                                 | 8                       |
| Surface parking areas to arterial street ultimate right-of-way           | 20                      |
| Surface parking areas to collector or local street ultimate right-of-way | 15                      |
| Minimum principal structure setbacks from tract perimeter (feet):        | 20                      |
| From other like-zoned tracts   |                         |
| From any residential district boundary line                              | 50                      |
| From other district boundary lines                                       | 25                      |
| Minimum accessory structure setbacks from tract perimeter (feet):        | 10                      |
| From other like-zoned tracts   |                         |
| From any residential district boundary line                              | 35                      |
| From other district boundary lines                                       | 20                      |

| <b>Standards</b>  | <b>Districts<br/>OS</b> |
|---|-------------------------|
| Minimum surface parking areas, driveways, interior roadways setbacks from tract perimeter (feet): |                         |
| From other like-zoned tracts  | 5                       |
| From any residential district boundary line   | 30                      |
| From other district boundary lines  | 15                      |

(Ord. 11/25/2003, §1002)

**§27-1004. OS Open Space District.**

1. *Intent.* The OS Open Space District is intended to preserve parkland, game lands, forests, conservation tracts, and other designated community resource areas for their perpetual use and enjoyment as open space by the residents of the Township.

2. *Permitted Uses.* Uses are permitted in OS Open Space Districts in accordance with §27-1002.

3. *Development Standards.* Development undertaken in this district shall be in accordance with the standards of §27-1003.

(Ord. 11/25/2003, §1003)



**Part 11****Environmental Protection****§27-1101. General Provisions.**

1. *Intent.* The intent of this Part is to establish standards and criteria for the protection of environmentally-sensitive areas of the township, including floodplains, steep slopes and very steep slopes, and woodlands and areas with mature trees. More specifically, these provisions are designed to:

A. Preserve natural environmental resources and maintain ecological stability by:

(1) Strictly controlling the use of floodplains.

(2) Promoting the proper development of steep and very steep slopes.

(3) Maintaining groundwater resources through the provision of areas for groundwater recharge.

(4) Avoiding the disruption of woodlands and the removal of specimen trees.

B. Preserve the visual character of the landscape by:

(1) Discouraging development in areas that will create significant changes in the visual character of the township, particularly its stream courses and major drainage swales.

(2) Encouraging the use of natural resource areas to preserve existing environmental quality and amenity values.

C. Protect the health and safety of all residents and visitors and minimize threats to property through the promotion of sound land development practices.

D. Aid in the implementation of the Comprehensive Plan and the attainment of its goals and objectives.

2. *Applicability and Scope.* This Part regulates the circumstances in which development, improvements, or demolition may occur on land areas in the Township consisting of or containing the following natural and man-made resources:

A. Floodplains, in accordance with §27-1102.

B. Steep slopes and very steep slopes, in accordance with §27-1103.

C. Specimen trees, in accordance with §27-1104.

(Ord. 11/25/2003, §1102)

**§27-1102. Flood and Floodplain Protection.**

1. *Intent.* The intent of this §27-1102 is to protect areas of floodplain subject to and necessary for the containment of flood waters, provide adequate protection for flood prone properties, and comply with Federal and State floodplain management requirements. Specific objectives include the following:

A. Promotion of the general health, welfare, and safety of the community.

B. Encouragement of the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.

C. Prevention of the construction of structures in areas unfit for human usage by reason of danger from flooding, unsanitary conditions, or other hazard.

D. Minimization of danger to public health by protecting the quality and quantity of surface and subsurface water supplies adjacent to and underlying flood hazard areas and promoting safe and sanitary drainage.

E. Permitting only those uses that can be appropriately located in the floodplain and that will not impede the flow or storage of flood waters, or otherwise cause danger to life and property at, above, or below site locations along the floodplain.

F. Protection of landowners adjacent to a floodplain and those upstream and downstream from a site along the floodplain from damages resulting from development within a floodplain and the consequent obstruction or increase in flow of flood waters.

G. Reduction in the financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding, and the protection of the entire Township from uses of land that may result in subsequent expenditures for public works and disaster relief and that may adversely affect the economic well-being of the township.

H. Maintenance of an ecological balance among natural systems, including wildlife, vegetation, and marine life, that are dependent upon water courses and water areas.

I. Protection of other municipalities within the same watershed from the impact of improper development and the consequent increased potential for flooding.

J. Provision of areas for the deposition of flood-borne sediment.

K. Protection of uses vulnerable to floods, including public facilities, in accordance with the requirement of the National Flood Insurance Program and the Pennsylvania Flood Plain Management Act.

2. *Applicability and Scope.* This §27-1102 regulates the circumstances in which any use may occur in a floodplain.

3. *Identification of Floodplain Areas.* The identified floodplain area shall be those areas of the Township of Cumberland that are subject to the 100 year flood as identified in the Flood Insurance Study (FIS) dated September 30, 1981 and the accompanying maps prepared for the Township of Cumberland by the Federal Emergency Management Agency, or the most recent revision thereof.

4. *Description of Floodplain Areas.* The identified floodplain area shall consist of the following specific areas:

A. *FW (Floodway Area)* - the areas identified as "Floodway" in the AE Zone in the Flood Insurance Study prepared by FEMA. The term shall also include floodway areas which have been identified in other available studies or sources of information for those floodplain areas where no floodplain has been identified in

the Flood Insurance Study.

B. *FF (Flood-Fringe Area)* - the remaining portions of 100-year floodplain in those areas identified as an AE Zone in the Flood Insurance Study, where a floodway has been delineated.

C. *FE (Special Floodplain Area)* - the areas identified as Zone AE in the Flood Insurance Study, where 100-year flood elevations have been provided, but no floodway has been delineated.

D. *FA (General Floodplain Area)* - the areas identified as Zone A in the FIS for which no 100-year flood elevations have been provided. When available, information from other Federal, State, and other acceptable sources shall be used to determine the 100-year elevation, as well as a floodway area, if possible. When no other information is available, the 100-year elevation shall be determined by using a point on the boundary of the identified floodplain area nearest the construction site in question.

In lieu of the above, the Township may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Township.

5. *Changes in Identification of Area.* The identified floodplain area may be revised or modified by the Board of Supervisors where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency, Federal Insurance Administration.

6. *Boundary Disputes.*

A. In the case of any dispute concerning the boundaries of a floodplain, an initial determination shall be made by the Township Zoning Officer in consultation with the Township Engineer.

B. Any party aggrieved by the decision of the Zoning Officer as to the boundaries of the floodplain, which may include the grounds that the maps referred to in subsection .3 are or have become incorrect because of changes due to natural or other causes, or changes indicated by detailed hydrologic and hydraulic studies, may appeal to the Zoning Hearing Board as provided in Part 19 of this Chapter and §§27-1102.11 and 1102.12 herein. The burden of proof in such an appeal shall be on the appellant.

C. Insofar as various natural conditions, including the floodplain as herein defined, may change, such changes may be validated by detailed on-site survey techniques approved by the U.S. Army Corps of Engineers. Whether a proposed use is within the floodplain shown on the Floodplain Overlay Map of the Flood Insurance Study shall, upon appeal from the decision of the Zoning Officer, be determined by the Zoning Hearing Board upon receipt of the findings of the detailed on-site survey by the petitioner. The Zoning Hearing Board, in addition

to other evidence and standards, shall consider the recommendations of the Township Planning Commission and the Adams County Planning Commission.

D. All changes to the boundaries of the floodplain are subject to the review and approval of the Federal Emergency Management Agency Federal Insurance Administration.

7. *Permitted Uses.*

A. Cultivation and harvesting of crops in accordance with recognized soil conservation practices.

B. Outdoor plant nursery or orchard in accordance with accepted soil conservation practices.

C. Game preserve, wildlife sanctuary, woodland preserve, arboretum; and passive recreation or parks, including hiking, bicycle, and bridle trails, but including no facilities subject to damage by flooding.

D. Utility transmission lines.

E. Sealed water supply wells, subject to the approval of the Township Engineer.

F. Sanitary sewers, subject to the approval of the Township Engineer.

G. Front, side, or rear yards, and required lot area, for any district provided such yards are not to be used for on-site sewage disposal systems or for non-wire fences or any other structure.

8. *Prohibited Uses.* The following uses and activities are specifically prohibited in floodplains:

A. Freestanding structures, buildings, and retaining walls, with the exception of flood retention dams, culverts, and bridges as approved by the Pennsylvania Department of Environmental Protection or its successor agency.

B. Relocation or alteration of any watercourse without approval of the Board of Supervisors and the Pennsylvania Department of Environmental Protection or its successor agency and subject to the following:

(1) No such approval shall be given by the Board of Supervisors without first obtaining a recommendation thereon of the Cumberland Township Planning Commission, Adams County Planning Commission, and Soil Conservation Service, U.S. Department of Agriculture or its successor agency.

(2) No such relocation or alteration shall take place without prior notification of abutting municipalities and the Federal Insurance Administration of the National Flood Insurance Program.

(3) The flood-carrying capacity of a watercourse shall not be reduced by any such relocation or alteration.

C. Sanitary landfills, dumps, junkyards, outdoor storage of vehicles and materials.

D. On-site sewage disposal systems.

E. Private water supply wells.

F. The construction, placement, enlargement, or expansion of manufactured

homes.

G. The construction, enlargement, or expansion of hospitals (public or private).

H. The construction, enlargement, or expansion of nursing homes (public or private).

I. The construction, enlargement, or expansion of jails or prison.

J. Any new or substantially improved structure that will be used for the production or storage of any of the following dangerous materials or substances or that will be used for any activity requiring the maintenance of a supply (more than 550) gallons or other comparable volume or any amount of radioactive substances) of any of the following dangerous materials or substances on the premises:

(1) Acetone.

(2) Ammonia.

(3) Benzene.

(4) Calcium Carbide.

(5) Carbon Disulfide.

(6) Celluloid.

(7) Chlorine.

(8) Hydrochloric Acid.

(9) Hydrocyanic Acid.

(10) Hydrofluoric Acid.

(11) Magnesium.

(12) Nitric Acid and Oxides of Nitrogen.

(13) Petroleum Products (gasoline, fuel, oil, etc.).

(14) Phosphorus.

(15) Potassium.

(16) Sodium.

(17) Sulphur and Sulphur Products (including sulphuric and sulphurous acids).

(18) Pesticides (including insecticides, fungicides, and rodenticides).

(19) Radioactive substances, insofar as such substances are not otherwise regulated.

(20) Any other dangerous materials or substances regulated by the appropriate Federal or State agencies.

9. *Conditional Uses.* The Board of Supervisors is authorized to grant conditional uses for the following uses, subject to the advisory recommendations of the Planning Commission and Township Engineer and pursuant to the standards in subsection .10:

A. Commercial recreation use, whether open to the public or restricted to private membership, such as parks, camps, picnic areas, golf courses, fishing, sport, or boating clubs; not to include enclosed structures excepting toilet facilities

but permitting piers, docks, floats, or shelters usually found in developed outdoor recreational areas. No toilet facilities provided shall be connected to an on-site sewage disposal system.

B. Storm sewers or impoundment basins.

C. Outlet installations for sewage treatment plants and sewage pumping stations, with approval of the appropriate sewer authorities.

D. Dams, bridges, and culverts, approved by the Commonwealth of Pennsylvania, Department of Environmental Protection or its successor agency.

E. Paved roads, driveways, and parking lots, where required by the regulations for the district applicable to the lot without consideration of this Section, provided that:

(1) In the case of roads and driveways no such facilities shall be permitted as a conditional use if practicable alternative alignments exist.

(2) In the case of parking facilities, no such facility shall be permitted as a conditional use unless satisfactory evidence is submitted that such parking will not be utilized during periods of flood flow, thus posing no threat to the safety of the vehicles, their users, and/or to downstream properties. Temporary parking for periods not to exceed 1 hour, and/or parking for recreation uses would be examples of such exceptions.

F. Grading or regrading of lands, including the deposit of top soils and the grading thereof, and the construction of retaining walls. An application for a conditional use for such use shall also be accompanied by a plan indicating the deposition of any fill or material proposed to be deposited by the grading or regrading of land; such fill or other materials shall be protected against erosion by rip-rap, vegetation cover, or bulkheading.

G. Forestry, lumbering, and reforestation in accordance with recognized natural resource conservation practices, but permitting no structures.

10. *Standards for Conditional Uses or Variances.* The Board of Supervisors, in considering a use as a conditional use, and the Zoning Hearing Board, in considering a variance, shall bear in mind the objectives of subsection .1 and shall consider the following:

A. No conditional use or variance shall be granted for construction, development, use, or activity within any floodway area that would cause any increase in the 100-year flood elevation.

B. No conditional use or variance shall be granted for any construction, development, use, or activity within any FE area that would, together with all other existing and anticipated development, increase the 100-year flood elevation more than 1 foot at any point.

C. If granted, any variance shall involve only the least modification necessary to provide relief.

D. Lands abutting the waterway, both upstream and downstream, shall not be adversely affected by the proposed use.

E. The general welfare or public interest of Cumberland Township or of other

municipalities in the same watershed shall not be adversely affected.

F. Any new structures or substantial improvements to existing structures permitted by conditional use or by variance shall be constructed and placed on the lot so as to offer the minimum obstruction to the flow of water, be designed to have a minimum effect upon the flow and height of flood water, and comply with the requirements of subsections .14 through .17.

G. Any new structure or substantial improvement permitted as a Conditional Use or by Variance shall be subject to the requirements of subsection .17.

H. Any additions to existing structures permitted as a conditional use or by variance shall have all utilities and facilities floodproofed in accordance with the provisions contained herein and in the Cumberland Township Building Code.

I. In granting a conditional use or variance, the Township shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Chapter.

11. *Additional Standards for Variances.* A property owner of a lot of record, as of the date of the enactment of this Section, who is able to prove that the strict enforcement of this Section would create undue hardship by denying a reasonable use of an existing lot that is situated either wholly or partially in the floodplain, may seek relief by applying for a variance from the Zoning Hearing Board. The Zoning Hearing Board, after deciding upon the merits of the application, may permit the applicant to make some reasonable use of the property in question, while ensuring that such use will not violate the basic objectives of subsection .1 and will be consistent with the standards of subsection.10. An affirmative decision shall be issued by the Zoning Hearing Board only upon a determination that it is the minimum necessary, considering the flood hazard, to provide relief, and that:

A. Good and sufficient cause has been shown.

B. Failure to grant the variance would result in exceptional hardship to the applicant.

C. Granting of the variance will neither:

(1) Result in an unacceptable or prohibited increase in flood height, additional threats to public safety, or extraordinary public expense.

(2) Create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.

12. *Application Procedures for Conditional Uses or Variances.*

A. Whenever a variance is granted, the Township shall notify the applicant in writing that:

1. The granting of the variance may result in increased premium rates for flood insurance.

2. Such variances may increase the risks to life and property.

B. A complete record of all variance requests and related actions shall be maintained by the Township. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Insurance

Administration.

C. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capacity of resisting the 100-year flood and no conditional use shall be granted by the Board of Supervisors and no variance shall be granted by the Zoning Hearing Board for any requirement pertaining to development that may endanger human life.

13. *Procedures for Consideration of Conditional Uses or Variances.*

A. An application for a zoning permit shall be filed with the Zoning Officer who shall make an initial determination on the application. For a use other than those permitted in §27-1102.07, an application seeking approval of a Conditional Use or Variance shall be forwarded to the Board of Supervisors or Zoning Hearing Board, as appropriate, along with required studies or information and the findings of the Zoning Officer.

B. The application for conditional use or use by variance shall be accompanied by the following:

(1) Detailed engineering studies indicating the effects on drainage and streams on all adjacent properties as well as the property in question.

(2) An application for amending the boundaries of the floodplain if the boundaries will be affected by the proposed conditional use or use by variance.

C. Prior to the issuance of any permit, the Zoning Officer and Township Engineer shall review the application for permit to determine if all other necessary government permits required by State and Federal laws have been obtained.

14. *Technical Provisions.*

A. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities that may be affected by such action have been notified by the municipality, and until all required permits or approvals have been first obtained from the Department of Environmental Protection, Bureau of Dams, Waterways and Wetlands or its successor agency. In addition, the Federal Emergency Management Agency and Pennsylvania Department of Community and Economic Development, Bureau of Community Planning, or its successor agency, shall be notified prior to any alteration or relocation of any watercourse.

B. Any new construction, development, uses, or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this Chapter and any other applicable codes, ordinances, and regulations.

C. Special requirements for FW, FE, and FA areas:

(1) Within any FW (Floodway Area), the following provisions apply:

(a) Any new construction, development, use, activity, or encroachment that would cause any increase in flood heights will be prohibited.

(b) No new construction or development shall be allowed, unless a permit is obtained from the Department of Environmental Protection,

Bureau of Dams.

(c) Waterways and wetlands or its successor agency.

(2) Within any FE (Special Floodplain Area), no new construction or development shall be allowed unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the elevation of the 100-year flood more than 1 foot at any point.

(3) Within any FE (Special Floodplain Area) or FA (General Floodplain Area), the following provisions apply:

(a) No new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse.

(b) Any new construction or development that would cause any increase in flood heights shall be prohibited within any floodway area.

15. *Elevation and Floodproofing Requirements.*

A. *Residential Structures.* Within any identified floodplain area, any new construction or substantial improvement of a residential structure shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation.

B. *Non-residential Structures.*

(1) Within any identified floodplain area, any new construction or substantial improvement of a non-residential structure shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation, or be designed and constructed so that the space enclosed by such structure shall remain either completely or essentially dry during any flood up to that height.

(2) Any non-residential structure, or part thereof, having a lowest floor which is not elevated to at least 1½ feet above the 100-year flood elevation, shall be floodproofed in a completely or essentially dry manner in accordance with the W1 and W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specification for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect that states that the proposed design methods of construction are in conformance with the above referenced standards.

C. *Space Below the Lowest Floor.*

(1) Fully enclosed space below the lowest floor (including basement) is prohibited.

(2) Partially enclosed space below the lowest floor (including basement) that will be used solely for parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on exterior walls. The term "partially enclosed

space" also includes crawl spaces. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:

(a) A minimum of two openings having a net total area of not less than 1 square inch for every square foot of enclosed space.

(b) The bottom of all openings shall be no higher than 1 foot above grade.

(c) Openings may be equipped with screens, louvers, etc., or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(3) *Accessory Structures*. Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following:

(a) The structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.

(b) Floor area shall not exceed 600 square feet.

(c) The structure will have low damage potential.

(d) The structure will be located on the site so as to create the least obstruction to the flow of floodwaters.

(e) Power lines, wiring, and outlets will be at least 1½ feet above the 100-year flood elevation.

(f) Permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc., are prohibited.

(g) Sanitary facilities are prohibited.

(h) The structure shall be adequately anchored to prevent flotation or movement and shall be designed to automatically provide for entry and exit of floodwaters for the purposes of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered engineer or architect, or meet or exceed the following minimum criteria:

1) A minimum of two openings have a net total area of not less than 1 square inch for every square foot of enclosed space.

2) The bottom of all openings shall be no higher than 1 foot above grade.

3) Openings may be equipped with screens, louvers, etc., or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

16. *Design and Construction Standards*. The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:

A. *Fill*. If fill is used, it shall:

(1) Extend laterally at least 15 feet beyond the building line from all points.

(2) Consist of soil or small rock materials only - sanitary landfills shall not be permitted.

(3) Be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling.

(4) Be no steeper than 1 vertical to 2 horizontal feet, unless substantiated data, justifying steeper slopes, are submitted to and approved by the Zoning Officer.

(5) Be used to an extent to which it does not adversely affect the adjacent properties.

B. *Drainage Facilities.* Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall ensure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

C. *Water and Sanitary Sewer Facilities and Systems.*

(1) All new or replacement water and sanitary sewer facilities and systems shall be located, designed, and constructed to minimize or eliminate flood damages and the infiltration of flood waters.

(2) Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into floodwaters.

(3) No part of any on-site sewage system shall be located within any identified floodplain area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.

D. *Other Utilities.* All other utilities such as gas lines and electrical and telephone systems shall be located, elevated (where possible), and constructed to minimize the chance of impairment during a flood.

E. *Streets.* The finished elevation of all new streets shall be no more than 1 foot below the regulatory flood elevation.

F. *Storage.* All materials that are buoyant, flammable, explosive, or, in times of flooding, could be injurious to human, animal, or plant life, shall be stored at or above the regulatory flood elevation and/or floodproofed to the maximum extent possible.

G. *Placement of Buildings and Structures.* All buildings and structures shall be designed, located, and constructed so as to offer the minimum effect upon the flow and height of floodwater.

H. *Anchoring.*

(1) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.

(2) All air ducts, large pipes, storage tanks, and other similar objects or components located below the regulatory flood elevation shall be securely anchored or affixed to prevent flotation.

I. *Floors, Walls, and Ceilings.*

(1) Wood flooring used at or below the regulatory flood elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain, without causing structural damage to the building.

(2) Plywood used at or below the regulatory flood elevation shall be of a "marine" or "water-resistant" variety.

(3) Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are "water-resistant" or will withstand inundation.

(4) Windows, doors, and other components at or below the regulatory flood elevation shall be made of metal or other "water-resistant" material.

J. *Paints and Adhesives.*

(1) Paints and other finishes used at or below the regulatory flood elevation shall be of "marine" or "water-resistant" quality.

(2) Adhesives used at or below the regulatory flood elevation shall be of "marine" or "water-resistant" variety.

(3) All wooden components (doors, trim, cabinets, etc.) shall be finished with a "marine" or "water-resistant" paint or other finishing material.

K. *Electrical Components.*

(1) Electrical distribution panels shall be at least 3 feet above the 100 year flood elevation.

(2) Separate electrical circuits shall serve lower levels and shall be dropped from above.

L. *Equipment.* Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical, or utility equipment or apparatus shall not be located below the regulatory flood elevation.

M. *Fuel Supply Systems.* All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

17. *Existing Structures in Identified Floodplan Areas.*

A. *Uses and / or Structures Rendered Nonconforming.* Following the adoption of this Section, any use or structure that is situated within the boundaries of a floodplain and that does not conform to the permitted uses specified in subsection .7 herein, shall become a nonconforming use or structure, regardless of its conformance to the district in which it is located without consideration of this Section.

B. *Existing Structures or Uses.* The provisions of this Section do not require any changes or improvements to be made to lawfully existing structures. However,

when an improvement is made to an existing structure, or when a reconstruction of an existing structure, destroyed by fire or other catastrophe, is proposed, the provisions of this Section shall apply.

C. *Expansion or Continuance of Nonconforming Structures or Uses.*

(1) The expansion or continuance of a nonconforming use or structure that is nonconforming with respect to the district in which is located without consideration of this Section shall be governed by the requirements of Part 17 of this Chapter. However, the Zoning Hearing Board shall ensure that the standards contained in subsections .11 and .12 as well as the provisions of this Section, herein, are applied to the expansion or continuance of said use or structure.

(2) The expansion or continuance of a nonconforming use or structure that is rendered a nonconforming use or structure by adoption of this Section shall be governed by the standards contained in subsections .11 and .12 as well as the provisions of this Section, herein. The Zoning Hearing Board shall ensure that these standards are enforced with respect to said nonconforming use or structure.

D. *Standards for Improvements and Reconstruction.* The following provisions shall apply whenever any improvement is made to an existing structure located within any identified floodplain area:

(1) No expansion, enlargement, or reconstruction of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the 100 year flood.

(2) No expansion, enlargement, or reconstruction of an existing structure shall be allowed within an FE area that would, together with all other existing and anticipated development, increase the 100-year flood elevation more than 1 foot at any point.

(3) Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of 50% or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Chapter.

(4) Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of less than 50% of its market value, shall be elevated and/or floodproofed to the greatest extent possible.

18. *Abrogation and Greater Restrictions.* This Section supersedes any other conflicting provisions that may be in effect in identified floodplain areas. However, any other Ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this Chapter, the more restrictive shall apply.

19. *Severability.* If any Section, subsection, paragraph, sentence, clause, or phrase of this Section shall not be declared invalid for any reason whatsoever, such a decision shall not affect the remaining portions of the Section, which shall remain in full force and effect, and for this purpose the provisions of this Section are hereby declared to be

severable.

20. *Warning and Disclaimer of Liability.* The degree of flood protection sought by the provisions of this Section is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Section does not imply that areas outside any identified floodplain areas, or that land uses permitted within such areas, will be free from flooding or flood damages. This Section shall not create liability on the part of the Township or any officer or employee thereof for any flood damages that result from reliance on this Section or any administrative decision made thereunder.

(Ord. 11/25/2003, §1101)

### **§27-1103. Steep Slope Protection.**

1. *Intent.* The intent of this §27-1103 is to protect hillsides and their related soil and vegetative resources, thereby minimizing adverse environmental effects. Specific objectives include the following:

A. Conservation and protection of steep and very steep slopes from inappropriate development such as excessive grading, land-form alteration, and extensive vegetation removal.

B. Avoidance of potential hazards to life and property and the disruption of ecological balance that may be caused by increased runoff, flooding, soil, erosion and sedimentation, blasting and ripping of rock, and landslide and soil failure.

C. Protection of the entire township from uses of land that may result in subsequent expenditures for public works and disaster relief and adversely affect the economic well-being of the township.

D. Encouragement of the use of steep and very steep slopes for open space and other uses that are compatible with the conservation and protection of natural resources.

2. *Applicability and Scope.* This Section regulates the circumstances in which any use may occur on areas of steep slope or very steep slope. The regulations of this Section apply to all districts in the township.

3. *Permitted Uses in Areas of Steep Slope and Very Steep Slope.* The following uses and no other are permitted in areas of steep slope and very steep slope:

A. Agricultural uses not requiring cultivation or structures.

B. Game preserve, wildlife sanctuary, woodland preserve, or similar conservation uses not requiring structures.

C. Passive recreation.

D. Sealed water supply wells with the approval of the Township Engineer.

E. Front, side, or rear yards, and required lot area, for any district provided such yards are not to be used for on-site sewage disposal systems or for non-wire fences or any other structures.

4. *Prohibited Uses in Areas of Steep Slope and Very Steep Slope.* The following uses and activities are specifically prohibited and shall not be subject to variance:

- A. Structures, other than those associated with subsections .5 and .6
- B. Cut and fill, other than in conjunction with uses associated with subsections .5 and .6.
- C. Soil, rock, or mineral extraction.
- D. Removal of topsoil.
- E. On-site sewage disposal systems.
- F. Roads, driveways, and parking lots, other than those associated with subsection .6.E.

5. *Conditional Uses in Areas of Very Steep Slope.* The Board of Supervisors is authorized to grant conditional uses for the following uses, subject to recommendations of the Planning Commission and Township Engineer and pursuant to the standards of subsections .7 and .8:

- A. Agricultural cultivation and agricultural uses requiring structures.
- B. Conservation uses requiring structures.
- C. Passive recreation uses requiring structures.
- D. Utility easements and rights-of-way.
- E. Accessory structures to any permitted uses included in subsection .3.
- F. Individual driveways accessory to single-family detached dwellings only if the Board of Supervisors determines that no practicable alternative alignments exist.

6. *Conditional Uses in Areas of Steep Slope.* The Board of Supervisors is authorized to grant conditional uses for the following uses, subject to recommendations of the Planning Commission and Township Engineer and pursuant to the standards of subsections .7 and .8:

- A. Any conditional use identified in subsection .5.
- B. Single-family detached dwellings, when permitted in the district in which the property is located.
- C. Recreation use, whether open to the public or restricted to private membership, such as parks, camps, picnic areas, and golf courses, when permitted in the district in which the property is located; not to include enclosed structures excepting toilet facilities but permitting small shelters usually found in developed outdoor recreational areas. Any toilet facilities provided shall be connected to central water and sewage systems.
- D. Stormwater management facilities.
- E. Roads, driveways, and parking lots, where required by the regulations for the district applicable to the lot without consideration of this Section, provided that no practicable alternative alignments or locations exist.
- F. Central sanitary sewer systems.
- G. Accessory uses and structures customarily incidental to uses identified in this subsection.

7. *Standards for Conditional Uses or Variances.* The Board of Supervisors, in

considering a use as a conditional use, and the Zoning Hearing Board, in considering a variance, shall bear in mind the objectives of subsection .1 and shall consider the following:

A. Degree of modification proposed to the topographic, soil, and vegetation resources.

B. Techniques and extent of mitigation proposed to offset potential adverse environmental effects.

C. Effects on adjacent and neighboring properties.

D. Consistency of proposed uses with the objectives of subsection .1.

8. *Additional Standards for Conditional Uses or Variances.* An affirmative decision shall not be issued by the Board of Supervisors for conditional uses nor by the Zoning Hearing Board for variances unless there is evidence that:

A. Development is being proposed on areas of steep slope or very steep slope only because no other alternative location is practicable.

B. Earthmoving activities and vegetation removal will be conducted only to the extent necessary to accommodate the proposed uses and structures and in a manner that will not cause excessive surface water runoff, erosion, sedimentation, and unstable soil conditions.

C. Mitigation techniques will be utilized including, but not limited to, retaining walls, tree wells, the establishment of ground covers and/or low spreading shrubs, and the use of erosion control fabric.

D. Proposed structures will be of sound engineering design, and footings will be designed in response to the site's slope, soil, and bedrock characteristics.

9. *Application Procedures for Conditional Uses or Variances.* An application for a zoning permit shall be filed with the Zoning Officer who shall make an initial determination on the application. For a use other than those permitted in subsection .3, an application seeking approval of a conditional use or variance shall be forwarded to the Board of Supervisors or Zoning Hearing Board, as appropriate, along with required studies or information and the findings of the Zoning Officer. The application for conditional use or use by variance shall be accompanied by the following:

A. Plans drawn to a scale of at least 1 inch equals 50 feet depicting the following:

(1) Location, dimensions, and elevation of the property.

(2) Existing and proposed uses and development.

(3) Existing and proposed contours at 2-foot intervals.

(4) Location and boundaries of steep slopes and very steep slopes.

(5) Cross-sections and elevations of the property and proposed structures.

(6) Existing and proposed land cover characteristics of that portion of the property within the area of steep slope or very steep slope, indicating wooded areas, open areas, ground cover types, any areas with impervious surfaces, and subsurface soil types.

B. Photographs showing existing uses, vegetation, and topography of areas

of steep slope or very steep slope.

C. Narrative report describing the slope, soil, and vegetation characteristics of that portion of the property within the area of steep slope or very steep slope. Such report shall also describe:

(1) Proposed types of structures and methods of construction, types of foundation system(s) to be employed, and proposed landscaping, sewage disposal, and water supply.

(2) Sediment and erosion control measures.

(3) Engineering and conservation techniques intended to alleviate adverse environmental effects that may be created by the proposed use.

(Ord. 11/25/2003, §1102)

#### **§27-1104. Tree Protection.**

1. *Intent.* This Section regulates tree removal in the Township. Trees contribute significantly to the community's scenic beauty, in preventing soil erosion, reducing flood hazards, improving air quality, neutralizing waste water, stabilizing the ground water table, moderating microclimate and protecting wildlife. Indiscriminate removal of trees would adversely affect the local economy by reducing the attractiveness and desirability of the area as a place to live, work, and visit.

2. *Applicability and Scope.* This Section regulates the circumstances in which any tree with a trunk diameter in excess of specified dimensions may be removed, as defined in this Section. The regulations of this Section apply to all districts in the township, except that legitimate practitioners of agricultural production and forestry in agricultural districts shall be exempt in cases where trees are proposed to be removed to create open areas for cropland or horticulture, or where trees are proposed to be removed as part of normal agricultural or forestry operations.

3. *Removal or Relocation of Trees.* No person, organization, society, association, corporation, or any governmental agency or representative thereof; except those exempt by §27-1104.2, directly or indirectly, shall, without first obtaining a permit as herein provided, remove or relocate to another site more than three trees on a lot in any calendar year with a trunk 12 inches or greater in diameter, measured 4½ feet above the natural grade, within a primary tree-protection zone, or more than three trees on a lot in any calendar year with a trunk 18 inches or greater in diameter, measured 4½ feet above the natural grade, within a secondary tree-protection zone.

4. *Removal or Relocation of Trees, Application Procedures and Conditions.* Application permits for removal or relocation of individual trees or groups of trees covered herein shall be obtained by making application for permit to the Township. The application shall be accompanied by a written statement indicating the reasons for removal or relocation of trees and a general description of the trees to be relocated or removed. Prior to the issuance of a permit for tree removal or relocation, the Zoning Officer or his agent shall conduct an on-site inspection to determine whether or not such removal or relocation conforms to the requirements of this Section. The Zoning Officer shall approve the permit if one or more of the following conditions is present:

A. Necessity to remove trees that pose a safety hazard to pedestrian or

vehicular traffic or threaten to cause disruption of public services.

B. Necessity to remove trees that pose a safety hazard to buildings.

C. Necessity to remove diseased trees or trees weakened by age, storm, fire, or other injury.

D. Necessity to observe good forestry practices.

E. Necessity to remove trees in order to construct proposed improvements as a result of:

(1) Need for access to the site for construction equipment.

(2) Location of proposed structures, where alternative positions are unfeasible.

(3) Need for access around structures during construction.

(4) Essential grade changes.

(5) Surface water drainage and utility installations.

F. Necessity for compliance with other Township codes such as building, zoning, subdivision regulations, health provisions, and other ordinances.

5. *Permit Application Review Period.* The Zoning Officer shall have 21 days after receipt of an application filed pursuant to subsection .4 in which to approve or deny the requested permit. In the event that the Zoning Officer denies an application, he shall specify to the applicant in writing the reason for his action. If no final action with respect to an application is taken within the required 21 days, the application shall be deemed to have been granted.

6. *Tree Replacement Requirement.* Any tree removed pursuant to the permitting procedures outlined in §27-1102.4.E in order to construct proposed improvements shall be replaced on the lot in question with two new trees with trunks not less than 3 inches in diameter, measured 2 feet above the ground line. Prescribed new trees shall not be placed on the lot as street trees or in place of trees required as part of a buffer area except in cases where tree(s) removed qualified as street trees or part of required buffer areas. Prescribed new trees shall be guaranteed by the lot owner for a period of 3 years. Any planted material that dies within this period shall be replaced by the lot owner at his expense. Subsequent to the determination of those trees to be removed, the Board of Supervisors may determine that the remaining tree coverage is substantial enough to grant a waiver of the requirement to provide some or all of the replacement trees herein required.

7. *Hazardous or Emergency Conditions.* In the event that any tree shall be determined to be a hazardous or dangerous condition so as to endanger the public health, welfare, or safety and requires immediate removal without delay, authorization by telephone may be given by the Zoning Officer without obtaining a written permit as is otherwise required in subsection .4.

(Ord. 11/25/2003, §1103)

**Part 12****Buffers****§27-1201. General Provisions.**

1. *Intent.* Buffers are intended to augment required setbacks from streets and from the perimeter of a tract where it adjoins a district boundary line by providing additional means of physical, visual, and acoustical separation between uses. Landscaped strips, screening, and shade trees required by this Part are also intended to promote:

- A. Harmony between land uses.
- B. Reduction of glare, noise, and pollution levels.
- C. Reduction of stormwater runoff volume.
- D. Areas of shade that reduce temperature and energy costs during hot weather.
- E. Natural windscreens that protect from exposure and reduce energy costs during cold weather.
- F. Protection of environmentally-sensitive areas.
- G. Maintenance of some land on most tracts in a landscaped state to help offset the monotony of widespread pavement and buildings.
- H. Privacy and property rights.
- I. Attractive, shaded streets that contribute to the maintenance of an appealing community in which to live, work, and visit.
- J. Safer means of controlling access to and from public streets.

2. *Applicability and Scope.* This Part regulates the circumstances in which buffers are required. Buffers may be required either as part of setbacks from the perimeter of a tract where it adjoins a district boundary line, as specified in subsection .4, or as part of setbacks from street ultimate rights-of-way, as specified in subsection .5. Classification of buffers is specified in subsection .3. Recommended trees and hedges are specified in subsection .10.

3. *Classification of Buffers.* Required buffers shall be one or more of the following types, in accordance with subsections .4 and .5:

- A. One canopy tree per 40 linear feet (Type A1).
- B. One canopy tree per 40 linear feet, plus one flowering tree per 60 linear feet, plus one evergreen per 60 linear feet (Type B1).
  - One canopy tree per 40 linear feet, plus one evergreen per 30 linear feet (Type B2).
- C. One evergreen per 30 linear feet, plus one hedge (3 foot centers) (Type C1).
  - One evergreen per 25 linear feet, plus one shrub per 8 linear feet (Type C2).

D. One hedge (3 foot centers) (Type D1).

Six-foot high solid cedar or spruce fencing (Type D2).

Six-foot high twelve-gauge plastic-coated chain link fence (Type D3).

4. *Required Buffer Types for Setbacks Adjoining District Boundary Lines.*

| <b>Adjoining Tract<br/>Subject Tract</b> | <b>Low Impact<br/>Districts</b> | <b>Medium Impact<br/>Districts</b> | <b>High Impact<br/>Districts</b> |
|--|---------------------------------|------------------------------------|----------------------------------|
| <b>Low Impact Districts</b>              |                                 |                                    |                                  |
| Agricultural - all                       | none                            | none                               | none                             |
| Open Space - all                         | none                            | none                               | none                             |
| Residential - all, except RMH            | none                            | none                               | none                             |
| <b>Medium Impact Districts</b>           |                                 |                                    |                                  |
| Residential - RMH                        | C1                              | C2                                 | none                             |
| Mixed-Use - VMX, TND                     | C2                              | none                               | none                             |
| <b>High Impact Districts</b>             |                                 |                                    |                                  |
| Mixed-Use - MX, BP                       | D2, B1                          | D1, B2                             | A1                               |
| Industrial - all                         | D3, C1                          | D3, C2                             | A1                               |
| Institutional - all                      | D1, B2                          | B1                                 | A1                               |
| Airport - AIR                            | D3, C2                          | D3, C2                             | D3, A1                           |

5. *Required Buffer Types for Setbacks from Streets.*

| <b>Adjoining Ultimate Right-of-Way<br/>Subject Tract</b> | <b>Arterial Street</b> | <b>Collector<br/>Street</b> | <b>Local Street</b> |
|--|------------------------|-----------------------------|---------------------|
| <u>Low Impact Districts</u>                              |                        |                             |                     |
| Agricultural - all                                       | none                   | none                        | none                |
| Open Space - all   | none                   | none                        | none                |
| Residential - all, except RMH                            | C2                     | A1                          | A1                  |
| <u>Medium Impact Districts</u>                           |                        |                             |                     |
| Residential - RMH  | C2                     | A1                          | A1                  |
| Mixed-Use - VMX, TND                                     | A1                     | A1                          | A1                  |
| <u>High Impact Districts</u>                             |                        |                             |                     |
| Mixed-Use - MX, BP                                       | A1                     | A1                          | B1                  |
| Industrial - all   | C2                     | C2                          | B1                  |
| Institutional - all                                      | C2                     | A1                          | B1                  |
| Airport - AIR  | C2                     | A1                          | B1                  |

6. *Existing Natural Buffers - Retention.* Wherever buffers are required every effort shall be made to retain existing natural buffers, such as vegetation and topographic features.

7. *Landscaping of Setbacks.* All required setbacks, whether or not planted with trees, shrubs, or hedges required by subsections .4 and/or .5, shall as a minimum consist of grass, ground cover, and/or similar vegetative material or other natural landscaping materials.

8. *Alternative Buffers.* As an alternative to the potential for an excessively linear appearance brought about by strict conformance to the minimum requirements of subsections .4 and/or .5, innovative, free-form buffers that may, in some cases, not be located entirely within the minimum required setback, are encouraged. Such alternative buffers may be authorized, subject to a recommendation of the Planning Commission, which may seek the advice of technical experts in the review of the alternative plans.

9. *Maintenance Required.* All buffers shall be maintained by the property owner at his expense, assuring that required trees, plantings, and vegetative materials are kept in good condition. Any such materials that die shall be replaced within 1 year.

10. *Recommended Buffer Plantings.* The following planted materials are authorized for inclusion in buffers; other plantings may be authorized, subject to recommendations of the Planning Commission and the Township Engineer.

A. *Canopy Trees (2-inch caliper minimum):*

Acer ginnala - amur maple

Acer rubrum - red maple

Acer saccharum - sugar maple

Betular alba - European white birch

Cercidiphyllum japonica - katsura tree

Fagus grandifolia - American beech

Fagus sylvatica - European beech

Fraxinus americana - white ash

Fraxinus pennsylvanica lanceolata - green ash

Ginkgo biloba - ginkgo (male only)

Gleditsia tracanthos inermis - thornless honey locust

Gymnocladus dioica - Kentucky coffee-tree

Nyssa sylvatica - sour-gum

Phellodendron amurense - amur corktree

Platanus acerifolia - London plane-tree

Quercus alba - white oak

Quercus borealis - red oak

Quercus coccinea - scarlet oak

Quercus palustris - pin oak

- Quercus phellos - willow oak  
Robina pseudoacacia inermis - thornless black locust  
Sophora japonica - Japanese pagoda tree  
Tilia - linden - all species hardy to the area  
Zelkova serrata - Japanese zelkova
- B. *Flowering trees (2-inch caliper minimum):*  
Amelanchier canadensis - shadblow serviceberry  
Cornus florida - flowering dogwood  
Cornus kousa - kousa dogwood  
Cornus mas - cornelian cherry  
Crataegus phaenopyrum - Washington hawthorn  
Koelreuteria paniculata - golden rain tree  
Laburnum vossi - goldenchain  
Magnolia soulangeana - saucer magnolia  
Magnolia virginiana - sweetbay magnolia  
Malus baccata - siberian crab  
Malus floribunda - Japanese flowering crab  
Malus hopy - hopy red - flowering crab  
Oxydendrum arboreum - sourwood  
Pyrus calleryana Bradford - callery pear  
Punus kwansan - kwanzan cherry  
Prunus yedoensis - yoshino cherry
- C. *Evergreens (4-foot-high minimum):*  
Ilex opaca - American holly  
Picea abies - Norway spruce  
Picea omorika - servian spruce  
Picea pungens - Colorado spruce  
Pinus nigra - Austrian pine  
Pseudotsuga menziesii - Douglas fir  
Tsuga canadensis - Canada hemlock  
Pinus strobus - eastern white pine  
X Cupressocyparis leylandii - Leyland cypress  
Pinaceae Pinus virginiana - Virginia pine
- D. *Hedges (4-foot-high minimum):*  
Crataegus intricata - thicket hawthorn  
Forsythia intermedia - border forsythia  
Rhamnus frangular columnaris - tallhedge buckthorn

Syringa chinensis - Chinese lilac

Syringa vulgaris - common lilac

Viburnum alatus - viburnum

Maclura pomifera - osage orange

Crataegus crus-galli - cockspur thorn

Crataegus phaenopyrum - Washington hawthorn

E. *Shrubs:*

Hamamelis virginiana - white hazel

Vaccinium sp. - blueberries

Lindera benzoin - spice bush

Rhododendron sp. - azaleas

Rhododendron sp. - rhododendrons

(Ord. 11/25/2003, §1200)



**Part 13**

**Off-Street Parking and Loading**

**§27-1301. General Provisions.**

1. *General Requirements.* Off-street parking areas shall be oriented to and within a reasonable walking distance of the buildings the parking areas are designed to serve. Access to parking lots shall be designed so as not to obstruct free flow of traffic. There shall be adequate provision for ingress to and egress from all parking spaces to ensure ease of mobility, ample clearance, and safety of vehicles and pedestrians. Off-street parking areas shall provide paved surfaces for vehicular movement and parking spaces.

2. *Setbacks.* Off-street parking areas shall be set back a minimum of 10 feet from front lot lines and a minimum of 1 foot from side and rear lot lines; greater setbacks may be required in accordance with the standards applicable to each district.

3. *Size of Spaces.* Each required off-street parking space shall measure 10 feet in width by 20 feet in length. Parking spaces for the physically handicapped shall be 12 feet wide.

4. *Width of Aisles.* The minimum width of all aisles providing direct access to individual parking stalls shall be in accordance with the requirements specified below. Only one-way traffic shall be permitted in aisles serving single-row parking spaces placed at an angle other than 90°.

| Parking Angle | Aisle Width |
|---------------|-------------|
| 30°           | 12 feet     |
| 45°           | 13 feet     |
| 60°           | 18 feet     |
| 90°           | 24 feet     |

5. *Parked Vehicle Overhang.* Parking areas shall be designed so as to prevent parked vehicles from overhanging or extending over sidewalks or required landscaped areas.

6. *Perimeter Landscaping.* For any off-street parking area accommodating 20 or more vehicle spaces, a landscape strip of at least 5 feet in width shall be provided between vehicular use areas and any adjacent public street, walk, or right-of-way, or any contiguous property. The landscape strip shall be planted and perpetually maintained with shade trees, with at least one tree per 35 lineal feet. The required landscape strip area shall be planted and perpetually maintained with grass, ground cover, or other landscape materials.

7. *Interior (Non-perimeter) Landscaping.* For any off-street parking area accommodating 20 or more vehicle spaces, landscaped areas shall be provided for interior vehicular use areas so as to provide visual and climatic relief from broad expanses of pavement, to channel and define areas for pedestrian and vehicular circulation, to reduce stormwater runoff, and to provide groundwater recharge:

A. At least 5% of the gross area of the interior vehicular use area shall be landscaped.

B. Interior (non-perimeter) landscaped areas shall be dispersed so as to define aisles and limit unbroken rows of parking.

C. Each separate landscaped area shall be at least 300 square feet in area and a minimum of 5 feet in width.

(1) Landscaped areas shall be planted and perpetually maintained with grass, ground cover, or other landscape materials.

E. Shade trees shall be planted and perpetually maintained in interior landscaped areas, with at least one shade tree per 300 square feet of interior landscaped area.

F. No hedge, tree, shrub, or other growth shall be maintained that may cause danger to vehicular or pedestrian traffic in any off-street parking area by obscuring the view.

8. *Parked Vehicle Registration.* All vehicles parked outdoors must be registered, with current, valid, state motor vehicle plates and safety and emission inspection credentials plainly visible.

9. *Recreational Vehicle, Boat, and Oversize Vehicle Parking in Residential Districts.* Except as provided for in subsection D, below, no more than one recreational vehicle, boat or oversized vehicle may be parked outdoors on a lot in any district constituent of Part 5, "Residential Districts," of this Chapter.

A. Such vehicles shall not be parked in front yards and shall be parked no closer than 10 feet to any lot line.

B. Such vehicles shall not have exterior identification or signs indicating an occupation, employment, or enterprise that is carried on for profit.

C. Such vehicles shall not be used for living or sleeping quarters on any lot in the township.

D. On a lot containing two or more dwelling units a designated parking area may be established to accommodate several such vehicles, provided that:

(1) The total number of such vehicles parked on the lot does not exceed the number of dwelling units on the lot.

(2) The designated parking area meets the other requirements of this Section.

(3) The designated parking area is screened from view from adjoining lots and public streets by means of a buffer area.

(Ord. 11/25/2003, §1300)

### **§27-1302. Required Off-Street Parking Capacities.**

1. *Required Parking for Specific Uses.* Any building or structure erected, altered, or used and any lot used or occupied for any of the following purposes, regardless of the zoning district in which the use is located, shall be provided with the minimum number of off-street parking spaces set forth below, together with adequate driveways and street access in compliance with the requirements of §27-1301 of this Part and of the

Subdivision and Land Development Ordinance [Chapter 22]. Where a use is not specifically listed below, the requirement of the most similar use shall apply.

|   |  |
|---|--|
| A. Single-family detached dwelling                            | 2 spaces per dwelling unit   |
| B. Two-family dwelling, three- or four-family dwelling        | 2 spaces per dwelling unit   |
| C. Five-or-more-family dwelling                               | 1 space per studio unit, 2 spaces per dwelling unit for any other unit |
| D. Retirement community, senior housing                       | 1 space per dwelling unit  |
| E. Tourist home, boarding or rooming house, bed and breakfast | 2 spaces, plus one space per rental unit                               |
| F. Home occupation or office within a residence               |  |
| (1) General home occupations                                  | 1 additional space per use   |
| (2) Professional services                                     | 4 additional spaces per use  |
| (3) Healing arts practitioners                                | 7 additional spaces per use  |
| G. Church, public auditorium                                  | 1 space per two seats  |
| H. Elementary or intermediate school <sup>1</sup>             | 1.75 spaces per classroom  |
| I. High school <sup>1</sup>                                   | 5 spaces per classroom   |
| J. Hospital, nursing home, rehabilitation center              | 1 space per 2 beds plus one per employee                               |
| K. Community center, library, public building                 | 2 spaces per 500 square feet gross floor area                          |
| L. Day care center  | 1 space per 12 children plus 1 per employee                            |
| M. Institutional home   | 1 space per 5 occupants of total capacity                              |
| N. Correctional institution                                   | 1 space per 3 occupants  |

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<sup>1</sup>All schools shall designate an area of lawn or field for overflow parking for special events, which shall provide at least 100 parking spaces.

|   |  |
|---|--|
| O. Membership club (non-residential)            | 1 space per 6 members of total capacity  |
| P. Indoor recreation                            |  |
| (1) Bowling alley                               | 5 spaces per lane  |
| (2) Court for racquet sports                    | 2 spaces per court   |
| (3) Sports club/health spa billiard room, etc   | 1 space per 250 square feet of gross floor area  |
| (4) Dance, music or art studio                  | 1 space per 250 square feet of gross floor area  |
| Q. Outdoor recreation                           |  |
| (1) Golf course                                 | 3 spaces per hole plus 1 per employee. (Any area for restaurant, clubhouse, etc., shall meet standards for those facilities separately.) |
| (2) Ballfield or other outdoor court            | 1 space per 4 persons of total designed capacity   |
| R. Medical/dental office                        | 7 spaces per practitioner including technicians  |
| S. Retail store                                 | 1 space per 200 square feet gross floor area   |
| T. Shopping center, supermarket                 | 1 space per 200 square feet gross floor area   |
| U. Bank, financial institution without drive-in | 6 spaces per teller window   |
| V. Bank, financial institution with drive-in    | 3 spaces per inside teller window plus 3 per self-service facility   |
| W. Indoor theater                               | 1 space per 3 seats  |
| X. Restaurant, bar or tavern                    | 1 space per 100 square feet gross floor area   |

|  |   |
|--|---|
| Y. Vehicle sales                         | 1 space per 500 square feet indoor gross floor area, plus 1 space per 5000 square feet to be set aside for customer parking and not used for display or storage |
| Z. Motor vehicle service/repair          | 3 spaces per service bay  |
| AA. Gasoline service station             | 1 space per 300 square feet gross floor area or 3 spaces per service bay (whichever be larger)  |
| BB. Undertaking or funeral establishment | 1 space per 4 seats or per 50 square feet of public floor area (whichever be larger)  |
| CC. Job printing                         | 1 space per employee on largest shift plus 1 space per 250 square feet of public floor area   |
| DD. Hotel or motel                       | 1 space per room plus 1 per 200 square feet of additional public floor area   |
| EE. Offices                              | 1 space per 300 square feet gross floor area  |
| FF. Warehouse or storage                 | 1 space per 1500 square feet gross floor area or per employee on largest shift, whichever be larger   |
| GG. Industry, research and development   | 1 space per 405 square feet gross floor area or per employee on largest shift, whichever be larger  |
| HH. Newspaper publishing                 | 1 space per 450 square feet gross floor area or per employee on largest shift, whichever be larger  |

|   |  |
|---|--|
| II. Animal hospital or kennel           | 3 spaces per veterinarian plus 1 per additional employee |
| JJ. Commercial stable or riding academy | 1 space per horse stall plus 1 per employee              |

(Ord. 11/25/2003, §1301)

### §27-1303. Reserve Parking.

1. *Reserve Parking.* If the number of spaces required under §27-1302 is substantially greater than the number of spaces anticipated as needed by the applicant, the applicant may apply to the Zoning Hearing Board to have the number of spaces required reduced. Upon the recommendation of the Planning Commission and Township Engineer, the Zoning Hearing Board may reduce the required number of spaces in accordance with the following criteria:

A. The applicant shall provide evidence of reduced parking needs to the Planning Commission and Township Engineer, for their review and recommendation.

B. Sufficient area shall be set aside for construction of the remainder of the required spaces, if and when they are deemed necessary by the Zoning Hearing Board.

C. All stormwater engineering shall be designed based on total parking requirements, including the reserve.

D. Parking capacity shall be re-evaluated by the Zoning Officer should any change occur in the use, ownership, size of building, or number of residents or employees and, following such re-evaluation, the Zoning Hearing Board may require the construction of additional parking spaces, up to the maximum required by this Chapter, upon the recommendation of the Planning Commission and Township Engineer.

E. The Zoning Officer may deny or revoke the Certificate of Occupancy permit of any use that fails to comply with the provisions of this Section and §27-1302.

F. The applicant shall provide a financial guaranty to cover the cost of installation of the reserved parking spaces for a period of 1 year following installation of the initially-constructed spaces, in a manner approved by the Zoning Hearing Board upon the recommendation of the Township Solicitor and Township Engineer.

(Ord. 11/25/2003, §1302)

### §27-1304. Loading and Unloading.

1. *Requirement for Loading and Unloading Areas.* Whenever the normal operation of any business, enterprise, or use requires that goods, merchandise, or equipment be routinely delivered to or shipped from that business, enterprise, or use, a sufficient paved off-street loading and unloading area must be provided in accordance

with this §27-1304 to accommodate the delivery or shipment operations in a safe and convenient manner.

2. *Specifications for Loading and Unloading Areas.* The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles that are likely to use this area given the nature of the business, enterprise, or use in question.

A. Loading and unloading areas shall be so located and designed that the vehicles intended to use them can maneuver safely and conveniently to and from a public right-of-way and complete loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.

B. No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities.

C. All loading and unloading areas shall be landscaped and screened sufficiently to obscure the view of the loading and unloading vehicles and platforms from any public street and adjacent residential districts or uses. Such screening shall be an extension of a building, a fence, planting, or combination thereof, and shall be a minimum of 6 feet in height.

(Ord. 11/25/2003, §1303)



**Part 14**  
**Reserved**



**Part 15****Accessory Uses****§27-1501. General Provisions.**

1. *Accessory Uses to Residential Principal Uses.* Uses accessory to dwellings include but are not limited to the following:

- A. Private garage, carport, driveway, parking space.
- B. Private swimming pool, in accordance with §27-1502.
- C. Open space.
- D. Private greenhouse, storage building for garden tools.
- E. Shelter for pets.
- F. Home occupation, in accordance with §27-508.
- G. Antenna, in accordance with §27-1503.
- H. Fence or wall, in accordance with §27-1504.
- I. Heating, ventilating, air conditioning apparatus.

2. *Accessory Uses to Non-Residential Principal Uses.* Uses accessory to non-residential principal uses include but are not limited to the following:

- A. Private garage, storage garage, carport, driveway, parking space.
- B. Open space.
- C. Storage building, private greenhouse.
- D. Office.
- E. Public telephone booth, in accordance with §27-1505.
- F. Antenna, in accordance with §27-1503.
- G. Fence or wall, in accordance with §27-1504.
- H. Heating, ventilating, air conditioning apparatus.

3. *Spacing for Accessory Buildings.* Accessory buildings on a lot shall be located not less than 10 feet from each other and from principal structures.

(Ord. 11/25/2003, §1500)

**§27-1502. Private Swimming Pools.**

1. *Location.* Swimming pools shall be located within the building envelope of a lot. No private swimming pool shall be located in the front yard that falls between the street and the foremost portion of a principal use building. Swimming pools shall be located no closer than 15 feet from any lot line.

2. *Fencing.* The entire pool area must be enclosed with a chain link or equal fence or barrier, not less than 4 feet high. Such fencing may be either near or adjacent to the pool or at such other place on the owner's premises as to constitute an adequate barrier against entrance onto the owner's land or into said pool.

(Ord. 11/25/2003, §1501)

**§27-1503. Antennas.**

1. *Applicability and Scope.* This Section identifies regulations applicable in every district of the Township for the installation and screening of antennas, including satellite, cellular, paging, personal communication, and other wireless communication technologies.

2. *General Development Criteria for Antennas.*

A. Antennas shall be located so as to minimize visual effects on adjacent and neighboring properties, public rights-of-way, and parks and public open space.

B. Antennas shall be the minimum height and size to function satisfactorily.

C. To the extent possible, antennas shall be placed where existing topography, vegetation, buildings, or other structures provide the greatest amount of visual screening.

D. Where practicable, antennas shall be attached to existing tall structures in the township, such as communications towers, water towers, smokestacks, buildings, and similar structures.

E. Where practicable, antennas shall be shared among multiple users.

F. Antennas shall be properly anchored and installed to resist wind loads. Supports, anchors, and foundations shall take into account overturning movements and forces created by wind loading.

G. Antennas must be in compliance with all applicable Federal Communications Commission regulations.

H. Antennas shall not be placed in parking lots or parking areas except on existing poles.

I. If ground-mounted, antennas shall be placed only in rear yards.

J. If roof-mounted, antennas shall be placed only on the rear yard half of the roof.

3. *General District Locational Criteria for Antennas.* Antennas qualifying as accessory uses shall be permitted in all districts. Antennas not qualifying as accessory uses shall be permitted by right in industrial districts and as conditional uses in mixed-use and institutional districts.

4. *Qualifications as Accessory Use.* The following antennas shall qualify as accessory uses:

A. One UHF/VI-1F television and FM/AM radio antenna per property designed for receiving signals from ground-based broadcast systems, provided that such antennas be:

(1) Roof- or building-mounted or ground-mounted within the building envelope of the property.

(2) If building-mounted, located on the rear elevation of the building or on the rearward half of a side elevation and extending out no more than 12 inches from the building.

(3) No higher than needed to receive adequate reception of localized signals.

(4) If ground-mounted, screened from public rights-of-way and neighboring properties by trees, shrubs, and/or fences.

B. One dish-type antenna per property no larger than 30 inches in diameter, provided that such antennas be:

(1) Roof- or building-mounted or ground-mounted within the building envelope of the property.

(2) If building-mounted, located on the rear elevation of the building or on the rearward half of a side elevation and extending out no more than 30 inches from the building.

(3) No higher than 4 feet above the roof line of the principal use structure on the property if roof or building-mounted or 5 feet above the natural contour or level of the ground if ground-mounted.

(4) Finished with a color that blends with surroundings.

(5) If ground-mounted, screened from public rights-of-way and neighboring properties by trees, shrubs, and/or fences.

C. One ground-mounted television satellite dish antenna per property no larger than 72 inches in diameter, provided that such antennas be:

(1) Located in the rear yard of a lot.

(2) Located at least 10 feet from the rear property line and any side yard property line.

(3) No greater in height than the diameter of the dish plus two-thirds of the diameter, measured from the natural contour or level of the ground.

(4) Finished with a color that blends with surroundings.

(5) Screened from public rights-of-way and neighboring properties by trees, shrubs and/or fences.

D. One citizens band or Federal Communications Commission-licensed amateur radio operator antenna per property, provided that such antennas be:

(1) Roof- or building-mounted or ground-mounted in the rear yard of a lot.

(2) If building-mounted, located on the rear elevation of the building or on the rearward half of a side elevation and extending out no more than 12 inches from the building.

(3) No greater than 75 feet in height above ground level.

(4) Set back from property lines at least 110% of the total height of the antenna above ground level.

(5) Compliant with all Federal Communications Commission (FCC) and Federal Aviation Administration (FAA) regulations.

5. *Specific Regulations for Non-Accessory Roof- and Building-Mounted Antennas.*

A. The total height of the building and antenna shall not exceed the district height limit for principal structures.

B. Antennas shall be screened from view if visible from adjacent properties or adjacent public rights-of-way. Screening may include:

(1) A finish on the antenna that integrates its appearance with the building.

(2) Parapets, walls, or similar architectural elements, provided that they are finished in a manner that integrates their appearance with the building.

(3) Landscaping.

C. An annual independent inspection report, prepared by a licensed engineer in the State of Pennsylvania, must be submitted verifying the structural integrity of the antenna, its supports, base, and appurtenances.

6. *Specific Regulations for Non-Accessory Ground-Mounted Antennas.*

A. Antennas shall be placed only within the building envelope of the property.

B. Antenna height shall be no greater than the distance of the antenna from the property line of an adjacent tract and in no case shall the height exceed 15 feet for a satellite dish antenna and 135 feet for a pole antenna.

C. Minimum setback from a residential district shall be 110% of the antenna's height.

D. Antennas shall be screened from view if visible from adjacent properties to the degree that not more than 25% of the antenna height is visible from grade level of adjacent properties.

E. An annual independent inspection report, prepared by a licensed engineer in the State of Pennsylvania, must be submitted verifying the structural integrity of the antenna, its supports, base, and appurtenances.

7. *Specific Regulations for Non-Accessory Antennas in Mixed-Use and Institutional Districts.* The Board of Supervisors, in granting a conditional use, shall find that:

A. The antenna must be where proposed for sound technological reasons.

B. The applicant has made bona fide efforts to have the antenna installed on existing tall structures within the Township and adjacent communities, including other antenna structures, but has been unable to do so for reasons other than economic ones.

C. The antenna height and size are the minimum needed to function satisfactorily.

D. The applicant has planned for future shared use of his facility and has agreed to share his antenna, where possible, with other users, including other wireless communication, cellular communication, and personal communication services providers, and local emergency services agencies.

E. There is no other location on the property for the antenna that would result in a less conspicuous installation while still providing reasonable function.

F. The proposed antenna is safe and that adjacent and neighboring properties will not be harmed by structural failure, falling ice or other debris,

electromagnetic fields, or radio frequency interference.

G. The antenna installation will be secure from unauthorized access and will not pose climbing or electrocution hazards.

H. The normal operation of the antenna does not require individuals to be in attendance.

8. *Temporary Facilities for Special Events.* A permit for a temporary antenna for a special event lasting no more than 14 days may be issued by the Zoning Officer with prior written notice. A specific location and specific dates and times of antenna use must be outlined in the written notice, and complete dismantling and removal of the antenna must occur in compliance with the permit.

9. *Permit Application.* A permit shall be required to erect or install any antenna greater than 15 feet above a structure, whether accessory, by right, or conditional use, although a temporary installation of a portable unit, not to exceed 7 days, shall be permitted without a permit for the purpose of determining the suitability of the site for a permanent antenna installation.

A. All applications for an antenna permit shall be made to the Zoning Officer, in writing, on a form furnished by the Township, and shall be accompanied by plans, in duplicate and to scale, and under seal by a professional engineer, showing:

- (1) Dimensions of the lot and locations of the buildings thereon.
- (2) Size of the antenna, including applicable diameter, and the exact proposed location of the antenna on the lot.
- (3) Details of antenna design, including color, materials, and finishing.
- (4) Details of all antenna anchors, supports, and foundations.
- (5) Details of electrical connections, including electrical grounding.
- (6) Details of screening the antenna, where applicable.

B. In addition to the information required in the above subsection, applications for by-right antennas in Industrial Districts and conditional use antennas in Mixed-use and Institutional Districts shall include:

- (1) Elevation drawings illustrating the placement, height, color, and material of the antenna.
- (2) Statement indicating the method used to determine the desired height and placement, signals desired, and manufacturer's specifications for installation.
- (3) Statement indicating what prior testing was done to determine the location of installation and alternative placements considered.
- (4) Statement indicating consideration given to attaching antenna to existing tall structures within the township and adjacent communities, such as communications towers, water towers, smokestacks, buildings, and similar structures.
- (5) Statement indicating consideration given to future shared use of antenna facility.

10. *Removal of Certain Antennas.*

A. *Nonconforming Antennas.* If the Zoning Officer shall determine the existence of a nonconforming antenna, except for legal nonconforming antennas, he shall give written notice to the owner of the premises on which such an antenna is located. Removal of the antenna shall be effected within 15 days after receipt of the notice. If such antenna is not removed after the conclusion of such 15-day period, the Zoning Officer is hereby authorized to cause the antenna to be removed forthwith at the expense of the owner of the building or premises on which such antenna is located.

B. *Obsolete Antennas.* An antenna, whether existing on or erected after the effective date of this Section, that is no longer being used, shall be removed within 120 days upon cessation of such use by the owner of the building or premises on which such antenna is located. If the Zoning Officer shall find that any such obsolete antenna has not been removed within 120 days upon cessation of such use, he shall give written notice to the owner of the building or premises on which such antenna is located. Removal of the antenna shall be effected within 15 days after receipt of the notice. If such antenna is not removed after the conclusion of such 15-day period, the Zoning Officer is hereby authorized to cause the antenna to be removed forthwith at the expense of owner of the building or premises on which such antenna is located.

C. *Unsafe Antennas.* If the Zoning Officer shall find that any antenna is unsafe, insecure, or is a menace to the public, he shall give written notice to the owner of the building or premises on which such antenna is located. Correction of the condition that caused the Zoning Officer to give such notice shall be effected within 15 days after receipt of the notice. If such condition is not corrected after the conclusion of such 15-day period, the Zoning Officer is hereby authorized to cause the antenna to be removed forthwith at the expense of the owner of the building or premises on which such antenna is located.

(1) Notwithstanding the foregoing provision, the Zoning Officer is authorized to cause any antenna to be removed summarily and without notice, at the expense of the owner of the building or premises on which such antenna is located, whenever he determines that such antenna is an immediate peril to persons or property.

11. *Violations and Penalty.* Any person who violates a provision of this Section is guilty of a separate offense for each day or portion of a day that the violation is committed, continued, or permitted, and each offense is punishable by a fine in accordance with the schedule of fines established by resolution of the Board of Supervisors.

(Ord. 11/25/2003, §1502)

**§27-1504. Fences and Walls.**

1. *Location.* Fences and walls shall be erected within property lines, and no fence or wall shall be located so as to encroach upon a public right-of-way.

A. No fence or wall in excess of 42 inches in height shall be permitted within the minimum required front yard for each lot, except for fences in agricultural

districts for the enclosure of livestock.

B. No fence or wall shall be permitted within a sight triangle area.

2. *Height.* The maximum height for a fence or wall shall be 8 feet, measured from finished grade.

3. *Appearance.* Any portion of a fence construction intended or utilized for the support of the fence shall be located on the inside of the fence, facing the principal portion of the tract upon which the fence is erected. The finished portion of the fence shall face the property or right-of-way adjacent to the fence.

4. *Permit Required.* Except for fences in agricultural districts for the enclosure of livestock, no fence or wall shall be constructed without first obtaining a permit. Permit applications shall be accompanied by a property survey or plot plan with the proposed location of the fence or wall shown thereon. A permit application for a retaining wall must be approved by the Township Engineer before such a permit may be issued.

(Ord. 11/25/2003, §1503)

**§27-1505. Public Telephone Booths.**

*Public Telephone Booth as Accessory Use.* A public telephone booth shall be permitted as accessory to non-residential principal uses, subject to the following:

A. The location shall be approved by the owner of the property.

B. The location shall not be in a public right-of-way.

C. A permit is obtained.

(Ord. 11/25/2003, §1504)



**Part 16****Supplementary Uses****§27-1601. General Provisions.**

1. *Seasonal Sales.* As a conditional use, the Board of Supervisors may authorize seasonal sales, limited to sales of flowers, plants, trees, and arrangements of the same, subject to the following:

- A. Such uses shall be limited to a period of 2 weeks preceding Valentine's Day, Easter, Mother's Day, Father's Day, and Christmas.
- B. Such uses shall not be conducted from a motor vehicle or trailer.
- C. A permit is obtained.

2. *Promotional Sales.* As a special exception, the Zoning Hearing Board may authorize temporary, short-term retail activities associated with established property owners and businesses in the township, including sidewalk sales and product promotions including displays, introductions, expositions, and presentations, subject to the following:

- A. Such uses may occur for a maximum duration of 4 continuous days two times each calendar year for any lot or business establishment.
- B. The display area for such uses shall not exceed 10% of the lot area.
- C. Such uses shall not obstruct pedestrian or automobile traffic.
- D. Goods or displays shall be located a minimum of 6 feet from any cartway.
- E. A permit is obtained.

3. *Produce or Farm Stands.* In Agricultural Districts as an accessory use and in other districts as a special exception authorized by the Zoning Hearing Board, produce or farm stand uses are permitted, subject to the following:

- A. Such uses shall be open for business for no more than 8 months in any calendar year.
- B. At least 50% of the products sold shall be grown on the property upon which the produce or farm stand is located.
- C. Any signage associated with such uses shall be affixed to the stand and, in aggregate, shall not exceed 20 square feet in area.
  - (1) Signage may contain the name of the stand but shall only contain advertising that pertains to the produce sold at the stand.
  - (2) Signage may be in place only during active business hours.
  - (3) Such signage does not require a sign permit.

D. Such use shall not be located within any right-of-way and shall be a minimum of 20 feet from any cartway.

E. No produce or farm stand shall be erected or maintained that may cause danger to traffic on a street, sidewalk, or public way by obscuring the view or by

inhibiting vehicular or pedestrian movement.

F. A permit is obtained.

4. *Yard Sales.* A Township resident may conduct a yard sale subject to the following:

A. Items to be offered for sale shall belong to the resident and not be purchased for the purposes of resale on the residential premises.

B. Such uses shall be limited to not more than 6 days in any calendar year.

5. *Contractor's Office, Construction Equipment Sheds, and Trailers.* A contractor's office, and construction equipment sheds and trailers may be erected and maintained where such uses are incidental to a permitted construction project and subject to the following:

A. A permit is obtained.

B. Such facilities shall not contain sleeping or cooking accommodations.

C. Maximum length of a permit shall be 1 year.

D. Such facilities shall be removed upon completion of the construction project.

6. *Real Estate Sales Offices.* Real estate sales offices may be erected and maintained where such uses are incidental to a permitted new development and subject to the following:

A. A permit is obtained.

B. Such facilities shall not contain sleeping or cooking accommodations.

(*Ord. 11/25/2003, §1602*)

### **§27-1602. Special Events.**

Special events shall occur in compliance with *Ord. 97, 11/14/2000* [Chapter 13, Part 2], and as may be amended by the Board of Supervisors.

(*Ord. 11/25/2003, §1603*)

**Part 17****Nonconformance****§27-1701. General Provisions.**

1. *Continuation.* The use of any lot, building, or structure that is existing and lawful at the time of the enactment of this Chapter or, in the case of any amendment to this Chapter, at the time of such an amendment, may be continued except as hereinafter provided, although such use does not conform to the provisions of this Chapter or subsequent amendments.

2. *Enlargement.*

A. A structure that does not conform with development standards and/or other requirements of the zoning district in which the structure is located and/or any other provisions of this Chapter, may be enlarged only if the enlargement meets all of the development standards set forth in this Chapter for the district in which the use is a permitted use, including but not limited to, front yard, rear yard, side yard, lot area, parking, buffers, and height of buildings.

B. A use that does not conform to the permitted use regulations of the district in which it is located may be enlarged when authorized as a special exception by the Zoning Hearing Board, provided that:

(1) The proposed enlargement shall take place only upon the lot or contiguous lots held in the same ownership as that existing at the time the use became nonconforming. Authorization to enlarge the nonconforming use, as described in this Section, shall not be construed to mean that a new use or uses may be established. A nonconforming use shall be prohibited from encroaching on another parcel of land subsequently added to the original parcel.

(2) The proposed enlargement shall conform to the applicable development standards, buffer requirements, and parking requirements, as well as all other requirements of the district in which the enlargement is located or the district in which the use is a permitted use, whichever shall be more stringent.

(3) Buffers shall be provided along property lines in accordance with Part 12, irrespective of whether adjoining tracts are across district boundary lines or within the same district as the subject tract.

(4) Any increase in building or floor area shall not exceed 25% of the building area or gross floor area, whichever is less, that was existing at the time that the use became nonconforming under this or any previous Ordinance and, in any event, shall be permitted only by special exception under the provisions of this Chapter. Structures or land uses that have reached their maximum expansion allowance under previous Ordinances are not eligible for any increase in building or floor area under this Chapter. A structure that is nonconforming in terms of height shall not be enlarged so as to increase its

height.

C. Where a nonconforming structure or use is enlarged no structure shall be erected in the buffer area as provided in Part 12, "Buffers."

D. Single-family detached residential uses in MX Mixed-Use Districts and OS Open Space Districts may be enlarged by right, provided that:

(1) The proposed enlargement shall take place only upon the lot or contiguous lots held in the same ownership as that existing at the time the use became nonconforming. Authorization to enlarge the nonconforming use, as described in this Section, shall not be construed to mean that a new use or uses may be established. A nonconforming use shall be prohibited from encroaching on another parcel of land subsequently added to the original parcel.

(2) The proposed enlargement shall conform to the applicable development standards of the R Residential District.

(3) Any increase in building or floor area shall not exceed 25% of the building area or gross floor area, whichever is less, that was existing at the time that the use became nonconforming under this or any previous Ordinance. Structures or land uses that have reached their maximum expansion allowance under previous Ordinances are not eligible for any increase in building or floor area under this Chapter. A structure that is nonconforming in terms of height shall not be enlarged so as to increase its height.

3. *Restoration.* A nonconforming building, or any building containing a nonconforming use, that is destroyed or damaged by casualty may be rebuilt as long as a Township permit to rebuild or repair the building is obtained within 1 year of the loss. Otherwise, a nonconforming building, or any building containing a nonconforming use shall not be repaired or rebuilt, except in conformity with the regulations of this Chapter. No building that has been razed shall be rebuilt, except in conformity with the regulations of this Chapter.

4. *Abandonment.* If any nonconforming use of a building or land is abandoned for a continuous period of 1 year or more, subsequent use of such a building or land shall be in conformity with the provisions of this Chapter. For the purpose of this Chapter, abandonment shall be presumed to commence when the nonconforming use ceases.

5. *Use Changes.* Once changed to a conforming use, no building, structure, or land shall be permitted to revert to a nonconforming use. A nonconforming use may be changed to another nonconforming use only if all of the following conditions are met:

A. Such change shall be permitted only as a special exception.

B. The applicant shall show that the nonconforming use cannot reasonably be changed to a permitted use.

C. The applicant shall show that the proposed change will be less objectionable in external effects than the existing nonconforming use, with respect to:

(1) Traffic generation and congestion, including truck, passenger car, and

pedestrian traffic.

(2) Noise, smoke, dust, fumes, vapors, gases, heat, glare, or vibration.

(3) Storage, including storage of solid waste for disposal.

(4) Appearance.

*(Ord. 11/25/2003, §1700)*



**Part 18****Administration****§27-1801. General Provisions.**

1. *Zoning Officer - Appointment.* The provisions of this Chapter shall be enforced by a Zoning Officer assisted by the Cumberland Township Police Department and other municipal agencies.

2. *Zoning Officer - Duties and Powers.* The Zoning Officer shall have the duty and the power to:

A. Keep a permanent record of all plans and applications for permits, and all permits issued with notations as to special conditions attached thereto. All records shall be open for public inspection and shall be the property of the Township.

B. Review applications for zoning permits for construction or alterations of structures or changes of use, determine whether such construction or use is in accordance with the general requirements of this Chapter, all other applicable Ordinances, and with the laws and regulations of the Commonwealth.

C. Conduct inspections and surveys to determine compliance or noncompliance with the terms of this Chapter. In carrying out such surveys, the Zoning Officer or his representative may enter upon any land or buildings except that if a building is occupied he must obtain a warrant prior to entering upon the building or property.

D. Make written orders requiring compliance with the provisions of this Chapter to be served personally or by registered mail.

E. Institute proceedings in courts of proper jurisdiction for the enforcement of the provisions of this Chapter.

F. Maintain a map showing the current zoning classification of all land.

G. Maintain a map and register showing the registration, identity, location, and type of all nonconforming uses.

H. Maintain a map showing ultimate rights-of-way for streets.

I. Participate in all proceedings before the Zoning Hearing Board, present facts and information to assist the Board in reaching a decision, and resist and oppose any deviations from the standard provisions of this Chapter.

3. *Issuance of Permits.* The Zoning Officer shall have authority to issue zoning permits only for construction and uses that are in accordance with the general requirements of this Chapter. Zoning permits for construction and uses that are a special exception to such general requirements shall be issued by the Zoning Officer only upon order of the Zoning Hearing Board and permits for uses that are conditional uses shall be issued only upon order of the Board of Supervisors. The Zoning Officer shall issue no permits for the construction or use of any land or building unless the construction or use also conforms to the requirements of all other ordinances of Cumberland Township and with the laws of the Commonwealth.

4. *Permits.* No building shall be constructed or altered in the Township, nor the use of any building changed, until a zoning permit has been secured from the Zoning Officer. Upon completion of work authorized by any permit, the applicant for the permit shall notify the Zoning Officer of such completion. No permit shall be considered as complete or as permanently effective until the Zoning Officer has noted on the permit that the work has been inspected and approved as being in conformity with the provisions of this Chapter.

5. *Application for Permits.* All applications for zoning permits shall be made in writing by an owner, tenant, or authorized agent, and shall be filed with the Zoning Officer. The application shall:

A. Include a statement as to the proposed use of the building.

B. Be accompanied by plans drawn to scale, showing the location of the building in relation to property and street lines.

C. Include a statement that the ultimate right-of-way lines of all streets shown on the plan have been located and staked on the premises by a surveyor or other person competent to give such location.

D. Give the name and address of the person who has so located and staked the street ultimate right-of-way lines.

6. *Special Exceptions or Variances.* An appeal or an application for a special exception or variance from the terms of this Chapter shall be made in accordance with Part 19. Such an appeal or application shall be filed with the Zoning Officer and shall set forth the following facts:

A. Name and address of the applicant.

B. Name and address of the owner of the real estate to be affected by the proposed special exception or variance.

C. A brief description and location of the real estate in question.

D. Present zoning classification of the real estate in question, the improvements thereon, and its present use.

E. Part and Section of this Chapter under which the special exception may be allowed and reasons for which it should be granted.

F. A reasonably accurate description of the improvements and the additions intended to be made under this application, indicating the size of such proposed improvements, material and general construction thereof, and attached thereto shall be a plat plan of the real estate to be affected, indicating the location and size of the lot and the size of the improvement now erected and proposed to be erected thereon.

7. *Conditional Uses.* An application for a conditional use as authorized under the terms of this Chapter may be made to the Board of Supervisors. Such an application shall be filed with the Zoning Officer and shall set forth the reasons for the conditional use request. The application shall include the following documentation:

A. Name and address of the applicant.

B. Name and address of the owner of the real estate to be affected by the proposed conditional use.

C. A brief description and location of the real estate in question.

D. Present zoning classification of the real estate in question, the improvements thereon, and its present use.

E. Part and Section of this Chapter under which the conditional use may be allowed and reasons for which it should be granted.

F. A reasonably accurate description of the improvements and the additions intended to be made under this application, indicating the size of such proposed improvements, material and general construction thereof, and attached thereto shall be a plat plan of the real estate to be affected, indicating the location and size of the lot and the size of the improvement now erected and proposed to be erected thereon.

8. *Planning Commission Review.* At least 30 days before the date of the public hearing required by law for an application for a Conditional Use to be heard before the Board of Supervisors, the Township Secretary shall transmit to the Planning Commission a copy of the notice of hearing and other information as may have been furnished by the applicant or the Zoning Officer. The Planning Commission may submit an advisory opinion that shall be considered by the Board, provided that the opinion is received on or before the date of the public hearing of the Board of Supervisors.

9. *Board of Supervisors Actions on Conditional Use Applications.* The Board of Supervisors shall hold a public hearing upon a conditional use request and shall give public notice as defined herein. The public hearing shall be held within 60 days after the date the request is filed, unless the applicant requests or consents in writing to an extension of time. In allowing a Conditional Use, the Board of Supervisors may attach reasonable conditions and safeguards as may be deemed necessary to implement the purposes of this Chapter and ensure the protection of adjacent uses from adverse impacts that may be determined from credible testimony. In particular, the Board of Supervisors shall apply the criteria and standards of §§27-1902.7 and 1902.8.

10. *Fees.* The applicant for a permit, special exception or variance, or conditional use shall at the time of making the application pay to the Zoning Officer a fee in accordance with a Fee Schedule adopted by resolution of the Board of Supervisors as shall be determined from time to time by the Board of Supervisors.

(Ord. 11/25/2003, §1800)



**Part 19****Appeals****§27-1901. General Provision.**

1. *Zoning Hearing Board Jurisdiction.* Except as provided for in subsection .2, the Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

- A. Challenges to the validity of this Chapter.
- B. Appeals from the determination of the Zoning Officer.
- C. Applications for special exceptions or variances.

2. *Board of Supervisors Jurisdiction.* The Board of Supervisors shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

- A. Applications for conditional uses, in accordance with Part 18.
- B. Applications for curative amendments pursuant to the Pennsylvania Municipalities Planning Code.
- C. Petitions for amendments to this Chapter pursuant to Part 20.

(Ord. 11/25/2003, §1900)

**§27-1902. Zoning Hearing Board.**

1. *Appointment.* The Board of Supervisors shall appoint a Zoning Hearing Board consisting of three members who shall be residents of the township. The members of the Zoning Hearing Board shall be removable for cause by a majority vote of the Board of Supervisors upon written charges and after a public hearing. The word "Board" when used in this Section shall mean the "Zoning Hearing Board."

2. *Terms of Office.* The terms of office of the Board shall be 3 years and shall be so fixed that the term of office of one member of a Board shall expire each year. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the municipality.

3. *Alternate Members.* Alternate members may be appointed by the Board of Supervisors as provided for under the Pennsylvania Municipalities Planning Code. When seated pursuant to the Pennsylvania Municipalities Planning Code, an alternate shall be entitled to participate in all proceedings and discussions of the Board.

4. *Powers and Duties.* The Board shall have the following powers:

- A. *Appeals and Interpretations.* To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Chapter. To interpret upon the words, terms, rules, regulations, provisions, and restrictions of this Chapter where there is doubt as to the meaning thereof; including determination in specific instances whether questionable uses are permitted by virtue of being "similar to" or "customarily incidental to" permitted uses as provided by this Chapter.

B. *Special Exceptions.* To hear and decide special exceptions to the terms of this Chapter, in such cases as are herein expressly provided for, with power to impose appropriate conditions and safeguards.

C. *Variances:*

(1) The Board shall hear requests for variances where it is alleged that the provisions of this Chapter inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the Zoning Officer. The Board may grant a variance, provided that all of the following findings are made where relevant in a given case:

(a) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Chapter in the neighborhood or district in which the property is located.

(b) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

(c) That such unnecessary hardship has not been created by the appellant.

(d) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

(e) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

(2) In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Pennsylvania Municipalities Planning Code and this Chapter.

D. Other matters as provided for in the Pennsylvania Municipalities Planning Code.

E. To herein decide special exceptions and/or variances required for applications for land development and/or subdivision only after a sketch plan prepared for said land development and/or subdivision application has been reviewed by the Cumberland Township Planning Commission. The sketch plan may be an approximate drawing but should generally be drawn to a scale of either 50 or 100 feet to the inch and shall contain at least the following information:

(1) The location, size, and topography of the site and the nature of the

applicant's interest in the land proposed to be developed.

(2) The intensity of land use to be allocated to various parts of the site as well as the number of dwelling units and square footage contemplated.

(3) The use and approximate location, height, and bulk of buildings and other structures.

(4) A written statement of a qualified professional concerning the feasibility of proposals for sewerage, water supply, and stormwater management, but not to include drawings.

(5) The substance of protective covenants, grants, or easements or other restrictions intended to be imposed upon the land, or the use of the land, buildings, and other structures including proposed easements or grants for public utilities.

(6) The provisions to be made for parking of vehicles, and the location, width, and general alignment of streets and public ways.

(7) The required modifications in the Township regulations that would otherwise be applicable to the subject property.

(8) The approximate tract boundary, north point, names of adjoining property owners, name and location of all abutting streets and utilities, and the location of any significant topographical and physical features and any historic resources.

5. *Burden of Proof - Special Exceptions.* An applicant for a special exception shall have the burden of establishing:

A. That his application falls within the provisions of the Part that accords to an applicant the right to seek a special exception.

B. That allowance of the special exception will not be contrary to the public interest.

6. *Burden of Proof - Variances.* An applicant for a variance shall have the burden of establishing:

A. That a literal enforcement of provisions of this Chapter will result in unnecessary hardship, as that term is defined by law, including court decisions.

B. That allowance of the variance will not be contrary to the public interest.

7. *Public Interest Criteria.* In determining whether the allowance of a special exception or a variance is contrary to the public interest, the Zoning Hearing Board shall consider whether the application, if granted, will:

A. Be detrimental to appropriate use of adjacent properties.

B. Cause undue congestion of pedestrian or vehicular traffic.

C. Endanger the safety of persons or property by improper location or design of facilities for ingress or egress.

D. Increase the danger of fire or otherwise endanger the public safety.

E. Overcrowd the land or create an undue concentration of population.

F. Impair an adequate supply of light and air to adjacent property.

G. Adversely affect transportation or unduly burden water, sewer, school, park, or other public facilities.

H. Adversely affect the public health, morals, safety, or general welfare.

I. Run counter to the spirit and purpose of this Chapter.

8. *General Standards.* In any instance where the Zoning Hearing Board shall consider a special exception or variance in accordance with the provisions of this Chapter, the Board shall, among other things:

A. Consider the suitability of the property for the use desired and assure itself that the proposed change is consistent with the spirit, purpose, and intent of this Chapter.

B. Determine that the proposed change will not substantially injure or detract from the use of neighboring property nor from the character of the neighborhood and that the use of the property adjacent to the area including the proposed change or plan is adequately safeguarded.

C. Determine that the proposed change will serve the best interests of the Township and the public welfare.

D. Consider the effect of the proposed change upon the logical, efficient, and economical extension of public services and facilities such as public water, sewers, police and fire protection, and public schools.

E. Consider the suitability of the proposed location of an industrial or commercial use with respect to probable effects upon highway traffic, and assure adequate access arrangements in order to protect all streets from undue congestion and hazard.

F. Be guided in its study, review, and recommendation by sound standards of subdivision practice, where applicable.

G. Impose such conditions, in addition to those specifically required in accordance with individual district regulations, as are necessary to assure that the intent of this Chapter is complied with, which conditions may include, but are not limited to, harmonious design of buildings, planting and its maintenance as a sight or sound screen, the minimizing of noxious, offensive, or hazardous elements, and adequate standards of parking and sanitation.

H. Impose such conditions on the application for Special Exception or Variance as are necessary to assure that the Board has adequate information on which to base a decision, which conditions may include, but are not limited to, the submission of traffic, water, storm drainage, sanitary sewer, and historic and environmental resources studies.

9. *Procedures.* The Board shall adopt rules of procedure for filing appeals or applications for special exceptions or variances. All appeals and applications shall refer to the specific provision of this Chapter involved, and shall exactly set forth the interpretation that is claimed; the use for which the special exception is sought or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be.

10. *Notice of Decision.* The nature of any special exception or variance authorized

by the Zoning Hearing Board and any conditions attached thereto shall be recorded on a notice of decision. All such decisions and conditions are enforceable in the same manner as other provisions of this Chapter.

11. *Meetings.* Meetings of the Board shall be held at the call of the chairman and at such times as the Board may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Board and shall be a public record.

12. *Technical Assistance.* The Zoning Hearing Board, in considering any matter within its jurisdiction, may consult with the Cumberland Township Planning Commission, other municipal boards and commissions, the Adams County Office of Planning and Development, or any other specialist or groups of specialists having expert knowledge of the matter under consideration.

13. *Expiration of Special Exceptions and Variances.* Unless otherwise specified by the Board, a special exception or variance shall expire if the applicant fails to obtain a building permit within 12 months of the date of the granting of the special exception or variance.

(Ord. 11/25/2003, §1901)

### **§27-1903. Hearings.**

1. *Public Hearing Requirement.* Upon the filing with the Zoning Hearing Board of an application for a special exception or variance or an interpretation or appeal from the terms of this Chapter and the payment of a fee in accordance with the Township's Fee Schedule, the Zoning Hearing Board shall fix a reasonable time and place for a public hearing thereon and shall give public notice as defined therein. Upon the filing with the Board of Supervisors of an application for a conditional use or curative amendment or a petition for amendment to this Chapter pursuant to Part 20 and the payment of a fee in accordance with the Township's Fee Schedule, the Board of Supervisors shall fix a reasonable time and place for a public hearing thereon and shall give public notice as defined herein. Public hearings shall be held within 60 days from the date the applicant's request is filed, unless the applicant has agreed in writing to an extension of time.

2. *Notice Requirement.* Written notice shall be given to the applicant, the Zoning Officer, Township Planning Commission, Zoning Hearing Board, Board of Supervisors, and to any person who has made timely request for the same. In addition, written notice of the public hearing shall be conspicuously posted on the affected tract at least 1 week prior to the hearing. Where the affected tract has more than 300 feet frontage on a street, written notice shall be posted at intervals of not less than 200 feet. In addition, notices by certified mail with return receipt shall be sent to the address of record as on file at the Adams County Assessor's office for all residences, property owners, and properties within 1,000 feet in residential districts and within 500 feet in all other zoning districts.

3. *Notice Content.* The notice shall state the general nature of the proposed amendment and that full opportunity to be heard will be given to any citizen and all parties with legal standing interested in attending such hearing. The notice shall state the location of the building or lot and the general nature of the question involved.

4. *Record of Proceedings.* The Board having jurisdiction shall keep a stenographic record of the public hearing proceedings.

5. *Notice of Decision or Findings.* The Board having jurisdiction shall make written findings on the application within 45 days after the last hearing before the Board. Where the application is authorized, such a decision and any conditions attached thereto shall be enforceable in the same manner as other provisions of this Chapter. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor.

6. *Appeals to Court.* Any persons aggrieved by any decision of the Board of Supervisors or the Zoning Hearing Board may, in 30 days after any decision of the Board having jurisdiction, appeal to the Court of Common Pleas of Adams County by petition duly verified, setting forth that such decision is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, specifying the grounds upon which he relies.

(Ord. 11/25/2003, §1902)

**Part 20****Amendments****§27-2001. General Provisions.**

1. *Authority.* The Board of Supervisors may from time to time amend, supplement, change, modify, or repeal this Chapter, including the Zoning Map.

2. *Procedure - Notice.* The Board of Supervisors, by resolution adopted at a regular or special meeting, shall fix the time and place of a public hearing on a proposed amendment and cause public notice thereof to be given as follows:

A. A notice published once each week for 2 successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than 7 days from the date of the hearing.

B. By mailing or delivering a notice thereof to every resident or association of residents of the township, or other interested party, who shall have registered their names and addresses for this purpose with the Township Secretary.

(1) The Township Secretary shall mail or deliver a notice thereof to the owner, if his residence is known, and to the occupiers of every lot on the same street within 500 feet of the lot or building in question, and of every lot not on the same street within 150 feet of said lot or building, provided that failure to give the notice required by this subsection shall not invalidate any action taken by the Board of Supervisors.

(2) Mailed or delivered notices shall state the general nature of the proposed amendment, and where the amendment involves a change in zoning classification, the notice shall state a brief practical description of the property involved, as approved by the Township Solicitor, in addition to any other description, legal or otherwise, now or hereafter required by law.

C. If the proposed amendment involves a Zoning Map change, notice of the public hearing shall be conspicuously posted by the Township at points along the perimeter of the subject tract to notify potentially interested citizens. The affected tract or area shall be posted at least 1 week prior to the date of the hearing. The notice shall state the general nature of the proposed amendment and that full opportunity to be heard will given to any citizen and all parties in interest attending such hearing.

3. *Application for Amendments by Citizens.* An application for amendment of this Chapter shall be submitted to the Zoning Officer and shall contain the following:

A. The applicant's name and address and his representative and the interest of every person represented in the application.

B. A plan showing the extent of the area to be rezoned, if applicable, including streets bounding and intersecting the area, existing land use and zoning classification of the area and abutting districts, and photographs of the area to be

rezoned and abutting areas.

C. A statement of the circumstances in the area and abutting areas and any other factors on which the applicant relies as reasons for supporting the proposed amendment.

D. The approximate time schedule for the beginning and completion of the proposed development in the area, if applicable.

E. A site plan to scale, indicating the locations of structures, uses, areas for off-street parking and loading, if applicable.

F. Information about the market area to be served by the proposed development if a commercial use, including population, effective demand for proposed business facilities, and other information describing the relationship of the proposed development to the needs of the market area.

4. *Opportunity to be Heard.* At a public hearing, full opportunity to be heard shall be given to any citizen and all parties with legal standing in interest.

5. *Referral to Township Planning Commission.* All proposed amendments shall be referred to the Township Planning Commission at least 30 days prior to the public hearing on such proposed amendments for recommendations and an advisory report.

6. *Referral to County Planning Commission.* All proposed amendments shall be referred to the County Planning Commission at least 30 days prior to the public hearing on such proposed amendments for recommendations and an advisory report.

7. *Citizens' Protest.* In case of a protest against such amendment, change, modification, or repeal, signed by the owners of 20% or more either of the area or the lots included in such proposed changes or of those immediately adjacent in the rear thereof extending 100 feet therefrom, or of those directly opposite thereto, extending 100 feet from the street frontage of such opposite lots, such amendment, supplement, change or modification, shall not become effective except by the favorable vote of 4/5th's of all the members of the Board of Supervisors.

8. *Fees.* The applicant for a change or amendment of this Chapter, including a change or amendment to the zoning map, shall at the time of making the application pay to the Zoning Officer a fee in accordance with a Fee Schedule adopted by resolution of the Board of Supervisors as shall be determined from time to time by the Board of Supervisors. For each application constituting a challenge to this Chapter, including a challenge to the zoning map, a charge shall also be made in accordance with the Fee Schedule.

(Ord. 11/25/2003, §2000)

**Part 21**

**Zoning Map Amendments**

| <b>Ord./Res.</b> | <b>Date</b> | <b>Subject</b>  |
|------------------|-------------|---|
| 110-2004         | 11/1/2004   | <p>Tax parcel F16-0060C - Remove zoning boundary line separating parcel F16-0060C from parcels F16-72, F16-73, F16-74, F16-60A and F16-60B.</p> <p>Tax parcel F10-0087C - Move R/AR boundary east, along Parcel 113 so entire parcel as well as parcel 87B is zoned R.</p> <p>Tax parcel F12-154A - Add boundary separating MX and R district starting at intersection of Herr's Ridge Road and Chambersburg Road heading north along Herr's Ridge Road to southern property boundary of parcel #F12-00105E and East along Chambersburg Road to eastern boundary of parcel number E12-0108.</p> |

