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Part 1

Title and Purpose

§27-101. Title.

An ordinance to limit and restrict to specified districts or zones, and to regulate therein, buildings and structures according to their construction and nature of land and the extent of their use, and the nature and extent of the uses of land, in Heidelberg Township, Lehigh County, Pennsylvania, hereinafter referred to as the Township, and providing for the administration and enforcement of the provisions therein contained and fixing penalties for the violation thereof.

(*Ord. 4-81*, 12/28/1981, §110)

§27-102. Short Title.

This Chapter shall be known and may be cited as the "Heidelberg Township Zoning Ordinance of 1981."

(*Ord. 4-81*, 12/28/1981, §120)

§27-103. Declaration of Purpose.

The provisions of this Chapter are designed for the following purposes:

A. To promote the development of the Township in a manner consistent with its rural character, including its open space, predominance of agricultural land uses, and low density, small scale development.

B. To preserve prime agricultural land and farming as a way of life and as a viable economic activity.

C. To protect environmentally sensitive areas, including steep slopes, floodplains and areas with high water tables, from inappropriate development.

(*Ord. 4-81*, 12/28/1981, §130)

§27-104. Statement of Community Development Objectives.

This Chapter is based upon the analyses, recommendations, and statement of objectives on future development that appear in the Heidelberg Township Comprehensive Plan Supplement, as developed by the Heidelberg Township Planning Committee and adopted by the Board of Supervisors on March 7, 1980. This Plan demonstrates that this Chapter has been made in accordance with an overall program and with consideration for the character of the Township, its various parts and the suitability of the various parts for particular uses and structures.

(*Ord. 4-81*, 12/28/1981, §140)

Part 2

Application of Regulations

§27-201. Uniformity of Application.

The regulations set forth by this Chapter are to be considered the minimum requirements adopted for the promotion of the public health, safety, morals, and general welfare. The regulations shall apply uniformly to each class of uses and structure within each district except as otherwise provided in this Chapter.

(*Ord. 4-81*, 12/28/1981, §210)

§27-202. Application of Regulations.

No structure or land shall be used or occupied and no structure or part thereof shall be erected, constructed, reconstructed, moved, or altered after the effective date of this Chapter except in conformity with the intent and regulations specified in this Chapter for the district in which it is located. This provision shall not apply to nonconformities as provided in §27-1005 or where a variance is warranted as provided for in §27-1109.

A. No yard or lot existing at the effective date of this Chapter shall be reduced in dimensions or area below the minimum applicable requirements specified in this Chapter.

B. Yards or lots created on or after the effective date of this Chapter shall meet or exceed the minimum applicable requirements specified in this Chapter.

C. No more than one principal use shall be permitted on a lot unless specifically permitted by this Chapter. [*Ord. 2-88*]

D. Wherever Federal, State or County owned property is included in one or more zoning districts, it shall be subject to the provisions of this Chapter only insofar as is permitted by the Constitution and Laws of the United States of America and the Commonwealth of Pennsylvania. In the case of municipally owned property, the provisions of this Chapter do not apply. [*Ord. 2010-1*]

(*Ord. 4-81*, 12/28/1981, §220; as amended by *Ord. 2-88*, 8/5/1988, §1; and by *Ord. 2010-1*, 4/8/2010)

Part 3

Definitions

§27-301. General.

Certain words and terms are used in this Chapter for the purposes thereof and are defined as follows:

A. Unless the context clearly indicates the contrary: words used in the present tense include the future; the singular number includes the plural; and the plural the singular.

B. The word "person" includes a profit or nonprofit corporation, company, institution, partnership, or individual.

C. The word "shall" is mandatory, and not directory; and the word "may" is permissive.

D. The word "lot" includes the word "plot."

E. The word "structure" includes the word "building."

F. The word "use" and the word "used" refer to any purpose for which a lot or land or part thereof is arranged, intended or designed to be used, occupied, maintained, made available or offered for use; and, to any purpose for which a building or structure or part thereof is arranged, intended or designed to be used, occupied, maintained, made available or offered for use, or erected, reconstructed, altered, enlarged, moved or rebuilt with the intention or design of using the same.

G. The word "Township" means Heidelberg Township, Lehigh County, Pennsylvania; the term "Board of Supervisors" means the Board of Supervisors of Heidelberg Township.

(*Ord. 4-81*, 12/28/1981, §300)

§27-302. Definition of Terms.

Accessory building–a building subordinate to the principal building on a lot, used for purposes customarily incidental to those of the principal building, and not to be used for dwelling purposes unless such building was originally designed for dwelling use, as in conjunction with an institution. Any portion of a principal building used or intended to be used for an accessory purpose is not classified as an accessory building. [*Ord. 2010-1*]

Accessory structure–a subordinate structure located on the same lot as a principal use or building and which is clearly incidental and subordinate to the principal building or use. [*Ord. 2010-1*]

Accessory use–a use located on the same lot and subordinate to the principal use of land or of a building on a lot, and customarily incidental thereto. [*Ord. 2010-1*]

Adult-related facility–a business or club which engages in one or more of the following areas of sales, services or entertainment:

Adult bathhouse–an establishment or business which provides the services of baths of all kinds, including all forms and methods of hydrotherapy during which

specified anatomical areas are displayed or specified sexual activity occurs. This definition shall not apply to hydrotherapy treatment practiced by, or under the supervision of, a medical practitioner. A medical practitioner, for the purpose of this Chapter, shall be a medical doctor, physician, chiropractor or similar professional licensed by the Commonwealth of Pennsylvania.

Adult body painting studio–any establishment or business which provides the service of applying paint or other substance whether transparent or nontransparent to or on the human body when specified anatomical areas are exposed.

Adult bookstore–any establishment that has a substantial or significant portion of its stock in trade:

(1) Books, films, magazines or other periodicals or other forms of audio or visual representation which are distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.

(2) Instruments, devices or paraphernalia that are designed for use in connection with specified sexual activities.

Adult cabaret–a nightclub, theater, bar or other establishment which features live or media representations of performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

Adult massage establishment–any establishment or business which provides the services of massage and body manipulation, including exercises, heat and light treatments of the body and all forms and methods of physiotherapy, unless operated by a medical practitioner, chiropractor or professional physical therapist licensed by the Commonwealth or licensed massage therapist. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service such as, but not limited to, beauty salon.

Adult mini-motion picture theater–an enclosed or unenclosed building with a capacity of more than five, but less than 50, persons used for presenting any form of audio or visual material, and in which a substantial portion of the total presentation time measured on an annual basis is devoted to the showing of material which is distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.

Adult model studio–any place where, for any form of consideration or gratuity, figure models who display specified anatomical areas are provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by persons paying such consideration or gratuity, except that this provision shall not apply to any "figure studio" or "school of art" or similar establishment which meets the requirements established in the Education Code of the Commonwealth of Pennsylvania for the issuance or conferring of, and is in fact authorized thereunder to issue and confer, a diploma.

Adult motel–a motel or similar establishment offering public accommodations for any consideration, which provides patrons with material distinguished or

characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.

Adult motion picture arcade–any place to which the public is permitted or invited wherein coin or slug operated or electronically or mechanically controlled still or motion picture machines, projectors or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.

Adult motion picture theater–an enclosed or unenclosed building with a capacity of 50 or more persons used for presenting any form of audio or visual material, and in which a substantial portion of the total presentation time measured on an annual basis is devoted to the showing of material which is distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.

Adult newsrack–any coin-operated machine or device that dispenses material substantially devoted to the depiction of specified sexual activities or specified anatomical areas.

Adult outcall service activity–any establishment or business which provides an outcall service which consists of individuals leaving the premises upon request or by appointment to visit other premises for a period of time for the purpose of providing any service during which time specified anatomical areas are displayed or specified sexual activity occurs.

Adult sexual encounter center–any business, agency or person who, for any form of consideration or gratuity, provides a place where two or more persons, not all members of the same family, may congregate, assemble or associate for the purpose of engaging in specified sexual activity or exposing specified anatomical areas, excluding psychosexual workshops, operated by a medical practitioner licensed by the Commonwealth, to engage in sexual therapy.

Adult theater–a theater, concert hall, auditorium or other similar establishment, either indoor or outdoor in nature, which regularly features live performances which are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas for observation by patrons. Any other business or establishment excluding medical establishment or health clinics which offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

[*Ord. 2010-1*]

Advertising sign–a sign which directs attention to a business, profession, products or services solely conducted or sold elsewhere than upon the property where the sign is displayed. For the purpose of this Chapter, a commercial billboard is an advertising sign.

Agri-business–a business whose products are sold primarily to farmers. Examples of such products include, but are not limited to, fertilizers, seed, animal and poultry feed, farm machinery and farm equipment. [*Ord. 5-84*]

Agriculture–the raising and keeping of field, truck, and tree crops and all structures and activities customarily associated with the activity. For purposes of this Chapter, the term "agriculture" does not include animal husbandry.

Agritainment–an income-generating farm enterprise operated for the enjoyment and education of the public. Examples include festivals, petting zoos, pick-your-own, hay rides, mazes, pumpkin patches, tours, workshops and seminars, and open houses. [*Ord. 2010-1*]

Animal husbandry–the raising and keeping of any member of the animal kingdom as a business enterprise, not including household and farm pets, and all structures and activities, including the raising of livestock feed or pasturing, customarily associated with this activity.

Announcement or professional sign–a sign on a residential building which directs attention to a home professional office, home occupation or professional office in such residential building.

Apartment–a permanent dwelling unit within a building containing three or more dwellings and being vertically arranged, sharing outside access and having one or more walls as well as a ceiling or floor in common with another dwelling unit. Also known as a "flat" or "garden apartment." [*Ord. 2010-1*]

Authority–a body politic and corporate created pursuant to the Act of May 2, 1945, P.L. 382, No 164, known as the "Municipalities Authorities Act of 1945 or its successor, the Municipality Authorities Act, Act of June 19, 2001, P.L. 287, No. 22, 53 Pa.C.S.A. §5601 *et seq*." [*Ord. 2010-1*]

Bed and breakfast inn–an owner-occupied dwelling or accessory structure in which a room or rooms are rented on a nightly basis for periods of not more than 30 days. Meals may or may not be provided. [*Ord. 2010-1*]

Bed and breakfast unit–a room or group of rooms in a bed and breakfast inn forming a single habitable unit used or intended to be used for living and sleeping, but not cooking or eating purposes. [*Ord. 2010-1*]

Board–the Zoning Hearing Board of Heidelberg Township unless otherwise stipulated or indicated by reference.

Boarder, roomer or *lodger*–a person, except family, occupying any room or group of rooms forming a single, habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes, and paying compensation for lodging or board and lodging by prearrangement for a week or more at a time to an owner or operator. Any person occupying such room or rooms and paying such compensation without prearrangement for less than a week at a time shall be classified for purposes of this Chapter not as a roomer, boarder or lodger, but as a guest of a commercial lodging establishment (motel, hotel, inn, guest house, tourist home). [*Ord. 2010-1*]

Boulder–a prominent, free standing block of stone, greater than 256 mm or 10 inches in diameter, according to the U.S. Geological Survey, National Park Service, Department of the Interior. [*Ord. 2004-3*]

Boulder field–an area, not individually mapped, consisting mostly of boulders that have little or no vegetation and having a contiguous area greater than 500 square feet. [*Ord. 2004-3*]

Buffer area–a strip of required yard space adjacent to the boundary of a property

or zoning district, not less in width than is designated in this Chapter, and on which is placed year-round shrubbery, hedges, evergreens, or other suitable plantings of sufficient height and density to constitute an effective screen and give maximum protection and immediate screening to an abutting property or district. A buffer area may include a wall or fence, or a solid wall or fence; provided, that such wall or fence shall be screened or constructed in such a manner that it will not conflict with the character of the abutting district. [*Ord. 2010-1*]

Buffer zone–land surrounding the immediate perimeter of a logging operation in which no cutting of trees or other vegetation shall occur except for the isolated cutting of individual trees which are dead, damaged, sick, infected, or constitute a danger to neighboring properties or the public generally.

Building–a structure constructed on, erected on, or affixed to the ground, with a roof supported by columns or walls. Structures divided by unpierced masonry division walls or a State-conforming fire wall extending from the ground to the roof shall be deemed to be separate building.

Bulletin board–a sign for a public, semi-public, charitable or religious institution bearing no commercial advertising matter.

Business identification sign–a sign which directs attention to or identifies the business, profession, products or services conducted or sold upon the property where the sign is displayed.

Cabaret–a club, bar, tavern, theater, hall or similar place which features topless or bottomless dancers, entertainers or employees, strippers, simulated sex acts, live or actual sex acts, or similar entertainers or entertainment.

Cellular telephone–a system providing portable telephone service to specific subscribers. A cellular telephone may also be referred to as a wireless telephone. [*Ord. 99-2A*]

Clear cutting–a logging method that removes all trees from a tract of land or portion thereof.

Cluster development–residential subdivision consisting of single-family detached dwellings, streets, utilities, etc., on a usable site area. [*Ord. 2004-3*]

Commercial communications antenna–any device used for the transmission or reception of radio, television wireless telephone, pager, commercial mobile radio service, or any other wireless communications signals including, without limitation, omnidirectional or whip antennas and directional or panel antennas, owned or operated by any person or entity licensed by the Federal Communications Commission (FCC) to operate such device. This definition shall not include private residence mounted satellite dishes or television antennas or amateur radio equipment including, without limitation, ham or citizen band ratio antennas. [*Ord. 99-2A*]

Commercial communications tower–a structure other than a building, such as a monopole, self-supporting or guyed tower, designed and used to support commercial communications antennas. [*Ord. 99-2A*]

Commercial composting–an operation engaged in a controlled process of degrading organic matter utilizing microorganisms for the purpose of selling the end product. [*Ord. 2011-2*]

Commercial vehicle–a vehicle or trailer in excess of 12,000 pounds gross vehicle

weight as determined by the manufacturer or by the Commonwealth of Pennsylvania for the purpose of licensing, whichever is the greater, and used for commercial or business-type activities. [*Ord. 2-98*]

Conditional use–a use permitted in a particular zoning district pursuant to the provisions in Article VI of the Pennsylvania Municipalities Planning Code 53 P.S. §10601 *et seq*. [*Ord. 2-98*]

Convenience store–any retail establishment offering for sale prepackaged food products, household items and other goods commonly associated with the same, including gasoline and oil products, and having a gross floor area of less than 5,000 square feet. [*Ord. 2010-1*]

Day care–a facility providing for the care of children unrelated to the caregiver without overnight provisions limited to the hours of 6 a.m. to 8 p.m. [*Ord. 2010-1*]

Day-care center–any premises in which child day care is provided for a group of seven or more children simultaneously, who are not related to the operator or caregiver, including nursery schools, and which facility is licensed by the Commonwealth of Pennsylvania. [*Ord. 2010-1*]

Decision–a final adjudication of any board or other body granted jurisdiction under any land use ordinance or the Municipalities Planning Code, 53 P.S. §10101 *et seq*., to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be appealable to the Court of Common Pleas of Lehigh County. [*Ord. 2-98*]

Determination–a final action by an officer, body, or agency charged with the administration of any land use ordinance or applications thereunder, except the following:

A. The governing body.

B. The Zoning Hearing Board.

C. The planning agency, only if and to the extent the planning agency is charged with the final decision of preliminary or final plans under the Subdivision and Land Development Ordinance [Chapter 22] or planned residential development provisions.

Determinations shall be appealable only to the boards designated as having jurisdiction for such appeal.

[*Ord. 2-98*]

Dwelling–a building arranged, intended or designed to be occupied as a residence by one or more families living independently of each other upon the premises.

Dwelling, multi-family (apartments)–a building arranged, intended, or designed to be occupied as three or more dwelling units all under common ownership. [*Ord. 99-2A*]

Dwelling unit–one or more rooms with provision for cooking, living, sanitary, and sleeping facilities arranged for the use of one family. See also "single-family detached dwelling."

Fall zone–the area on the ground within a prescribed radius from the base of a commercial communications tower. The fall zone is the area within which there is a potential hazard from falling debris or the collapsing of the commercial communications tower. The fall zone shall be determined by the applicant's engineer and reviewed by

the Township Engineer. [*Ord. 99-2A*]

Family–one or more persons, related by blood, adoption or marriage, living and cooking together as a single housekeeping unit, or a number of persons living and cooking together as a single housekeeping unit though not related by blood, adoption or marriage. [*Ord. 2010-1*]

Farm-related vehicle–those vehicles used exclusively in the production, harvesting, or transportation of farm products or farm animals produced, grown, or raised within the Commonwealth of Pennsylvania. [*Ord. 1-89*]

Floodplain–the area adjoining and including any water or drainage course or body of water subject to periodic flooding or overflow.

Floor area–the horizontal area of all floors or stories measured around the outside walls of the structure, including roofed porches and terraces.

Forester–a person with a degree in forestry from a college or university accredited by the Society of American Foresters who has experience in wood lot management.

Freestanding sign–a sign supported by, or suspended from, a freestanding column or other support located in or upon the ground surface.

Garage–a building or part thereof used for the storage or parking of one or more vehicles.

Garage, private–an accessory garage maintained primarily for the convenience of the occupant or occupants of the main building and in which no business or other use is carried on and no service is rendered to the general public.

Gasoline service station–a building or lot or part thereof supplying and selling gasoline or other equivalent fuel for motor vehicles at retail direct from pumps and storage tanks. A "gasoline service station" may include accessory facilities for rendering services such as lubrication, washing, and minor repairs.

Group care facility, large–a facility which provides resident services to seven or more individuals who are being cared for by a residential supervisory staff. These individuals are handicapped, aged, or disabled, and are undergoing rehabilitation, and are provided services to meet their needs. Large group facilities are licensed, supervised, or funded by any Federal, State, or County agency. [*Ord. 2-88*]

Group care facility, small–a facility which provides resident service in one dwelling unit to six or fewer individuals who are being cared for by a family or residential supervisor staff under license, supervision, or funding by any Federal, State, or County agency. These individuals are handicapped, aged, disabled, or in need of adult supervision and are provided service and supervision in accordance with their individual needs. Foster homes shall not be considered as small group care facilities. [*Ord. 2-88*]

Health and fitness facility–a commercial business that offers active recreational and/or fitness activities. Such activities are provided only to club members and their guests. Such facilities do not include golf courses. [*Ord. 2010-1*]

Hearing–an administrative proceeding conducted by a board pursuant to §909.1 of the Pennsylvania Municipalities Planning Code, 53 P.S. §10909.1 *et seq*. [*Ord. 4-90*]

Height of a structure–the vertical distance derived from the average finished grade at the foundation corners of the building or structure to the highest point of the building

or structure excluding a chimney or other similar structure listed in §27-1001.3.

Height of tower–the overall height of the tower from the base of the tower to the highest point of the tower including, but not limited to, antennas, transmitters, satellite dishes or any other structures affixed to or otherwise placed on the tower. If the base of the tower is not on ground level, the height of the tower shall include the base of the building or structure to which the tower is attached. [*Ord. 99-2A*]

High water table areas–an area where the water table rises to within 4 feet of the surface of the soil at any time during the year.

Hospital–a building used for the diagnosis, treatment or other care of human ailments, unless otherwise specified. A hospital shall be deemed to include a sanitarium, clinic, convalescent home, nursing home, rest home, or other building with an equivalent appellation.

Impervious surface–those surfaces which do not absorb water. All buildings, parking areas, driveways, roads, sidewalks, and any areas in concrete, asphalt, and packed stone shall be considered impervious surfaces within this definition. In addition, other areas within the meaning of this definition will also be classed as impervious surfaces. For the purposes of this Chapter, the area of water within a swimming pool shall not be classified as impervious. [*Ord. 2010-1*]

Industry, nonnuisance–any industry which is not detrimental to the environment in which it is located by reason of the emission of smoke, noise, odor, dust, vibration, or excessive light, beyond the limits of its lot, or by reason of generating excessive traffic with attendant hazards.

Kennel–an establishment equipped with pens, yards, runways, or other appurtenances specifically designed or intended for the breeding or boarding of dogs or similar animals with the intent of producing gain or profit. Any property harboring six or more adult dogs (over 6 months of age) or similar animals.

Land use ordinance–any ordinance or map adopted pursuant to the authority granted in Articles IV, V, VI, and VII of the Pennsylvania Municipalities Planning Code, 53 P.S. §§10401 *et seq*., 10501 *et seq*., 10601 *et seq*., 10901 *et seq*. [*Ord. 4-90*]

Lawn and garden sales and service–the distribution, sale and/or servicing of new and used lawn and garden equipment and machinery and the sale of lawn and garden supplies. [*Ord. 2010-1*]

Local agricultural industries–the processing, treating, packing, or storing of agricultural products, more than half of which have been grown or raised on the premises.

Logging–the cutting down of trees in or for any type of business or commercial purpose.

Lot– an already existing parcel or a designated parcel of land which is established by a plan of subdivision or land development and occupied, or is to be occupied, by one principal building or other structure or use, together with any accessory buildings or structures or uses customarily incidental to such principal building or other structure or use, and any such open spaces as area arranged or designed to be used in connection with such principal building or other structure or use.

Lot area– the total horizontal area of the lot within the lot lines, provided that no area of land within any street or ultimate right-of-way of a street shall be

deemed a portion of any lot area. The area of any lot abutting a street shall be measured to the ultimate right-of-way line only.

(1) Stormwater management structures excluded. The area located within a detention basin constructed for stormwater management having a depth greater than 1½ feet shall be excluded when determining the minimum lot size required for each zoning district.

(2) *Lot Area (Flag Lot)*. The area located within the access strip to a flag (or rear) lot up to a point where the minimum required lot width is achieved shall be excluded when determining the minimum lot size required by the zoning district in which located.

Lot, corner–a lot which has an interior angle of less than 135 degrees at the intersection of two ultimate right-of-way lines. A lot abutting upon a curved street or streets shall be considered a corner lot if the tangent to the curve at the points beginning within the lot or at the points of intersection of the side lot lines with the ultimate right-of-way lines intersect at an angle of less than 135 degrees.

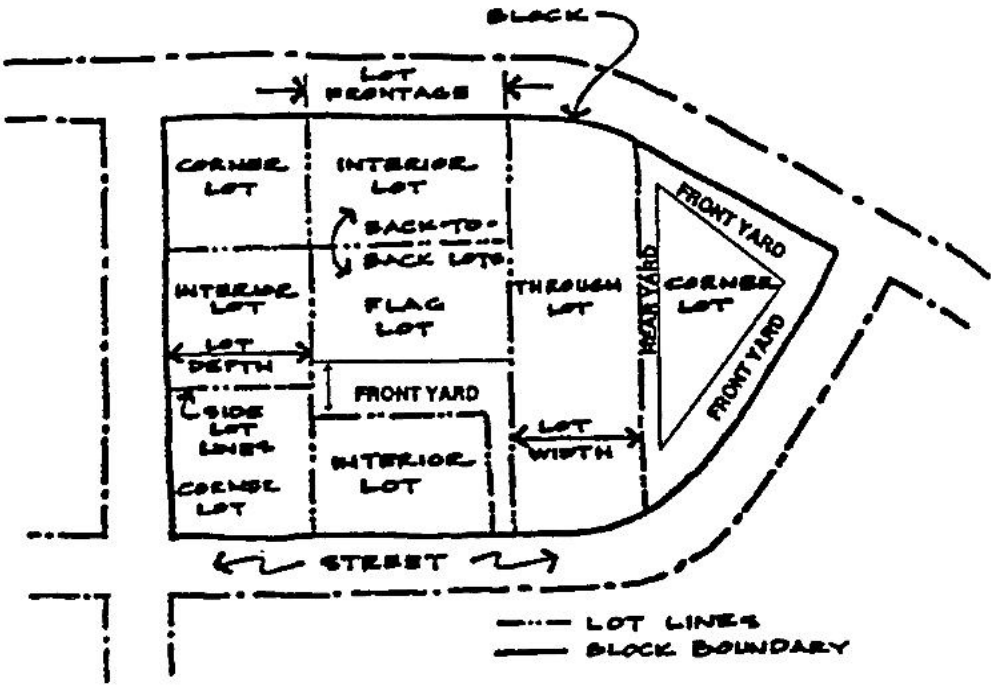
Lot depth–the distance from the ultimate right-of-way line of the lot to its opposite rear line, measured in the general direction of the side lines of the lot.

Lot, flag–(also known as “lane lot” or “rear lot.”) a lot which does not have the required minimum lot width at the ultimate right-of-way line but has direct access to a public street through a narrow strip of land which is part of the same lot. The lot lines of the narrow portion of the lot (the lane) are parallel or nearly parallel. The area of the access strip, up to a point where the minimum required lot width is achieved, shall not be included in calculating the minimum lot area required by the zoning district in which located.

Lot frontage–same as “lot width” definition.

Lot, through (double frontage lot)–a lot having frontage on at least two streets which are unconnected along the lot boundaries.

Lot width–the width of a lot measured no closer to a street than the building line, as defined in definition for "building line." If a lot fronts on a parking court, the lot width is measured no closer to the curbline than the required front yard.



Source: Moskowitz & Lindbloom, The Illustrated Book of Development Definitions (1993 Rutgers University); modified for Horsham Township.

[*Ord. 2010-1*]

Lot coverage–the percentage of the lot area that is covered by structures, including principal buildings and accessory structures, and by impervious paving materials.

Lot line–a property boundary line of any lot held in single and separate ownership.

A. *Lot line, front*–the lot line for such portion of the lot that abuts the street and shall be deemed to be the same as the ultimate right-of-way line of the street, and shall not be the center line of the street, or any other line within the street line even though such may be the property boundary line.

B. *Lot line, rear*–any lot line which is parallel to or within 45 degrees of being parallel to an ultimate right-of-way line, except for a lot line that is an ultimate right-of-way line. In the case of a corner lot, a rear lot line shall be the farthest lot line parallel to or within 45 degrees of being parallel to an ultimate right-of-way (see definition for "front yard"); all other lot lines, other than ultimate right-of-way lines, shall be considered side lot lines. In the case of a lot having no street frontage or a lot of an odd shape, only the one lot line farthest from the designated front yard shall be considered the rear lot line.

C. *Lot line, side*–any lot line which is not an ultimate right-of-way line or a

rear lot line.

D. *Ultimate right-of-way line*–see definition for "ultimate right-of-way" under "right-of-way."

[*Ord. 2010-1*]

Low impact home-based business–an accessory use of a dwelling unit for capital gain. [*Ord. 2009-1*]

Main use of building–the principal or most important use of the building on a lot.

Manufactured housing–a dwelling unit fabricated at an off-site manufacturing facility for installation or assembly at the building site, bearing a label certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards, which has been attached to a permanent foundation. [*Ord. 2-98*]

Massage establishment–any place or establishment where a massage is available. A massage being construed to mean the performance of manipulative exercises upon the human body of another by rubbing, kneading, stroking, or tapping with the hand or hands or with any mechanical or bathing device with or without supplementary aids, including, but not by way of limitation, a massage school.

Medical or dental clinic–a building used exclusively by physicians and dentists for treatment and examination of patients, provided that no overnight patients shall be kept on the premises.

Membership club–a building, structure, lot or land area used as a private club, fraternal or social organization.

Mineral resource–any of various naturally occurring inorganic substances which are intended to be extracted, mined or quarried. Mineral resources shall include natural gas and petroleum. Stones which rest upon the natural surface of the ground shall not be considered mineral resources. [*Ord. 5-84*]

Mobile home–a transportable, single-family 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, which 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. [*Ord. 4-90*]

Mobile home lot–a parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erections thereon of a single mobile home. [*Ord. 4-90*]

Mobile home park–a parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes. [*Ord. 4-90*]

No impact home-based business–a business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use of a residential dwelling and which 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. [*Ord. 2009-1*]

Nonconforming lot–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. [*Ord. 4-90*]

Nonconforming structure–a structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions in a zoning ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment or prior to the application of such ordinance or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs. [*Ord. 4-90*]

Nonconforming use–a use, whether of land or of structure, which does not comply with the applicable use provisions in a zoning ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such ordinance or amendment, or prior to the application of such ordinance or amendment to its location by reason of annexation. [*Ord. 4-90*]

Nurseries and green houses–the raising of trees, ornamentals, shrubs, flowers or house plants in open fields or in greenhouses for capital gain, and associated structures and activities.

Official map–a map adopted by ordinance pursuant to Article IV of the Pennsylvania Municipalities Planning Code, 53 P.S. §10401 *et seq*. [*Ord. 4-90*]

Open space–land set aside as part of a cluster development, which is in addition to resource protected land. [*Ord. 2004-3*]

Overflow parking–that parking in a residential area which is the result of unforseen events resulting in a demand for excess parking area over and above that which is required by ordinance. [*Ord. 99-2A*]

Overflow parking lot–a lot in a residential subdivision or land development which shall be provided for overflow parking. Overflow parking areas shall be for the convenience of the residence or land development only. This parking shall be for excess parking due to parties, funerals, etc. This area can also be used for properly licensed property of the residents of that subdivision or property owners such as recreational vehicles, boat, trailers, etc. No trucks or tractor trailers over 10,000 pounds will be allowed. [*Ord. 99-2A*]

Parking area–a lot or part thereof used for the storage or parking of motor vehicles, with or without the payment of rent or charges in money or other consideration.

Parking space–a stall or berth which is arranged and intended for parking of one motor vehicle in a garage or parking area.

Planned residential development–an area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, or combination of residential and nonresidential uses, the development plan for which does not correspond in lot size, bulk, type of dwelling, or use, density, or intensity, lot coverage and required open space to the regulations established in any one district created, from time to time, under the provisions of a municipal zoning ordinance. [*Ord. 4-90*]

Planning Commission–the Planning Commission of Heidelberg Township, Lehigh County, Pennsylvania.

Professional occupation–an occupation for which specialized knowledge requiring intensive academic preparation is necessary, including medical doctors, lawyers,

professional engineers, or accountants.

Public hearing–a formal meeting held pursuant to public notice by the governing body or planning agency, intended to inform and obtain public comment, prior to taking action in accordance with the Municipalities Planning, Code, 53 P.S. §10101 *et seq*. [*Ord. 2010-1*]

Public meeting–a forum held pursuant to notice under the Act of October 15, 1998, P.L. 729, No. 93, 65 Pa.C.S.A. §701 *et seq*., known as the "Sunshine Act." [*Ord. 2010-1*]

Public notice–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. [*Ord. 4-90*]

Public utility transmission tower–a structure, owned and operated by a public utility electric company regulated by the Pennsylvania Public Utility Commission, designed and used to support overhead electricity transmission lines. [*Ord. 99-2A*]

Quarry–a lot or land or part thereof used for the purpose of extracting stone, sand, gravel, or topsoil.

Report–any letter, review, memorandum, compilation, or similar writing made by any body, board, officer, or consultant, other than a solicitor, to any other body, board, officer, or consultant for the purpose of assisting the recipient of such report in the rendering of any decision or determination. All reports shall be deemed recommendatory and advisory only and shall not be binding upon the recipient, board, officer, body, or agency, nor shall any appeal lie therefrom. Any report used, received, or considered by the body, board, officer, or agency rendering a determination or decision shall be made available for inspection to the applicant and all other parties to any proceeding upon request, and copies thereof shall be provided at cost of reproduction. [*Ord. 4-90*]

Resource protected land–the sum of all resource protected land, within the subdivision tract that has been mapped and measured for the purpose of determining the amount of land needed to be protected, because of the unique and natural features of the land. The resource protected area can be included in the lot area. The area is reported to the nearest 0.01 acre. The resource protected land shall include, but not limited to, the following: right-of-way for existing or proposed overhead utilities and existing private streets, wetlands, lakes, ponds, quarries, streams, springs, flood way, 100-year floodplain and flood soils. Also included, but not limited to, are rock outcropping, boulder fields, steep slope of 15 percent or more, wooded area and area cleared by logging or for logging purposes. [*Ord. 2004-3*]

Restaurant–a business establishment where food and drink are prepared, served and consumed primarily within the principal building. [*Ord. 2010-1*]

Retail store or shop–a building devoted to the sale of commodities in small quantities to the ultimate consumer. The term "retail store" shall not include the term "adult book store."

Riding club (riding school or riding stable)–an establishment where horses may be kept, bred, trained and/or exercised and where equestrian instruction and equestrian competition may be offered including, but not limited to, polo clubs, public show rings and rodeos. [*Ord. 2010-1*]

Rock outcrop–areas where bedrock is exposed to view and not obscured by soil or loose boulders. [*Ord. 2004-3*]

Sanitary landfill–a lot of land or part thereof, licensed and regulated by the Township and in conformance with the Pennsylvania Department of Environmental Protection's requirements, that is used for the disposal and treatment of solid waste. [*Ord. 2010-1*]

Seasonal house–a single-family dwelling designed and intended to be used on a seasonal basis for not more than 6 months of any year by nontransient residents.

Selection method–a method of selectively removing trees from a wooded area either singly or in small groups according to age and size with provision being made for natural or artificial revegetation.

Shopping center–a group of stores planned and designed for the site on which it is built, functioning as a unit, with off-street parking provided on the property as an integral part of the unit. [*Ord. 2010-1*]

Sign–a structure, device, or display designed to attract attention and impart a message. See also "business identification," "freestanding sign," "wall sign," "advertising sign," "temporary sign," "bulletin board," and "announcement or professional sign."

Single-family attached dwelling–a dwelling unit on a permanent foundation designed and occupied as a residence for one family with direct outside access, which is part of a group of two or more dwellings with one or two vertical walls in common with adjacent dwelling units. These dwelling units are commonly referred to as "townhouses," "twin homes," or "row homes." [*Ord. 2002-3*]

Single-family detached dwelling–a building on a permanent foundation, on a lot, designed and occupied exclusively as a residence for one family, and which has no part of a wall in common with an adjacent building.

Special exception–a use permitted in a particular zoning district pursuant to the provisions of Articles VI and IX of the Pennsylvania Municipalities Planning Code, 53 P.S. §§10601 *et seq*., 10901 *et seq*. [*Ord. 4-90*]

Special exception use–a use in one or more districts for which the Zoning Hearing Board may grant a permit pursuant to the provisions of §27-1108.

Specified anatomical areas–less than completely and opaquely covered human genitals, pubic region, buttock or female breast below a point immediately above the top of the aureola; human male genitals in a discernibly turgid state, even if completely or opaquely covered.

Specified sexual activities–human genitals in a state of sexual stimulation or arousal. Acts of human masturbation, sexual intercourse or sodomy, fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Steep slope–land with a gradient in excess of 15 percent.

Street–includes any street, avenue, boulevard, road, highway, freeway, parkway, land, alley, viaduct and any other ways used or intended to be used by vehicular traffic or pedestrians whether public or private.

Street line–the dividing line between a lot and the outside boundary of the ultimate street right-of-way, or between a lot and a private street which serves two or more separately owned homes or buildings.

Strip shopping center–a group of two or more retail stores, offices and/or service businesses planned and designed for the site on which it is built, functioning as a unit, with off-street parking provided on the property as an integral part of the unit. [*Ord. 2010-1*]

Structure–any manmade object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

Swimming pool, private–any receptacle or artificially constructed container for water, having a wall depth of 2 feet or more at any point within its perimeter, intended or adapted for the purposes of immersion or partial immersion of human beings therein used or intended to be used in connection with residences, available only to the family of the householder and his private guests, not open to the public or publicly owned, not owned and/or operated by any organization, partnership or corporation, and not otherwise regulated by any statutes or by rules and regulations than those of the Township.

Temporary signs–a sign, constructed of cloth, canvas, fabric, wood, or other similar material, with or without a structural frame, and intended for a limited period of display. For purposes of this Chapter, real estate and construction signs are temporary signs.

Travel unit–a truck-mounted camper; and auto, truck, or bus adapted for vacation living; a folding tent camper, a tent; and other similar devices used for temporary portable housing.

Use, principal–any activity, occupation, business or operation carried on, or intended to be carried on, in a building or other structure, or on a tract of land. [*Ord. 2010-1*]

Variance–relief granted pursuant to the provisions of Articles VI and IX of the Pennsylvania Municipalities Planning Code, 53 P.S. §§10601 *et seq*., 10901 *et seq*. [*Ord. 4-90*]

Wall sign–a sign which is part of, attached directly to, supported by, or painted upon a building wall.

Yard, front–an open unoccupied space on the same lot with a building, situated between the nearest roofed portion of the building and the front lot line of the lot and extending from side lot line to side lot line.

Yard, rear–a space on the same lot with a building situated between the nearest roofed portion of the building and the rear lot line of the lot and extending from side lot line to side lot line.

Yard, side–an open unoccupied space on the same lot with a building situated between the nearest roofed portion of the building or of any accessory building and the side lot line of the lot, and extending through from the front yard or from the front lot line where no front yard exists, to the rear yard, or to the rear lot line where no rear yard exists.

Zoning Officer–the duly constituted municipal official designated to administer and enforce this Chapter.

(*Ord. 4-81*, 12/28/1981, §300; as amended by *Ord. 5-84*, 10/5/1984, §§1 and 2; *Ord. 2-88*, 8/5/1988, §§2–7; *Ord. 1-89*, 7/7/1989, §§1 and 2; *Ord. 4-90*, 10/11/1990, §§1–21; *Ord. 2-98*, 4/9/1998, §§1–6; *Ord. 99-2A*, 11/11/1999, §§1, 5 and 7; by *Ord. 2002-3*, 5/9/2002, §1;

by *Ord. 2004-3*, 8/12/2004, Art. I, §9; by *Ord. 2009-1*, 1/5/2009, §§1–3; by *Ord. 2010-1*, 4/8/2010; and by *Ord. 2011-2*, 11/10/2011)

Part 4

Districts and Boundaries

§27-401. Classes of Districts.

For the purposes of this Chapter, the Township is hereby divided into the following classes of districts:

Agricultural Preservation District

Blue Mountain Preservation District

Rural District

Rural Village District

In addition, there is hereby created an Environmental Protection District which shall overlay the above classes of districts, as set forth in Part 9.

(*Ord. 4-81*, 12/28/1981, §410; as amended by *Ord. 2007-1*, 3/8/2007, §§1–4)

§27-402. Statements of Purpose and Intent for the Districts.

1. *Agricultural Preservation District*. The purpose of this district is to protect agricultural land uses and farming operations from the intrusion of those land uses which tend to restrict or hinder such land uses and operations. This district is intended to clearly favor the continuation of rural land uses over the introduction of urban or suburban land uses. All normal agricultural land uses are permitted but other land uses are restricted. Public and community uses which complement the farm community are permitted. It is the Township's intent to maintain this area for agricultural uses. [*Ord. 2007-1*]

2. *Blue Mountain Preservation District*. The purpose of this district is to protect the Blue Mountain and its wooded base. This portion of the Township is recognized as having physical characteristics, including steep slopes, areas of high water table, and stony soils, which warrant such protection. Further, the district is to protect the aesthetic beauty of the Blue Mountain area, to conserve the unique and sensitive natural features and resources present in the Blue Mountain zone. The Blue Mountain is recognized in the report, *A Natural Inventory of Lehigh and Northampton Counties, Pennsylvania*, as an exceptional natural feature. This zone represents the confluence of unique natural systems which include: steep slopes, woodlands, boulder fields, springs, streams, wetlands, aquifer recharge zones, raptor migratory paths, and black bear and other wildlife habitat. Woodlands, agricultural operations and wildlife habitat are to be conserved. In order to achieve this purpose, this Chapter does provide for very low densities appropriate to the zone and flexible design standards where a perpetual Blue Mountain easement is offered to an IRS §501 C(3) and 170 (H) qualified natural land Blue Mountain organization or the Township. [*Ord. 2007-1*]

3. *Rural District*. The purpose of this district is to create an area where some additional development can occur in the Township in proximity to existing development and sewer and water facilities. The intent is to balance and harmonize the existing residential and agricultural land uses. Most agricultural uses are permitted, though restricted to some extent to insure that they do not unduly conflict with existing and

future residential land uses. It is the Township's intent to buffer the residential areas from agricultural uses, restrict certain offensive agricultural uses, and restrict agricultural uses from residential lots in this district. [*Ord. 2007-1*]

4. *Rural Village District*. The purpose of this district is to provide opportunities for convenience services and uses for Township residents. It is intended that a mixture of land uses such as presently exists should be allowed to continue. It is not the intent of this district to allow for substantial expansion of the village or to serve as a growth center. [*Ord. 2007-1*]

5. *Environmental Protection District*. This purpose of this overlay district is to protect steep slopes, floodplains, and high water table areas wherever such areas may occur in the Township. The intent is to restrict the types of land uses and density of development to those which are compatible with the development limitations of these environmentally sensitive areas.

(*Ord. 4-81*, 12/28/1981, §420; as amended by *Ord. 2004-3*, 8/12/2004, Art. 1, §1; and by *Ord. 2007-1*, 3/8/2007, §§1–4)

§27-403. District Boundaries.

1. *Zoning Map*. The boundaries of each district or zone are established as shown on the Official Zoning Map of Heidelberg Township which together with any explanatory matter thereon is declared to be part of this Chapter. The Official Zoning Map shall be signed by the Chairman of the Board of Supervisors and by the Chairman of the Township Planning Commission. This map shall be located and displayed in the office of the Zoning Officer. Any subsequent amendment to this Chapter which involves matter portrayed on the Official Zoning Map shall be promptly reflected on the Official Zoning Map. The map which accompanies this Chapter is a replica of the Official Zoning Map at the date of the adoption of this Chapter.

2. *Replacement of Official Zoning Map*. In the event that the Official Zoning Map becomes damaged, lost, or difficult to interpret because of the nature or number of changes and additions, the Board of Supervisors may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption or amendment.

3. *Delineation of District Boundaries*. The following rules shall apply as to the delineation of district boundaries:

A. Where district boundaries are indicated as approximately coinciding with the center lines of streets, highways, public utility rights-of-way, or streams, such center lines shall be construed to be such boundaries.

B. Where district boundaries are so indicated that they approximately coincide with lot lines, such lot lines shall be construed to be said boundaries.

C. Where district boundaries are so indicated that they are approximately parallel to lot lines or the center lines of streets, highways, public utility rights-of-way, or streams, such district boundaries shall be construed as being parallel

thereto. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

4. *Interpretation of District Boundaries*. In cases of uncertainty as to the true location of a district boundary line in a particular instance, the determination thereof shall be made by the Zoning Officer. Appeals of decisions by the Zoning Officer may be taken to the Zoning Hearing Board, as provided in §27-1103 of this Chapter.

(*Ord. 4-81*, 12/28/1981, §430)

Part 5

Agricultural Preservation District

§27-501. Permitted Uses.

A building or group of buildings may be erected, altered or used, or a lot may be used or occupied for one principal use for any of the following purposes in the Agricultural District. Upon demonstration to the Zoning Officer that the dimensional and other applicable requirements of this Chapter are met, the Zoning Officer shall issue a permit in accordance with §§27-1203 and 27-1204, as applicable. [*Ord. 2010-1*]

A. Agriculture.

B. Animal husbandry.

C. Nurseries, greenhouses, and related horticultural uses.

D. Sale of agricultural products, pursuant to the requirements of §27-507.

E. Local agricultural industries, pursuant to the requirements of §27-507.

F. Dwelling or other building customarily provided in conjunction with permitted agricultural and animal husbandry uses.

G. Dwellings for temporary quarters for farm laborers, incident and necessary to the gathering of crops grown on the premises that conform to applicable State and Federal regulations for such structures.

H. Single-family detached dwellings pursuant to the provisions of §27-506. [*Ord. 2000-2*]

I. Wildlife sanctuary, nature center, outdoor education laboratory, woodland preserve, or arboretum. [*Ord. 2-98*]

J. Outdoor recreation areas such as parks, playgrounds, picnic grounds, golf course, or tennis courts.

K. Game farm, hunting and fishing reserves, or similar uses designed for the protection or propagation of wildlife.

L. Church, Sunday school, or other place of worship.

M. Cemetery or mausoleum.

N. Logging, provided the provisions of §27-1008 are met. [*Ord. 2004-3*]

O. Riding club. [*Ord. 2010-1*]

P. Agritainment. [*Ord. 2010-1*]

(*Ord. 4-81*, 12/28/1981, §510; as amended by *Ord 96-2*, 3/14/1996, §1; by *Ord. 2-98*, 4/9/1998, §7; by *Ord. 2000-2*, 10/12/2000, §1; by *Ord. 2004-3*, 8/12/2004, Art. I, §7; and by *Ord. 2010-1*, 4/8/2010)

§27-502. Accessory Uses.

These uses occur on the same lot as the permitted uses and are customarily incidental and subordinate to the permitted use. Accessory uses shall meet all yard and other applicable regulations of this Chapter.

A. Private garage or private parking areas, pursuant to §§27-1001.8 and 27-

1002.

B. Other customary accessory structure and use, pursuant to §27-1001.1.

C. Sign, pursuant to §27-1003.

D. Low impact home-based business, pursuant to §27-1004. [*Ord. 2009-1*]

E. Private noncommercial swimming pool, pursuant to §27-1001.9.

F. No impact home-based business, pursuant to §27-1010. [*Ord. 2009-1*]

(*Ord. 4-81*, 12/28/1981, §520; as amended by *Ord. 2009-1*, 1/5/2009, §§4 and 5)

§27-503. Special Exception Uses.

Applications for these uses are subject to review by the Zoning Hearing Board according to the provisions of Part 11. These uses shall be permitted after the Zoning Hearing Board has determined that the relevant standards and criteria contained in §27-1108 are met. The Zoning Hearing Board may attach any reasonable conditions and safeguards, in addition to those expressed in the Chapter, as it may deem necessary to implement the purpose of this Chapter and to protect the public health, safety, morals, and the general welfare.

A. Membership club.

B. Public or private school.

C. Community center building, public library, fire, or police station.

D. Conversion of single-family detached dwelling to two dwelling units.

E. Kennels and animal hospitals.

F. Commercial stables or riding academy.

G. Sanitary landfill.

H. Extraction of mineral resources.

I. Agri-business. [*Ord. 5-84*]

J. Oil or gas well operations. [*Ord. 1-86*]

K. Commercial communications tower. [*Ord. 99-2A*]

L. Bed and breakfast. [*Ord. 2010-1*]

(*Ord. 4-81*, 12/28/1981, §530; as amended by *Ord. 5-84*, 10/5/1984, §3; *Ord. 1-86*, 4/4/1986, §1; by *Ord. 99-2A*, 11/11/1999, §2; and by *Ord. 2010-1*, 4/8/2010)

§27-504. Lot Area, Width, Lot Coverage, and Height Requirements.

Use	Minimum Lot Area	Minimum Lot Width	Maximum Lot Coverage	Maximum Building Height
Residential [*Ord. 2010-1*]	30,000 sq. ft.	125 feet	10%	35 feet
All other uses	none	none	10%	none

The maximum lot coverage may be increased up to 20 percent if the property owner incorporates a ground water recharge system for impervious coverage areas of a type which will have the net effect equal to a 10 percent lot coverage or less. The approval of the ground water recharge system shall be by the Zoning Officer in consultation with

the Township Engineer. [*Ord. 2004-1*]

(*Ord. 4-81*, 12/28/1981, §540; as amended by *Ord. 96-2*, 3/14/1996, §2; by *Ord. 2000-2*, 10/12/2000, §2; by *Ord. 2004-1*, 6/10/2004, §1; and by *Ord. 2010-1*, 4/8/2010)

§27-505. Minimum Yard Requirements.

Use	Front Yard	Each Side Yard	Side Yard with abutting street	Rear Yard
Agriculture and animal husbandry, except structures	none	none	none	none
Structures customarily associated with animal husbandry	50 ft.	100 ft.	50 ft.	100 ft.
Accessory uses and structures	50 ft.	5 ft.	10 ft.	10 ft.
Commercial compost heaps and similar uses and/or vector promoting uses [*Ord. 2011-2*]	50 ft.	100 ft.	50 ft.	100 ft.
All other uses, including structures customarily associated with agriculture	50 ft.	30 ft.	50 ft.	50 ft.

(*Ord. 4-81*, 12/28/1981, §550; as amended by *Ord. 5-84*, 10/5/1984, §4; and by *Ord. 2011-2*, 11/10/2011)

§27-506. Nonagricultural Dwelling Units.

Single-family detached dwellings other than those permitted by §§27-501.F and .G shall be constructed in accord with the following provisions. [*Ord. 2000-2*]

A. *Maximum Lot Size*. A lot upon which a dwelling is to be constructed shall be no greater than 1½ acres in size unless:

(1) The property owner can demonstrate that the area in excess of 1½ acres is unsuitable for agriculture, as defined in paragraph .D.

(2) The physical characteristics of the land itself require a lot size in excess of 1½ acres.

(3) A larger lot size is necessary to meet the requirements of Part 9.

B. *Maximum Percentage of Existing Lots to be Used*. No more than one lot plus 10 percent of the area of each lot as it existed on the date of enactment of this Chapter shall be used for this purpose, including the area of any access roads constructed. The remainder of the lot shall be reserved for other allowable uses of this district.

(1) This provision shall be applicable to each lot recorded on the Lehigh County Tax Maps at the time of enactment of this Chapter and shall be applied cumulatively from that date, except as provided under paragraph .E. The Zoning Officer shall obtain the most recently available version of the Lehigh County Tax Maps and shall record thereon for which this provision is applicable.

C. *Soil Characteristics of Lots*.

(1) The property owner shall locate the lots for single-family detached dwellings on the least agriculturally productive land feasible and in such a way

as to minimize interference with agriculture production.

(a) Soils which fall within the Capability Classes IV through VIII, as described in the Soil Survey of Lehigh County, Pennsylvania (Series 1959, No. 31, issued November 1963), shall be considered the least agriculturally productive land.

(b) Areas which cannot feasibly be farmed (a) due to existing features of the site such as rock out-croppings or the fact that the area is heavily wooded or (b) due to the fact that the size or shape of the area suitable for farming is insufficient to permit efficient use of farm machinery shall be considered the next least agriculturally productive land.

(2) In the case where there is no area of his land which fits the criteria of paragraphs .A(1) and .A(2) which can feasibly be used for single-family detached dwellings, the property owner may use more agriculturally productive land.

(3) The applicant shall have the burden of proving that the land he seeks to subdivide for these purposes meets the criteria set forth in this Paragraph or Paragraph .D. In the case where the applicant disagrees with the classification given to the land by the Soil Survey of Lehigh County, Pennsylvania (Series 1959, No. 31, issued November 1963), he should contact the Natural Resource Conservation Service or hire a qualified geologist or soil scientist to perform a more detailed analysis. The Zoning Officer may use the results of this analysis in determining the applicability of the provisions of this Section.

D. *Suitability for Agricultural Use*. The land shall be considered unsuitable for agricultural use if:

(1) Its soils fall within the Capability Classes V through VIII, as described in the Soil Survey of Lehigh County, Pennsylvania (Series 1959, No. 31, issued November 1963).

(2) It cannot feasibly be farmed (a) due to the existing features of the site such as rock out-croppings, rock too close to the surface to the permit plowing, swamps, the fact that the area is heavily wooded, or the fact that the slope of the area exceeds 15 percent or (b) due to the fact that the size or shape of the area suitable for farming is insufficient to permit efficient use of farm machinery.

E. The provisions of this Section shall not be deemed to regulate the division of land for agricultural purposes into parcels of more than 10 acres not involving any new street or easement of access.

(*Ord. 4-81*, 12/28/1981, §560; as amended by *Ord. 5-84*, 10/5/1984, §5; by *Ord. 96-2*, 3/14/1996, §3; and by *Ord. 2000-2*, 10/12/2000, §3)

§27-507. Sale of Agricultural Products and Agricultural Industries.

1. The following regulations shall apply to the sale of agricultural products at roadside stands:

A. Fifty percent or more of the products sold shall be raised on the home premises.

B. Off-street parking shall be provided at the rate of six parking spaces for

each 1,000 square feet of sales area with a minimum of three spaces for any given establishment.

C. Sufficient space shall also be provided for off-street backing and turning movements of vehicles so that the flow of traffic is not hindered.

D. The provisions of this subsection shall not apply to the sale of agricultural products to other farmers, wholesalers and distributors.

2. All structures associated with agricultural industries activity shall not be located closer than 500 feet from any existing dwelling unit, except on the home premises.

(*Ord. 4-81*, 12/28/1981, §570)

Part 6

Blue Mountain Preservation District

§27-601. Permitted Uses.

A building or group of buildings may be erected, altered or used, or a lot may be used or occupied for one principal use for any of the following purposes in the Blue Mountain Preservation District. Upon demonstration to the Zoning Officer that the dimensional and other applicable requirements of this Chapter are met, the Zoning Officer shall issue permits in accordance with §§27-1203 and 27-1204 as applicable. [*Ord. 2010-1*]

A. Agriculture.

B. Animal husbandry.

C. Logging, provided the provisions of §27-1008 are met. [*Ord. 2004-3*]

D. Sale of agricultural products, pursuant to the requirements of §27-507.

E. Wildlife sanctuary, nature center, outdoor education laboratory, woodland preserve, or arboretum. [*Ord. 2-98*]

F. Cluster development, provided the provisions of §27-606 are met. [*Ord. 2004-3*]

G. Single-family detached dwelling.

H. Seasonal house.

I. Church, Sunday school, or other place of worship.

J. Cemetery or mausoleum.

K. Riding club. [*Ord. 2010-1*]

L. Agritainment. [*Ord. 2010-1*]

(*Ord. 4-81*, 12/28/1981, §610; as amended by *Ord. 2-98*, 4/9/1998, §8; by *Ord. 2004-3*, 8/12/2004, Art. I, §2; and by *Ord. 2010-1*, 4/8/2010)

§27-602. Accessory Uses.

1. These uses occur on the same lot as the permitted uses and are customarily incidental and subordinate to the permitted use. Accessory uses shall meet all yard and other applicable regulations of this Chapter.

A. Private garage or private parking areas, pursuant to §§27-1001.8 and 27-1002.

B. Other customary accessory structure and use, pursuant to §27-1001.1.

C. Sign, pursuant to §27-1003.

D. Low impact home-based business, pursuant to §27-1004. [*Ord. 2009-1*]

E. Private noncommercial swimming pool, pursuant to §27-1001.9.

F. No impact home-based business, pursuant to §27-1010. [*Ord. 2009-1*]

2. There shall be a maximum of one accessory structure on a lot of 0 to 20 acres and two accessory structures on a lot larger than 20 acres. The first structure shall not

exceed 1,400 square feet (foot print) and the second structure shall not exceed 900 square feet (foot print). [*Ord. 2004-3*]

(*Ord. 4-81*, 12/28/1981, §620; as amended by *Ord. 2004-3*, 8/12/2004, Art. I, §3; and by *Ord. 2009-1*, 1/5/2009, §§6 and 7)

§27-603. Special Exception Uses.

Application for these uses are subject to review by the Zoning Hearing Board according to the provisions of Part 11. These uses shall be permitted after the Zoning Hearing Board has determined that the relevant standards and criteria contained in §27-1108 are met. The Zoning Hearing Board may attach any reasonable conditions and safeguards, in addition to those expressed in this Chapter, as it may deem necessary to implement the purpose of this Chapter and to protect the public health, safety, morals, and the general welfare.

A. Membership club.

B. Public or private school.

C. Community center building, public library, fire or police station.

D. Hospital or convalescence home.

E. Commercial campground.

F. Conversion of single-family detached dwelling to two dwelling units.

G. Kennels and animal hospitals.

H. Commercial stables or riding academy.

I. Oil or gas well operations. [*Ord. 1-86*]

J. Outdoor recreation areas such as parks, playgrounds, picnic grounds, golf courses, or tennis courts. [*Ord. 2004-3*]

K. Nurseries, greenhouses, and related horticultural uses. [*Ord. 2004-3*]

L. Game farm, hunting and fishing reserves, or similar uses designed for the protection or propagation of wildlife. [*Ord. 2004-3*]

M. Bed and breakfast. [*Ord. 2010-1*]

(*Ord. 4-81*, 12/28/1981, §630; as amended by *Ord. 1-86*, 4/4/1986, §2; by *Ord. 2004-3*, 8/12/2004, Art. I, §4; and by *Ord. 2010-1*, 4/8/2010)

§27-604. Lot Area, Width, Lot Coverage, and Height Requirements.

Use	Minimum Lot Area	Minimum Lot Width	Maximum Lot Coverage	Maximum Building Height
Agriculture	none	none	5%	none
All other uses	10 acres	500 feet	0 to 10 ac.: 5% 11 to 30 ac.: 4% 31 plus ac.: 3%	35 feet
Residential [*Ord. 2010-1*]	10 acres	500 feet	5%	35 feet

(*Ord. 4-81*, 12/28/1981, §640; as amended by *Ord. 2004-3*, 8/12/2004, Art. I, §5; and by *Ord. 2010-1*, 4/8/2010)

§27-605. Minimum Yard Requirements.

Use	Front Yard	Each Side Yard	Side Yard with Abutting Street	Rear Yard
Agriculture, except structures	none	none	none	none
Structures customarily associated with animal husbandry	50 ft.	100 ft.	50 ft.	100 ft.
Commercial compost heaps and similar uses and/or vector promoting uses [*Ord. 2011-2*]	50 ft.	100 ft.	50 ft.	100 ft.
Accessory uses and structures	50 ft.	5 ft.	10 ft.	10 ft.
All other uses, including structures customarily associated with agriculture	50 ft.	30 ft.	50 ft.	50 ft.

(*Ord. 4-81*, 12/28/1981, §650; as amended by *Ord. 5-84*, 10/5/1984, §6; and by *Ord. 2011-2*, 11/10/2011)

§27-606. Cluster Development.

1. The purpose of the cluster development is to permit, subject to final approval by the Board of Supervisors, high quality lot layouts, planning and landscaping designs for residential subdivision in a Blue Mountain Preservation District. Furthermore, a single-family detached dwelling area and dimensional specifications, pursuant to this Section are a means for residential developers to improve the feasibility of creating attractive and practical designs in lot layout, street alignment and building orientation, while preserving desirable natural features. All cluster developments shall meet the requirements of this Section and all applicable sections of the Heidelberg Township Subdivision and Land Development Ordinance [Chapter 22] and this Chapter.[*Ord. 2007-1*]

2. The minimum lot size shall be 3 acres per single-family detached dwelling.

3. The lot width shall be 210 feet.

4. The maximum building height shall be 35 feet.

5. The maximum lot coverage shall be 8 percent.

6. The maximum density shall not exceed one single-family detached dwelling per 10 gross acres.

7. No building or structure may be erected, constructed, reconstructed, altered, or moved upon or within any resource protected land and open space area, as such term is defined in the Subdivision and Land Development Ordinance [Chapter 22].

8. The open space, which is the remaining usable site area but not developed as part of the cluster development, shall be protected from development in perpetuity. The perpetual preservation of open space shall be in accordance with this Chapter.

9. The area set aside as open space and resource protected lands shall be subject

to one of the following methods, as selected by the owner, for ensuring permanent protection of the same against further subdivision and development, or any activity deleterious to the purposes for which the Blue Mountain Preservation District exists: [*Ord. 2007-1*]

A. Open space agreement in such form as shall be acceptable to the Township and which shall be executed by the owner and the Township Board of Supervisors, be recorded in the Office of Recorder of Deeds and noted along the margin of the last recorded deed containing the legal or metes and bounds description of the open space.

B. Blue Mountain easement in such form as shall be acceptable to the Township and which shall be executed by the owner granting enforcement rights to (1) a qualified natural land Blue Mountain organization meeting the requirements of IRS §§501.c(3) and 170(h), (2) the Wildlands Conservancy, (3) the Commonwealth of Pennsylvania Game Commission, or, in the discretion of the Township, to the Township or other political subdivision. Such Blue Mountain easement shall be recorded in the Office of Recorder of Deeds and noted along the margin of the last recorded deed containing the legal or metes and bounds description of the open space.

C. Declaration of covenants in such form as shall be acceptable to the Township and which shall be executed by the owner and the Township Board of Supervisors, be recorded in the Office of Recorder of Deeds and noted along the margin of the last recorded deed containing the legal or metes and bounds description of the open space.

D. Deed restriction(s) in such form as shall be acceptable to the Township and which shall be executed by the owner and the Township Board of Supervisors, be recorded in the Office of Recorder of Deeds and noted along the margin of the last recorded deed containing the legal or metes and bounds description of the open space.

E. Dedication of the open space by fee simple deed to the Township, provided the Township agrees to accept such dedication by resolution.

(*Ord. 4-81*, 12/28/1981, §660; as added by *Ord. 2004-3*, 8/12/2004, Art. I, §6; and as amended by *Ord. 2007-1*, 3/8/2007, §2)

Part 7

Rural District

§27-701. Permitted Uses.

A building or group of buildings may be erected, altered or used, or a lot may be used for occupied for one principal use for any of the following purposes in the Rural District. Upon demonstration to the Zoning Officer that the dimensional and other applicable requirements of this Chapter are met, the Zoning Officer shall issue permits in accordance with §§27-1203 and 27-1204 as applicable. [*Ord. 2010-1*]

A. Agriculture.

B. Sale of agricultural products pursuant to the requirements of §27-507.

C. Local agricultural industries, pursuant to the requirements of §27-507.

D. Single-family detached dwelling.

E. Church, Sunday school, or other place of worship.

F. Outdoor recreation areas such as parks, playgrounds, picnic grounds, golf courses or tennis courts.

G. Cemetery or mausoleum.

H. Logging, provided the provisions of §27-1007 are met. [*Ord. 2004-3*]

I. Apartments. [*Ord. 2010-1*]

(*Ord. 4-81*, 12/28/1981, §710; as amended by *Ord. 2004-3*, 8/12/2004, Art. I, §7; and by *Ord. 2010-1*, 4/8/2010)

§27-702. Accessory Uses.

These uses occur on the same lot as permitted uses and are customarily incidental and subordinate to the permitted use. Accessory uses shall meet all yard and other applicable regulations of this Chapter.

A. Private garage or private parking area, pursuant to §§27-1001.8 and 27-1002.

B. Other customary accessory structure and use, pursuant to §27-1001.1.

C. Sign, pursuant to §27-1003.

D. No impact home-based business, pursuant to §27-1010. [*Ord. 2010-1*]

E. Private noncommercial swimming pool, pursuant to §27-1001.9.

(*Ord. 4-81*, 12/28/1981, §720; as amended by *Ord. 2009-1*, 1/5/2009, §8; and by *Ord. 2010-1*, 4/8/2010)

§27-703. Special Exception Uses.

Applications for these uses are subject to review by the Zoning Hearing Board according to the provisions of Part 11. These uses shall be permitted after the Zoning Hearing Board has determined that the relevant standards and criteria contained in §27-1108 are met. The Zoning Hearing Board may attach any reasonable conditions and safeguards, in addition to those expressed in this Chapter, as it may deem necessary

to implement the purpose of this Chapter and to protect the public health, safety, morals, and the general welfare.

A. Animal husbandry.

B. Nurseries, greenhouses, and related horticultural uses.

C. Membership club.

D. Public or private school.

E. Community center building, public library, fire, or police station.

F. Hospital or convalescence home.

G. Kennels and animal hospitals.

H. Commercial stables or riding academies.

I. Commercial campground.

J. Group care facility, small. [*Ord. 2-88*]

K. Multi-family dwelling [*Ord. 99-2A*]

L. Single-family attached dwelling. [*Ord. 99-2A*]

M. Mobile home park. [*Ord. 2002-3*]

O. Bed and breakfast. [*Ord. 2010-1*]

P. Day care and day care center. [*Ord. 2010-1*]

(*Ord. 4-81*, 12/28/1981, §730; as amended by *Ord. 2-88*, 8/5/1988, §8; by *Ord. 99-2A*, 11/11/1999, §5; by *Ord. 2002-3*, 5/9/2002, §2; and by *Ord. 2010-1*, 4/8/2010)

§27-704. Lot Area, Width, Lot Coverage, and Height Requirements.

Use	Minimum Lot Area	Minimum Lot Width	Maximum Lot Coverage	Maximum Building Height
Multi-family dwelling	3 acres	200 feet	10%	35 feet
Single-family attached dwelling with on-lot sanitary sewage disposal	30,000 sq. ft.	100 feet	10%	35 feet
Single-family attached dwelling with public sanitary sewage disposal and public water	8,000 sq. ft.	30 feet	35%	35 feet
All other uses	1 acre	125 feet	10%	35 feet

The maximum lot coverage may be increased up to 20 percent if the property owner incorporates a ground water recharge system for impervious coverage area of a type which will have the net effect equal to a 10 percent lot coverage or less. The approval of the ground water recharge system shall be by the Zoning Officer in consultation with the Township Engineer. [*Ord. 2004-1*]

(*Ord. 4-81*, 12/28/1981, §740; as amended by *Ord. 99-2A*, 11/11/1999, §5; and by *Ord. 2004-1*, 6/10/2004, §1)

§27-705. Minimum Yard Requirements.

Use	Front Yard	Each Side Yard	Side Yard with Abutting Street	Rear Yard
Agriculture, except structures	none	none	none	none
Structures customarily associated with animal husbandry	50 ft.	100 ft.	50 ft.	100 ft.
Commercial compost heaps and similar uses and/or vector promoting uses [*Ord. 2011-2*]	50 ft.	100 ft.	50 ft.	100 ft.
Accessory uses and structures	50 ft.	5 ft.	10 ft.	10 ft.
All other uses, including structures customarily associated with agriculture	50 ft.	30 ft.	50 ft.	50 ft.

(*Ord. 4-81*, 12/28/1981, §750; as amended by *Ord. 5-84*, 10/5/1984, §7; and by *Ord. 2011-2*, 11/10/2011)

Part 8

Rural Village District

§27-801. Permitted Uses.

A building or group of buildings may be erected, altered or used, or a lot may be used for occupied for one principal use for any of the following purposes in the Rural Village District. Upon demonstration to the Zoning Officer that the dimensional and other applicable requirements of this Chapter are met, the Zoning Officer shall issue permits in accordance with §§27-1203 and 27-1204 as applicable. [*Ord. 2010-1*]

A. Agriculture.

B. Sale of agricultural products, pursuant to the requirements of §27-507.

C. Local agricultural industries, pursuant to the requirements of §27-507.

D. Single-family detached dwelling.

E. Church, Sunday school, or other place of worship.

F. Outdoor recreation areas such as parks, playgrounds, picnic grounds, golf courses, or tennis courts.

G. Public utility building, structure, or facility.

H. Retail store or shop.

I. Business or professional office, medical, or dental clinic.

J. Bank or other financial institution.

K. Barber shop, beauty shop, self-service laundry or dry cleaning establishment or pick-up agency, tailor or dressmaking shop, or other personal service store or shop.

L. General servicing or repair shop; such as watch, clock, radio, television, or other home appliance repair.

M. Restaurant, café, tavern, or other place serving food and beverage.

N. Automobile and other machinery sales with accessory service facilities.

O. Automobile and other machinery repair shops.

P. Gasoline service stations, pursuant to §27-806.2.

Q. Non-nuisance industry.

R. Research institute, laboratory.

S. Single-family attached dwellings, pursuant to §27-806.1.

T. Lawn and garden sales and service. [*Ord. 2010-1*]

(*Ord. 4-81*, 12/28/1981, §810; as amended by *Ord. 2010-1*, 4/8/2010)

§27-802. Accessory Uses.

These uses occur on the same lot as the permitted uses and are customarily incidental and subordinate to the permitted use. Accessory uses shall meet all yard and other applicable regulations of this Chapter.

A. Private garage or private parking areas, pursuant to §§27-1001.8 and 27-

1002.

B. Other customary accessory structure and use, pursuant to §27-1001.1.

C. Sign, pursuant to §27-1003.

D. Low impact home-based business, pursuant to §27-1004. [*Ord. 2009-1*]

E. Private noncommercial swimming pool, pursuant to §27-1001.9.

F. No impact home-based business, pursuant to §27-1010. [*Ord. 2009-1*]

(*Ord. 4-81*, 12/28/1981, §820; as amended by *Ord. 2-98*, 4/9/1998, §9; and by *Ord. 2009-1*, 1/5/2009, §§9 and 10)

§27-803. Special Exception Uses.

Applications for these uses are subject to review by the Zoning Hearing Board according to the provisions of Part 11. These uses shall be permitted after the Zoning Hearing Board has determined that the relevant standards and criteria contained in §27-1108 are met. The Zoning Hearing Board may attach any reasonable conditions and safeguards, in addition to those expressed in the ordinance, as it may deem necessary to implement the purpose of this Chapter and to protect the public health, safety, morals, and the general welfare.

A. Animal husbandry.

B. Nurseries, greenhouses, and related horticultural uses.

C. Membership club.

D. Public or private school.

E. Community center building, public library, fire or police station.

F. Hospital or convalescence home.

G. Kennels and animal hospitals.

H. Commercial stables or riding academies.

I. Conversion of single-family detached dwelling to two dwelling units.

J. Commercial campground.

K. Adult book store, adult motion picture theater, massage establishment or cabaret.

L. Group care facility, large. [*Ord. 2-88*]

M. Group care facility, small. [*Ord. 2-88*]

N. Bed and breakfast. [*Ord. 2010-1*]

O. Convenience store. [*Ord. 2010-1*]

P. Riding stables. [*Ord. 2010-1*]

Q. Day care and day care center. [*Ord. 2010-1*]

R. Health and fitness facility. [*Ord. 2010-1*]

S. Shopping center and strip shopping center. [*Ord. 2010-1*]

(*Ord. 4-81*, 12/28/1981, §830; as amended by *Ord. 2-88*, 8/5/1988, §§9 and 10; and by *Ord. 2010-1*, 4/8/2010)

§27-804. Lot Area, Width, Lot Coverage, and Height Requirements.

Use	Minimum Lot Area	Minimum Lot Width	Maximum Lot Coverage	Maximum Building Height
Agriculture	none	none	10%	35 feet
Dwelling units other than single-family attached	30,000 sq. ft. per unit	100 feet	10%	35 feet
Business establishments, industry, churches, schools, and public buildings	20,000 sq. ft.	80 feet	25%	35 feet
Single-family attached dwellings	8,000 sq. ft. [*Ord. 2010-1*]	30 feet [*Ord. 2010-1*]	35%	35 feet
All other uses	1 acre	125 feet	10%	35 feet.

The maximum lot coverage may be increased up to 20 percent if the property owner incorporates a ground water recharge system for impervious coverage areas of a type which will have the net effect equal to a 10 percent lot coverage or less. The approval of the ground water recharge system shall be by the Zoning Officer in consultation with the Township Engineer. [*Ord. 2004-1*]

(*Ord. 4-81*, 12/28/1981, §840; as amended by *Ord. 2004-1*, 6/10/2004, §1; and by *Ord. 2010-1*, 4/8/2010)

§27-805. Minimum Yard Requirements.

Use	Front Yard	Each Side Yard	Side Yard with Abutting Street	Rear Yard
Agriculture, except structures	none	none	none	none
Structures customarily associated with animal husbandry	50 ft.	100 ft.	50 ft.	100 ft.
Compost heaps and similar uses and/or vector promoting uses	50 ft.	100 ft.	50 ft.	100 ft.
Residential uses [*Ord. 2010-1*]	40 ft.	20 ft.	40 ft.	40 ft.
Business establishments, industry, churches, schools, and public buildings	30 ft.	10 ft.	30 ft.	30 ft.
Accessory uses and structures	50 ft.	5 ft.	10 ft.	10 ft.
All other uses, including structures associated with agriculture	50 ft.	30 ft.	50 ft.	50 ft.

(*Ord. 4-81*, 12/28/1981, §850; as amended by *Ord. 5-84*, 10/5/1984, §8)

§27-806. Other Applicable Requirements.

1. *Single-Family Attached Dwellings*. A maximum density of 1.5 dwelling units per gross acre is applicable. The side yard requirements are applicable only to the unattached sides. A legally binding mechanism for assuring the maintenance of the sewage disposal system shall be required.

2. *Gasoline Service Stations*. All gasoline service stations shall be arranged to permit all services to be rendered entirely within the lot lines. No gasoline or oil pumps

shall be placed within the minimum yards required by §27-805.

(*Ord. 4-81*, 12/28/1981, §860)

Part 9

Environmental Protection District

§27-901. Types of Environmental Areas Protected.

Land with steep slopes, in floodplains, or with a high water table is deemed to have characteristics for which the following special regulations are needed. The Official Zoning Map indicates the general location of these environmentally sensitive areas within Heidelberg Township.

(*Ord. 4-81*, 12/28/1981, §910)

§27-902. Determination of Areas of Steep Slope, Floodplains, or High Water Table Areas.

Where the Official Zoning Map indicates that the lot for which a building permit is being sought or the lot proposed for subdivision may lie wholly or partially in an area of steep slope, a floodplain, or a high water table area, the Zoning Officer shall make a determination of the extent to which the lot is characterized by one or more of these characteristics. He shall make this determination by scaling off distances from the Official Zoning Map, unless more precise information, the accuracy of which is certified by a registered professional engineer or registered surveyor, is provided by the applicant. The Zoning Officer may consult the Township Engineer on the accuracy of all information submitted. Once the Zoning Officer is satisfied that the information submitted is accurate, he shall use the more precise information to make his determination.

(*Ord. 4-81*, 12/28/1981, §920)

§27-903. Regulations for Areas of Steep Slope.

Upon determination that the lot under consideration is partially or wholly an area of steep slope, the following regulations shall apply:

A. Where (1) the lot only partially is a steep slope, (2) there are no earthmoving activities or removal of vegetation proposed for the steep slope portion of the lot, and (3) Pennsylvania Department of Environmental Protection's standards for on-lot sewage disposal will be met on other soils of the lot, only the requirements contained in other Sections of this Chapter for the use proposed and for the district in which the lot lies shall be applied. [*Ord. 2010-1*]

B. Where (1) the lot is wholly a steep slope, (2) earthmoving activities or removal of vegetation are proposed for any portion of the lot determined to be a steep slope, or (3) any portion of a steep slope is to be used to meet Pennsylvania Department of Environmental Protection's standards for on-lot sewage disposal, the minimum lot area requirements shall be 10 acres in the Blue Mountain Preservation District and 3 acres in all other districts. [*Ord. 2010-1*]

C. Where it is determined by the Zoning Officer that there is a slope of 25 percent or greater, no earthmoving activity or removal of vegetation except saleable timber shall be permitted on that portion of the lot.

D. *Lot Width, Lot Coverage, and Height Requirements*.

Use	Minimum Lot Width	Maximum Lot Coverage	Maximum Building Height
All uses	210 ft.	10%	35 ft.

[*Ord. 5-84*]

E. *Minimum Yard Requirements*.

Use	Front Yard	Each Side Yard	Side Yard with Abutting Street	Rear Yard
All uses	60 ft.	40 ft.	60 ft.	60 ft.

[*Ord. 5-84*]

(*Ord. 4-81*, 12/28/1981, §930; as amended by *Ord. 5-84*, 10/5/1984, §§9 and 10; by *Ord. 2007-1*, 3/8/2007, §2; and by *Ord. 2010-1*, 4/8/2010)

§27-904. Regulations for Floodplains.

Upon determination that the lot under consideration is partially or wholly within a floodplain, the following regulations shall apply to the portion within the floodplain:

A. *Permitted Uses*. The following open space uses shall be permitted within the floodplain to the extent that they are not prohibited by other provisions of this Chapter and provided that they do not require structures, fill, or storage of materials or equipment:

(1) Agriculture.

(2) Animal husbandry.

(3) Nurseries, greenhouses, and related horticultural uses.

(4) Outdoor recreation areas such as parks, playgrounds, picnic grounds, golf courses, or tennis courts.

(5) Wildlife sanctuary, nature center, outdoor education laboratory, woodland preserve, or arboretum.

(6) Game farm, fish hatchery, hunting and fishing preserves, or similar uses designed for the protection or propagation of wildlife.

(7) No more than three-quarters of the area necessary to meet the minimum lot area and yard requirements of the underlying district.

(8) Parking areas and roads to serve other permitted uses in the floodplain or where required by the regulations of the underlying district.

(9) Uses related to residential uses such as lawns, gardens, parking areas and play areas.

B. *Special Exceptions*. The following uses shall be granted or denied as special exceptions by the Zoning Hearing Board, as provided for in §27-1108 of this Chapter, pursuant to the standards for special exceptions in floodplains set forth in §27-1108.5. No use permitted as a special exception shall increase the elevation of the 100-year frequency flood more than 1 foot at any point. The Zoning Hearing Board may attach any reasonable conditions and safeguards in addition to those expressed in this Chapter, as it may deem necessary to implement the purpose of

this Chapter, and to protect the public health, safety, morals, and the general welfare.

(1) Accessory uses customarily incidental to any of the foregoing permitted uses.

(2) Circuses, festivals and similar transient amusement enterprises.

(3) Drive-in theaters, including parking areas, roadside stands and signs.

(4) Extraction of sand, gravel, and other materials.

(5) Railroads, roads, bridges, and utility transmission lines.

(6) Sealed water supply wells and water pipelines.

(7) Storm and sanitary sewers, pumping stations and treatment plants.

(8) Storage yards for equipment, machinery, or materials.

(9) Grading or fill provided that the effect is not to alter substantially the cross-sectional profile of the stream basin at the point of the proposed use and that a permit is obtained from the Pennsylvania Department of Environmental Protection. [*Ord. 2010-1*]

(10) Dams and impoundment basins where approved by the Pennsylvania Department of Environmental Protection. [*Ord. 2010-1*]

(11) Single-family residences on lots of record where a portion of the property not in the floodplain will not yield a reasonable return of groundwater recharge because of specific circumstances of topography, lot size, or lot shape. [*Ord. 2010-1*]

C. *Submission of Materials for Special Exceptions*. Upon receiving an application for a special exception, the Zoning Hearing Board may require the applicant to furnish such of the following material as is deemed necessary by the Board:

(1) Plans drawn to scale showing the nature, location, dimensions and elevation of the lot and existing and proposed uses; photographs showing existing uses and vegetation; soil types and other pertinent information.

(2) A series of cross-sections of suitable intervals along the lot shoreline, showing the stream channel or the lake or pond bottom, and elevation of adjoining land areas, to be occupied by the proposed uses, and high water information.

(3) Profile showing the slope of the bottom of the channel, lake, or pond.

(4) Specifications for building materials and construction, flood proofing, filling, dredging, storage, water supply, and sanitary facilities.

(5) Computation of the increase, if any, in the height stages which would be attributable to any proposed uses.

(*Ord. 4-81*, 12/28/1981, §940; as amended by *Ord. 2010-1*, 4/8/2010)

§27-905. Regulations for High Water Table Areas.

Upon determination that the lot under consideration is partially or wholly within a high water table area, the following regulations shall apply:

A. Where (1) the lot is only partially within a high water table area, (2) there

are no structures proposed for the high water table portion of the lot, and (3) Pennsylvania Department of Environmental Protection's standards for on-lot sewage disposal will be met on other soils of the lot, only the requirements contained in other Sections of this Chapter for the use proposed and for the district in which the lot lies shall be applied. [*Ord. 2010-1*]

B. Where (1) structures are proposed for the high water table portion of the lot, or (2) any portion of a high water table area is to be used to meet Pennsylvania Department of Environmental Protection's standards for on-lot sewage disposal, the minimum lot area requirement shall be 5 acres in the Blue Mountain Preservation District and 3 acres in all other districts. [*Ord. 2010-1*]

C. All public utilities and facilities such as sewer, gas, electrical, and water systems located in a high water table area shall be constructed to minimize or eliminate infiltration of groundwater into the systems.

D. *Lot Width, Lot Coverage, and Height Requirements*.

Use	Minimum Lot Width	Maximum Lot Coverage	Maximum Building Height
All uses	210 ft.	10%	35 ft.

[*Ord. 5-84*]

E. *Minimum Yard Requirements*.

Use	Front Yard	Each Side Yard	Side Yard with Abutting Street	Rear Yard
All uses	60 ft.	40 ft.	60 ft.	60 ft.

[*Ord. 5-84*]

(*Ord. 4-81*, 12/28/1981, §950; as amended by *Ord. 5-84*, 10/5/1984, §§11 and12; by *Ord. 2007-1*, 3/8/2007, §2; and by *Ord. 2010-1*, 4/8/2010)

§27-906. Appeals to Zoning Hearing Board.

1. *Appeal of Zoning Officer's Determination of Environmental Protection District*. Where the Zoning Officer's determination of the extent to which a lot or lots lie within the Environmental Protection District is appealed to the Zoning Hearing Board, as provided in §27-1103 of this Chapter, the appellant shall bear the burden of establishing, through actual field surveys or otherwise, that such conditions do not exist on the land in question.

2. *Variances*. Where the regulations of the Environmental Protection District cause a hardship to a particular landowner, a variance may be sought pursuant to §27-1109 of this Chapter.

(*Ord. 4-81*, 12/28/1981, §960)

Part 10

Supplementary Regulations

§27-1001. General Regulations.

1. *Placement of Accessory Uses and Structures*. The placement of a private garage, accessory parking area or other accessory building or use shall be subject to the following requirements:

A. Nothing contained herein shall prevent the construction of a private garage as a structural part of a main dwelling, provided that when so constructed, the exterior garage walls shall be regarded as the walls of the main dwelling in applying the front, rear, and side yard regulations of this Chapter.

B. No private garage or other accessory building shall be within a required front yard or side yard in any district (as defined by §§27-505, 27-605, 27-705, and 27-805).

C. Any access driveway may be located within a required side yard and required front yard.

D. Accessory buildings and uses shall be on the same lot with the main building or buildings or on an immediately adjacent lot in the same ownership.

E. Required accessory parking areas and truck loading spaces shall have safe and adequate access to a public street either by a driveway on the same lot or by means of a permanent easement across an adjoining lot.

F. No required accessory parking area or off-street truck loading space shall be encroached upon by buildings, open storage, or by other uses.

G. Accessory private garages may be constructed within or under any portion of a main building.

H. A mobile home may be placed on a lot as a temporary dwelling unit for a period not to exceed 1 year but must comply with the current UCC regulations. The use of the mobile home as a temporary dwelling shall only be used while the existing structure is undergoing major renovations, construction or reconstruction. [*Ord. 2010-1*]

2. *Small Lots of Record*. Notwithstanding the lot area, lot width and lot coverage requirements of any district listed in Parts 5, 6, 7, and 8, a building or structure constituting a permitted, accessory, or special exception use may be erected on any lot with less than the required lot width or lot area if separately owned and not adjacent to any lot in the same ownership at the effective date of this Chapter, provided that the lot is not less than 10,000 square feet, has a minimum width of 60 feet, that the aggregate width of the side yards be not less than 30 percent of the lot width, and that the narrower side yard be not less than 5 feet in width. [*Ord. 5-84*]

3. *Height*.

A. Nothing herein contained shall restrict the height of a church spire, cupola, dome, mast, belfry, clock tower, radio or transmission line, tower, flagpole, chimney, flue, water tank, elevator or stair bulkhead, stage tower, scenery loft, smoke stack, silo, well drilling rig, or similar structure. No structure shall:

(1) Have a lot coverage at the base in excess of 10 percent of the lot area.

(2) Be used for residency or tenancy purposes.

(3) Have any advertising signs or device inscribed upon or attached to such structure.

[*Ord. 1-86*]

B. No private garage or similar accessory building shall exceed the height of the main building on the lot.

4. *Yards and Fences*.

A. *Front Yard*. The space in a required front yard shall be open and unobstructed except for an unroofed balcony or terrace projecting not more than 8 feet or steps giving access to a porch or first floor entry door.

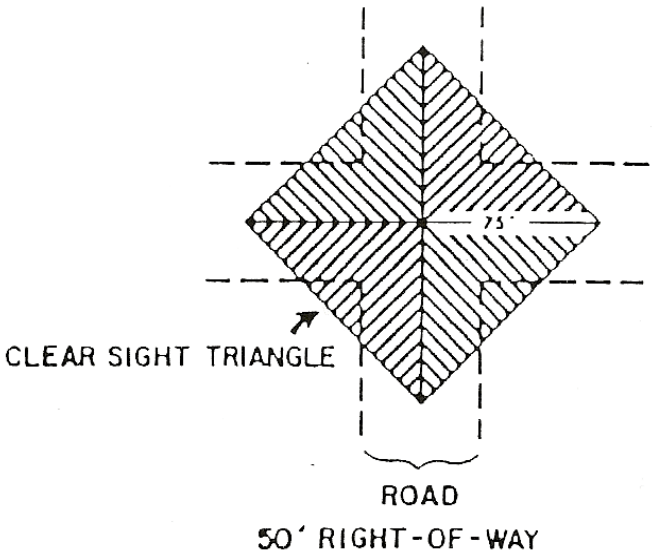
B. *All Yards*. Every part of a required yard shall be open to the sky unobstructed by structure except for retaining walls and for accessory buildings in a rear yard, and except for the ordinary projections of sills, belt courses, and for ornamental features projecting not to exceed 6 inches.

C. Open or lattice enclosed fireproof fire escape or stairways as required by law, which project into a yard not more than 4 feet and the ordinary projections of chimneys and pilasters shall be permitted when placed so as not to obstruct light and ventilation.

D. *Fences*. Fences are exempt from front, side, and rear yard setbacks established for other accessory structures, except in that the standards of §27-1001.6 which provide for adequate visibility shall apply.

5. *Through Lots*. Where a lot extends through from street to street, the applicable front yard regulations shall apply on both street frontages.

6. *Corner Clearance*. On a corner lot, within the triangular area (shown in the following figure) determined as provided in this Section, no wall or fence or other structure shall be erected to a height in excess of 2 feet; and, no vehicle, object or any other obstruction of a height in excess of 2 feet shall be parked or placed; and no hedge, shrub or other growth, shall be maintained at a height in excess of 2 feet, marking signs and trees whose branches are trimmed away to a height of at least 10 feet above the curb. Such triangular area shall be determined by the intersecting street centerline and a diagonal connecting two points, one at each street centerline, each of which points is 75 feet from the intersection of such street centerlines.



7. *Special Setbacks from Quarries*. No structure shall be erected closer to the near edge of a quarry than 200 feet plus 1 foot for every foot that the maximum depth of the quarry exceeds 100 feet. The depth of the quarry shall be determined by measuring from the absolute highest to absolute lowest point of the quarry.

8. *Private Garages or Private Parking Area in the Rural District, Agriculture Preservation District, Blue Mountain Preservation District, Environmental Protection Districts and Residential Lots in the Rural Village Districts*. [*Ord. 2007-1*]

A. A private garage or private parking area may be utilized only as an accessory to the main use, except that no more than two parking spaces in a private garage accessory to a one family or two family dwelling may be rented to a person who is not a resident of the main building.

B. Not more than one commercial vehicle with four or more axles, or two commercial vehicles with less than four axles may be parked on any lot and then only subject to the following requirements:

(1) There shall be a minimum lot size of 1.00 acre exclusive of any road right-of-way.

(2) Each commercial vehicle shall be placed in a designated parking area of stone to be located not closer than 25 feet from any lot line or street right-of-way line, or 100 feet from any neighboring residence, whichever is the greater.

(3) Any application for permit pursuant to this Section shall be accompanied by a site plan detailing the layout and dimensions of the parking area. The application procedure pursuant to this Section shall be as set forth in §27-1203. [*Ord. 2010-1*]

(4) Only those commercial vehicles operated by a resident or owner of the lot shall be parked on that lot.

[*Ord. 1-89*]

C. No major recreational equipment shall be parked or stored within 15 feet of the right-of way of any road nor within the sight distance triangle as determined by the Township Roadmaster, except in an existing building or car port or structure designed for that purpose. Only one recreational vehicle can be stored in the front yard. For the purposes of this regulation, major recreational equipment is defined as including boats and boat trailers, travel trailers, pick up trailers, or coaches (designed to be mounted on automotive vehicles), motor homes, tent trailers, and the like. No such equipment shall be used for living, sleeping, or house-keeping purposes except for temporary arrangements not to exceed 30 days in a year. [*Ord. 2010-1*]

D. Nothing in this Section shall be construed to regulate or to limit the use, storage or parking of farm related vehicles off the public right-of-way. [*Ord. 1-89*]

9. *Private Swimming Pool (Noncommercial)*. A private swimming pool which is designed to contain a water depth of 24 inches or more shall not be located, constructed or maintained on any lot or land area, except in conformity with the following requirements. A permit shall be required to locate and construct a private swimming pool.

A. Such pool shall be located in a rear yard only.

B. Pools shall be placed no closer than 10 feet from the side and rear lot lines. In cases where the side and rear lot lines coincide or abut street right-of-way lines, such pools shall not be located than the 30 feet from the street right-of-way lines. No pool shall be constructed within 10 feet of any overhead electrical wires. [*Ord. 2010-1*]

C. Such pool shall not occupy more than 25 percent of the rear yard area, including all private garages or other accessory buildings or structures.

D. Every private swimming pool located on a lot of 2 acres or more shall not be located closer than 40 feet from any lot line.

E. If the water for such pool is supplied from a private well, there shall be no cross-connection with a central water supply system.

F. If the water for such pool is supplied from a central water supply system, the inlet shall be above the overflow level of said pool.

G. No permit shall be granted for the installation or construction of such swimming pool unless the plans shall meet the minimum construction requirements of the Township. The drainage of such pool shall be adequate and shall not interfere with the public water supply system, with existing sanitary facilities or with the public streets.

H. No loudspeaker or amplifying device shall be permitted which will project sound beyond the bounds of the property or lot where such pool is located.

I. No lighting or spot lighting shall be permitted which will shine directly beyond the bounds of the property or lot where such pool is located.

[*Ord. 2-90*]

(*Ord. 4-81*, 12/28/1981, §1010; as amended by *Ord. 5-84*, 10/5/1984, §§13 and 14; by *Ord. 1-86*, 4/4/1986, §3; by *Ord. 1-89*, 7/7/1989, §§3–5; by *Ord. 2-90*, 9/13/1990; by *Ord. 2007-1*, 3/8/2007, §§1–4; and by *Ord. 2010-1*, 4/8/2010)

§27-1002. Parking and Truck Loading Space Requirements.

1. *Off-Street Parking*. Off-street parking spaces for the storage or parking of motor vehicles shall be provided pursuant to the following provisions:

A. Parking areas shall be marked off into parking spaces, each with a minimum width of 10 feet, and a minimum area of 200 square feet, exclusive of driveways and turning areas.

B. A minimum number of parking spaces shall be provided for each use as indicated in the following schedule:

Type of Use	Minimum of One Parking Spaces for Each
Residential Uses	
Residential dwelling	2 spaces per dwelling unit
Rooming house, group home and bed and breakfast	1 per bedroom
Conversion of single-family detached dwelling to two dwelling units	2 spaces per dwelling unit
Multi-family dwelling	2 spaces per dwelling unit
Commercial Uses	
Automobile repair, gasoline filling and washing facilities	400 square feet of gross and floor and ground area devoted to repair and service facilities in addition to areas normally devoted to automobile storage and 1 per employee on largest shift
Automobile, boat and trailer sales	500 square feet of gross sales floor area
Low impact home-based business	1 space for each 300 square feet of floor area dedicated to the business plus two for the home
Adult Facility	75 square feet of net floor space
Carpeting, drapery, floor-covering and wall covering sales	500 square feet of gross sales floor area
Convenience stores	75 square feet of gross floor area
Food markets and grocery stores	100 square feet of floor area for public use plus 1 per each employee on 2 largest shifts
Funeral homes	100 square feet of gross floor area, 1 per each employee, and 1 per each piece of mobile equipment such as hearses and ambulances
Furniture sales	500 square feet gross sales floor area
Hotel, motel, tourist home, bed and breakfast	Guest sleeping room and 1 per each employee on two largest shifts

Type of Use	Minimum of One Parking Spaces for Each
Mini warehouses	per each 25 units plus 1 per 250 square feet of office space plus 2 per any resident manager
Office buildings	300 square feet of gross floor area
Professional offices of physicians, veterinarians, dentists, etc.	6 spaces per each doctor
Research institute or laboratory	1 per each employee
Retail store or shop	200 square feet of gross (except those listed above) floor area of display area or sales area and 1 per each employee on 2 largest shifts
Eating establishments	80 square feet of gross floor area and ground area (excluding parking) devoted to patron use on the property or 3 seats whichever requirement is greater
Sit-down restaurant	4 seats plus 1 per each employee on largest shift
Drive-through and/or fast-food restaurant with seating	2 seats and 1 per each 2 employees
Drive-through and/or fast-food restaurant without seating	⅙ window/serving station plus 1 per each employee on largest shift
Shopping centers or malls	182 square feet of gross leasable floor area
Other commercial buildings	400 square feet of gross floor area
Industrial Uses	
Industrial and heavy manufacturing establishments	2 employees on the 2 largest shifts or at least 1 space per each 1,000 square feet of gross floor area, whichever is the greatest number
Warehousing	employee on the 2 largest shifts
Recreation Uses	
Amusement arcade	80 square feet of gross floor area
Athletic field	4 seats of spectator seating; however, if no spectator seating is provided, the applicant shall demonstrate to the satisfaction of the Township that a sufficient parking area shall be provided on the site to serve all users of the site
Bowling alley/billiard room	½ lane or table (i.e., 2 spaces per lane or table) and 1 per each 2 employees
Campgrounds	per campsite, plus 1 per employee, plus 50% of the spaces normally required for accessory uses

Type of Use	Minimum of One Parking Spaces for Each
Golf course	⅙ hole, plus 1 per employee, plus 50% of the spaces normally required for accessory uses
Golf driving range	1 per tee and 1 per employee
Miniature golf course	½ hole and 1 per employee
Riding school or horse stable	2 rental stalls plus 1 per every 4 seats of spectator seating
Picnic area	per table
Skating rink	4 persons of legal occupancy
Swimming pools (other than one accessory to a residential dwelling)	4 persons of legal occupancy
Tennis or racquetball clubs	¼ court plus 1 per employee plus 50% of the spaces normally required for accessory uses
Social and Institutional Uses	
Auditorium, church, theater and other such places of public assembly	200 square feet but not less than 1 space per each 4 seats
Clubs, lodges and other similar places	1 space for each 4 members
Nursing, rest or retirement homes	3 accommodations (beds) in addition to those needed for doctors and support staff
Hospital, sanitarium	spaces shall be provided for visitors, at the rate of at least 1 space per each 1.5 accommodations (beds). Such spaces shall be in addition to those necessary for doctors and other personnel
Schools below grade ten including commercial day care and kindergarten	6 students enrolled
Schools, tenth grade and above, including colleges	3 students enrolled
Vocational training and adult education facilities	1.5 students enrolled
Community center, library and other public buildings	400 square feet of net floor space

[*Ord. 2010-1*]

C. For those uses not specifically listed, the requirements for the most similar use listed in paragraph .B shall be applied.

D. Where the uses are mixed, total requirements shall be the sum of the requirements of the component uses computed separately.

E. In all districts, when required parking spaces results in the requirement of a fractional space, any fraction shall be construed as requiring a full space.

F. An overflow parking lot shall be provided in all residential subdivision and land developments in the R-Rural District and RV-Rural Village Districts. The amount of parking necessary shall be calculated based on the number of existing or proposed dwelling units with a minimum of two spaces per dwelling unit. The parking area shall be within the subdivision or land development boundaries and shall have access to an approved public street. [*Ord. 2007-1*]

2. *Required Off-Street Truck Loading Spaces*.

A. Every building or structure, lot or land hereafter put into use for business or industrial purposes or for a hospital and which has an aggregate net floor area of 5,000 square feet or more in any district where such uses are permitted, shall be provided with off-street truck loading spaces in accordance with the following schedule:

Square Feet of Aggregate Net Floor Area Devoted to Such Use	Required Number of Off-street Truck Loading Spaces
5,000 to 25,000 sq. ft.	1
25,001 to 40,000 sq. ft.	2
40,001 to 100,000 sq. ft.	3
Each additional 60,000 sq. ft.	1 additional

B. An off-street truck loading space shall have a minimum width of 10 feet, a minimum length of 50 feet, and minimum clear height of 14 feet including its access from the street.

C. All truck loading spaces shall be designed so that maneuvering of trucks to reach the loading spaces shall not preempt the use of required off-street parking space or intrude into the street right-of-way.

3. *Parking Area Design Standards*.

A. All lighting fixtures used to illuminate parking areas shall be arranged to prevent glare onto adjoining properties.

B. The number of off-street parking spaces provided for an existing use may not be reduced below the minimum standards of this Chapter.

C. The required off-street parking spaces shall be located on the same lot as the principal use served. Where this requirement cannot be met, the spaces shall be located within 300 feet of the principal use. [*Ord. 2-98*]

D. No parking area shall be designed so as to require vehicles to back out of the area directly onto a public street.

E. Vehicular entrances and exits shall be clearly visible from the street and not within 75 feet of the intersection of the street lines at a street intersection.

(*Ord. 4-81*, 12/28/1981, §1020; as amended by *Ord. 2-98*, 4/9/1998, §10; by *Ord. 99-2A*, 11/11/1999, §§7 and 8; by *Ord. 2007-1*, 3/8/2007, §§3 and 4; and by *Ord. 2010-1*, 4/8/2010)

§27-1003. Sign Regulations.

1. *Declaration of Legislative Intent*. In expansion of the general intent and

community development objectives found in Part 1 of this Chapter, the primary purpose of the sign regulations is as follows:

A. Recognize that signs perform an important function in identifying properties, businesses, services, residences, events, and other matters of interest to the public.

B. Set standards and provide controls that permit reasonable use of signs while restricting the potential adverse visual effects of signs on the character of the Township.

C. Control the size, number, height, location, and illumination of signs to reduce potential hazards caused by glare or obstruction of visibility, and to reduce visual clutter that results from competition among signs.

D. Encourage signs that are attractively designed in order to enhance the economic value as well as the visual character of the Township.

E. Establish criteria to encourage signs that are compatible with their surroundings, appropriate to the type of activity to which they pertain, complementary to the architecture of the buildings involved, expressive of the identity of individual proprietors or of an integrated development's identity and easily readable in the circumstances in which they are seen.

F. Signs must not be permitted if they are in any way a hazard to vehicular or pedestrian traffic either directly or indirectly by virtue of exposing a pedestrian to danger as a result of concealing the presence of a pedestrian to vehicular traffic.

G. Signs must be regulated so as to minimize their negative impact on vehicular traffic. They must not cause excessive diversion of a driver's attention to the safe operation of his or her vehicle. They must not cause confusion on the part of the vehicle operator and they must not constitute any type of obstruction or distraction for the motoring public.

H. Signs have a direct impact on property values. It is the intent of these regulations to insure that the impact is positive. A negative impact would not be in the best interest of the general welfare of the community.

I. Signs convey the character of an area. It is the intent of these regulations to maintain signage that is appropriate to the various districts of the community, including, but not limited to, residential, commercial, industrial and recreational.

J. It is the goal of these regulations to enhance the community aesthetics as a means to promote economic development. A positive visual environment will promote the economic health of a community which in turn serves the citizens of the community.

2. *Definition of Terms*. Unless the context of this chapter clearly shows otherwise the following words and phrases shall denote the meanings herein expressed. The singular shall include the plural, the present shall included the future tense.

Directly illuminated sign (internally illuminated)–a sign designed to give forth artificial light directly (or through transparent or translucent material) from a source of light within such sign, including but not limited to neon and exposed lamp signs. Signs may be illuminated by direct lighting my shall have such lighting shielded so no direct light will shine on abutting properties or in

the normal line of vision of the public using the streets or sidewalks.

Flashing and moving signs–a flashing or moving sign is an illuminated sign on which the artificial light is not maintained stationary and constant in intensity and color at all times when in use. This type of sign is prohibited in all districts except as specifically permitted under subsection .3.C(1) of this Section.

Freestanding sign–a self-supporting sign resting or supported by poles or standards on the ground. The height of freestanding signs shall be measured from the middle of the top of the sign to the ground.

Indirected illuminated sign (externally illuminated)–a sign illuminated with a light so shielded that no direct rays therefrom are visible elsewhere on the lot where said illumination occurs. No flood or spot lights shall be mounted higher than 18 feet above ground level except for billboards.

Off-premises sign–a sign which directs attention to a person, business, profession, product, home occupation or activity not conducted on the same lot.

On-premises sign–a sign which directs attention to a person, business, profession, product, home occupation or activity conducted on the same lot.

Parallel sign–a sign mounted parallel to a wall or other vertical building surface. Parallel signs shall not extend beyond the edge of any wall or other surface to which they are mounted, nor project more than 18 inches from its surface.

Projecting sign–a sign mounted on a wall or other vertical building surface other than a parallel sign. Projecting signs shall not project more than 18 inches from the wall or surface to which they are mounted nor in any way interfere with normal pedestrian or vehicle traffic, nor project over or encroach within any street right-of-way.

Roof sign–a sign erected upon the roof or parapet of a building. No sign except such directional devices as may be required by the Federal and State aviation authorities shall be placed, inscribed, or supported upon the roof or upon any structure which extends above the roof or parapet of any building.

Window sign–a temporary or permanent sign which is oriented to the public right-of-way, is legible to persons in vehicles, and is located on the outside or inside of a window to direct attention to an activity conducted on the same lot.

3. *General Requirements*. Signs shall be permitted in all districts in compliance with the requirements of this Chapter.

A. *Permit Required*. An application for a sign permit shall be submitted to the Zoning Officer prior to erecting, affixing, attaching or installing any sign larger than 2 square feet on or to any building, structure or property. No permit shall be required to repaint any sign provided there are no changes or alterations whatsoever. The application shall include:

(1) A site plan showing the location of the sign in relation to buildings, structures, property lines and public or private rights-of-way. The width of street frontage(s) at the legal right-of-way on the subject property shall be shown.

(2) A drawing of the proposed sign showing the specific dimensions of all elements of the sign, the specific copy, lettering, words, symbols and designs to be displayed, along with a written explanation of any illumination or unusual feature of the sign.

B. *Construction Standards*. Construction, choice of materials and installation of signs shall be in accordance with the Township building construction standards.

C. *Prohibited Signs*. The following types of signs or illumination of signs are prohibited in the Township:

(1) Flashing, revolving, non-stationary or animated signs. The only animated signs permitted shall be public service information signs (to promote items of general interest in the community, such as time, temperature, date and atmospheric conditions; such signs are permitted in nonresidential districts only), and illuminated, revolving barber poles in conjunction with a barbershop.

(2) Festoon lighting or beacon lights.

(3) Roof signs.

(4) Trailer signs.

(5) Illuminated temporary signs.

(6) Vehicles to which a sign is affixed in such a manner that the carrying of such a sign or signs no longer is incidental to the vehicle's primary purpose but becomes a primary purpose in itself.

(7) Signs affixed with adhesives.

(8) Signs advertising residential or commercial developments outside of Heidelberg Township.

(9) Signs advertising a use no longer in existence or a product no longer available shall be removed or changed to advertise the new use or product immediately after cessation of the original use. Signs, once removed, shall be replaced only with signs in conformance with this Chapter.

(10) A multi-vision sign, which has rotating cross-section members that change the sign's display in part or in its entirety, and flashing, moving or illuminated signs including LED signs shall be prohibited.

(11) No outdoor advertising sign shall be erected less than 6 feet nor more than 30 feet from a street right-of-way line.

(12) Illumination of all outdoor advertising signs shall be by external illumination only. In no event shall any sign have flashing or intermittent lights, nor shall the lights be permitted to rotate or oscillate. No direct ray of light shall extend beyond the face of the sign. An outdoor advertising sign or its structure shall only be illuminated from dusk until midnight.

(13) Signs which in any way simulate official, functional, directional or warning sings erected or maintained by the United States government, the Commonwealth of Pennsylvania, county or municipality thereof, or by any railroad or public utility or similar agency concerned with the protection of public health or safety.

(14) Signs advertising a no impact home based business.

(15) Signs attached to utility poles, traffic sign posts or other similar device.

(16) Signs containing information on it which states or implies that a property may be used for any purpose not permitted under this Chapter.

D. *Prohibition of Hazards*. Signs shall be so designed and located that they shall not create a hazard to vehicular traffic by any of the following:

(1) Obscuring necessary visibility:

(a) Sign locations, sizes, types and colors shall comply with the Pennsylvania Department of Transportation standards and not conflict with street, traffic and/or directional signs.

(b) Signs shall comply with the clear sight triangle regulations of the Subdivision and Land Development Ordinance [Chapter 23].

(2) Confusion with official street and/or traffic signs.

(3) Confusion with traffic control devices by reason of color, location, shape or other means.

(4) Creation of motion, glare or excessive brightness that may interfere with drivers' vision or be unnecessarily distracting.

E. *Public Right-of-Way*. No permanent or temporary sign, other than official street signs, shall be erected or maintained within the legal right-of-way of any public road in the Township. No sign projecting over a public walkway shall be less than 8 feet above the walk level at its lower edge.

F. *Banner Signs*.

(1) *Banners Across Pennsylvania Department of Transportation Roads*. Under current State law, banners across State highways must receive a permit from the State Department of Transportation, through the Township. Permit applications are available at the Township building for a banner. Banners cannot be erected for the promotion of a private business. A company name or logo is also not permissible. Because the law requires a resolution from the Board of Supervisors of the Township for the approval of a banner, a lead time of 5 weeks is required for the application.

(2) *Banners Across Township Roads*. Banners across Township roads are prohibited.

G. *Removal of Signs*.

(1) A sign shall be found to be in violation of this Chapter, and may be required to be ordered removed by the Zoning Officer, under any of the following circumstances:

(a) The sign has not been maintained in good condition and safe repair and has deteriorated to the point of becoming a potential public safety hazard. The Zoning Officer shall specify a period of time (but in no case longer than 10 days) in which the owner of the sign may repair or rehabilitate the sign, thereby effecting correction of the safety hazard.

(b) A sign is erected without an approved use and occupancy permit and does not comply with the requirements of this Chapter.

(2) Signs in violation of this Chapter shall be removed by the property

owner within 5 days after receipt by first class mail of an order to do so by the Township. Failure to do so will result in the commencement of enforcement proceedings.

(3) Signs in violation of this Chapter not placed by the property owner advertising services or items such as reduced health care, employment or other items will be immediately removed.

H. *Illumination*.

(1) Signs may be illuminated, unless otherwise specified herein, only to the extent that is necessary to allow them to be seen and read at night at a distance not to exceed 500 feet for signs of 20 square feet or more in area, and 150 feet for signs less than 20 square feet in area.

(2) Floodlighting shall be so shielded that the source of the light shall not be visible from any point off the lot on which the sign is located and that only the sign is directly illuminated.

I. *Off-premises Signs*. Off-premises signs are not permitted except as follows. All off-premises signs require the written permission of the landowner.

(1) *Special Event Signs*. Temporary non-illuminated signs directing attention to temporary exhibits, shows or sales, provided that the sign area does not exceed 15 square feet and the sign complies with all other regulations of the district in which it is located. Such signs shall not be displayed more than 30 days prior to the advertised event and must be removed no later than 7 days following the event.

(2) *Service Signs*. Non-illuminated signs directing patrons, members or an audience to service clubs, churches or other nonprofit organizations, provided that the area of such signs does not exceed six square feet. Such signs shall indicate only the name of the organization, and the place, date and time of meetings.

(3) *Official Signs*. Memorial or historical markers, official signs directing traffic, signs identifying communities and street names, legal notices and warnings, and other official signs authorized or erected by appropriate governmental authorities.

(4) Businesses from Heidelberg Township and directly adjacent municipalities are permitted off-premises signs directing patrons to the business location subject to the following restrictions:

(a) Size not to exceed 9 square feet.

(b) Property owner is co-permittee and must co-sign on the application.

(c) Only one off-premises sign is permitted per property. A property is defined as a tax parcel.

(d) Off-premises signs must be placed no closer than 10 feet from the right-of way.

(e) The sign location cannot interfere with the sight triangle as determined by the Township Roadmaster or Township Engineer.

(f) Off-premises signs cannot be illuminated.

(g) These signs must comply with all other Sections of this Chapter.

[*Ord. 2011-1*]

J. *Billboards*.

(1) Off-premises advertising signs shall be:

(a) Restricted to one panel which shall provide only one display face.

(b) Not to exceed 672 square feet of sign display area.

(c) The display face shall be toward oncoming traffic in the lane of the roadway closest to the sign.

(2) *Setbacks and Spacing*. Billboards shall be:

(a) Set back at least 45 feet from the street right-of-way measured from the closest point of the sign.

(b) Set back no more than 100 feet from the street right-of-way measured from the furthest point of the sign.

(c) Set back at least 50 feet from the adjoining property, (i.e., side yard and rear yard setbacks) to the nearest point of the sign.

(d) Spaced no closer than 500 feet from another billboard measured between the closest points of the sign.

(e) Height of sign shall be no greater than 35 feet from the road grade, or from ground level, to the top of the sign, which ever is less.

(f) The bottom of any display area shall be a minimum of 10 feet from the road grade, or from ground level, to the top of the sign, which ever is more.

(g) To be located in such a manner as to not constitute a traffic hazard.

(3) Billboards must conform to the current Township building codes.

4. *Nonconforming Signs*.

A. Only lawful signs existing at the time of passage of this Chapter and which do not conform to the requirements of this Chapter shall be considered nonconforming signs, and once removed shall be replaced only with conforming signs; however lawful, nonconforming signs may be repainted or repaired provided such repainted or repaired sign does not exceed the dimensions of the existing sign. Any sign or billboard destroyed, damaged or dismantled for any reason whatsoever may only be replaced by a sign which is in strict conformity with the regulations of the district in which it is located except as provided in §27-1005 regarding nonconforming uses and/or structures.

B. Every lawful sign, billboard and other outdoor advertising media erected in the Township prior to the adoption of this Chapter may continue to be maintained in spite of lack of conformity with all of all the provisions of this Chapter. If abandoned, the owner of every such sign, at his own expense, shall cause the same to be brought into strict conformity with all the requirements of this Chapter. The work of bringing such sign into conformity with such requirements shall constitute either repair, alteration or relocation, and therefore shall require the owner of such sign, to obtain a permit.

C. All signs erected prior to the adoption of this Chapter which do not have a zoning permit but do conform to the provisions of this Chapter shall be required to apply for a zoning permit within 60 days after official adoption of this Chapter.

5. *Area of Signs*.

A. The size of any sign shall be computed by multiplying its greatest height by its greatest length, exclusive of supporting structures, unless such supporting structure is illuminated or is in the form of a symbol or contains advertising copy. In the case of signs that have no definable edges, such as raised letters attached to a building facade, the sign size shall be that area within a single continuous perimeter enclosing the extreme limits of the actual message or copy area.

B. The area of a sign shall be construed to include all lettering, wording, and accompanying designs and symbols, together with the background , whether open or enclosed, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself.

C. Where the sign consists of individual letters or symbols attached to or painted on a surface, building, wall or window, the area shall be considered to be

that of the smallest rectangle or other shape which encompasses all of the letters and symbols.

D. In computing square foot area of a double faced sign, only one sign shall be considered provided both faces are identical. If the interior angle formed by the two faces of the doubled faced sign is greater than 45 degrees, then both sides of such sign shall be considered in calculating the sign area, and it shall be considered a parallel sign.

6. *Signs in Rural District*. The following provisions shall apply to all uses in residential districts and to residential uses in nonresidential districts:

A. *Permitted On-Premises Signs*.

(1) *Identification Signs*. Two identification signs shall be permitted for the purpose of identifying the occupant of a residence, the name of a property, or the address of a property. Such signs shall not exceed 2 square feet in area.

(2) *Real Estate Signs*.

(a) *Individual Properties*. Non-illuminated on-premises real estate signs, provided that the sign area does not exceed 6 square feet and provided that not more than one such sign shall be erected on any one street frontage of any property in single and separate ownership.

(b) *Developments*. Non-illuminated on-premises sign advertising sale or rental of dwelling units in a development or subdivision, provided that the sign area shall not exceed 32 square feet, and provided that not more than two such signs shall be erected within any such subdivision.

(3) *Directional Signs*. On-premises directional signs, provided that the area of any such sign shall not exceed 2 square feet.

(4) *Private Property Signs*. Non-illuminated, on-premises "No Trespassing" signs, "No Hunting" signs and other similar signs indicating private ownership of roadways or other property, provided that the sign area shall not exceed 2 square feet.

(5) *Construction Signs*. Temporary, non-illuminated, on-premises construction signs, provided that:

(a) The sign area shall not exceed 4 square feet.

(b) Not more than one such sign for each contractor performing work on any one property shall be erected on that property.

(c) All such signs shall be removed upon completion of the work.

(6) *Business Signs*.

(a) *Low Impact Home Based Business*. Non-illuminated, on-premises signs identifying and advertising bed-and-breakfasts, rooming houses and low impact home based businesses, provided that the sign area shall not exceed 2 square feet, and provided that not more than one such sign shall be erected on any one street frontage of any property in single and separate ownership.

(b) *Businesses*. On-premises business signs for commercial, industrial, professional and office uses in this, provided that the sign area shall not exceed 20 square feet and no more than one such sign is erected on any

one property in single and separate ownership.

(7) *Signs for Residential Complexes and Institutional Uses*.

(a) On-premises sign for a school, camp, church, health-care facility, health-care service, private club or other institution of a similar nature, displaying the name of the institution and its activities or services, provided that the sign area shall not exceed 24 square feet, and provided that not more than one such sign shall be erected on any street frontage of any property in single and separate ownership. Said sign shall be set back at least 30 feet from the road right-of-way.

(b) Permanent signs which identify the name of a subdivision or land development shall be permitted in compliance with the following:

(i) One freestanding sign may be located at each intersection of the development's streets with primary or secondary streets, the area of each sign not to exceed 6 square feet.

(ii) One freestanding sign may be located at one main entrance to the development, not to exceed 20 square feet in area, or two signs not exceeding 12 square feet each.

(c) Permanent off-premises directional signs for a school, camp, church, health-care service, private club or other institutions of similar nature shall be permitted with a maximum size of 2 square feet.

B. *Height*. The maximum height limit for any sign permitted in the Rural District shall be 6 feet.

C. *Prohibited Signs*. In addition to the signs prohibited in subsection .3.C of this Section, the following signs are not permitted:

(1) Internally illuminated signs.

7. *Sign Regulations for Agricultural Preservation and Blue Mountain Districts*. The following provisions shall apply to all nonresidential uses in nonresidential district.

A. *Permitted On-Premises Signs*.

(1) *Single-Occupancy Business Signs*. Properties in single and separate ownership, with a single business premises, may have a sign or signs in accordance with the following:

(a) Each single-occupancy business may have a single freestanding sign, per street frontage, with the total maximum sign area shall not exceed 18 square feet.

(b) In addition, each business may have a parallel wall sign, window sign or awning sign of no more than 18 square feet.

(2) *Multiple-Occupancy Business Signs*. Properties in single and separate ownership with multiple businesses, tenants or franchise premises, may have a sign or signs in accordance with the following:

(a) Each multiple-occupancy property may have a single freestanding sign, per street frontage, which identifies the business, or commercial center as a whole, and/or which is a directory sign for the establishments on the property, with a maximum sign area of 32 square feet.

(b) In addition, each individual business on the property may have

a parallel wall sign, window sign or awning sign of no more than 24 square feet in sign area.

(3) *Directional Signs*. On-premises directional signs, provided that the area of any such sign shall not exceed 6 square feet.

(4) *Private Property Signs*. Non-illuminated, on-premises "No Trespassing" signs, "No Hunting" signs and other similar signs indicating private ownership of roadways or other property, provided that the sign area shall not exceed 2 square feet.

(5) *Real Estate Signs*. Non-illuminated on-premises sign no larger than 6 square feet in sign area. One such sign per road frontage is permitted.

(6) *Construction Signs*. Temporary, non-illuminated construction signs shall not exceed 16 square feet in sign area. No more than one sign per prime contractor performing work on a property shall be permitted, and no more than a total of one sign per external road frontage shall be permitted. All such signs shall be removed upon completion of the work.

(7) *Corporate or Company Flags*. Flags bearing a corporate or company name and/or insignia may be flown on the property where the company is located, according to the following:

(a) The flag shall be flown in conjunction with the United States flag, and the size of the corporate flag shall not exceed 75 percent of the size of the United States flag with which it is displayed. The United States flag shall be higher than the corporate flag.

(b) A corporate or company flag shall not exceed the maximum area of a permitted business sign.

(c) No other advertising shall be permitted on such flags.

(8) *Portable Signs*.

(a) Portable signs no larger than 6 square feet in area, per side, and no larger than 3 feet wide, advertising the special sales or menu items for restaurants, or advertising a special product or event (for example, holiday specials or "Open Gate" days).

(b) The information contained on the sign shall be changed on a weekly basis as a minimum.

(c) The signs shall be professionally made.

(d) No more than one sign shall be permitted per roadway frontage.

(e) No sign shall be placed in such a position as to endanger traffic on the street by obscuring a clear view or by confusion with official street signs or signals, and no sign shall be placed in such a position as to endanger pedestrians using a sidewalk or other pedestrian access areas.

B. *Height*. The maximum height of signs in nonresidential districts shall be as follows:

(1) Ten feet for freestanding signs for individual uses.

(2) Seventy-five percent of the wall or awning height for all or awning signs, measured on the wall or awning upon which the sign is placed, up to a

maximum of 15 feet.

C. Permanent off-premises directional signs for a school, camp, church, healthcare service, private club or other institutions of similar nature shall be permitted with a maximum size of 2 square feet.

8. *Sign Regulations for the Rural Village District*.

A. *Permitted On-Premises Signs*.

(1) *Single-Occupancy Business Signs*. Properties in single and separate ownership with a single business premises may have one sign, per street frontage, of any permitted type within the following limits on sign area:

(a) Twenty square feet of sign area is the largest maximum size permitted.

(b) In order to encourage users to provide the community with an attractive unified outdoor advertising scheme, it is further provided that if the user chooses to mount a parallel wall sign, window sign or awning sign rather than a freestanding or projecting sign, the maximum allowable sign area (as calculated above) may be increased by 20 percent.

(2) *Multiple-Occupancy Business Signs*. Properties in single and separate ownership with multiple businesses, tenants or franchise premises may have a sign or signs in accordance with the following:

(a) Each multiple-occupancy business may have a single freestanding sign, per street frontage, which identifies the business, or commercial center as a whole, and/or which is a directory sign for the establishments on the property, with a maximum sign area of 20 square feet.

(b) In addition, each individual business on the property may have a parallel wall sign, window sign or awning sign of no more than 10 square feet in sign area.

(3) *Portable Signs*.

(a) Portable signs no larger than 6 square feet in area, per side, and no larger than 3 feet wide, advertising the special sales or menu items for restaurants, or advertising a special product or event (for example, holiday specials or "Open Gate" days).

(b) The information contained on the sign shall be changed on a weekly basis as a minimum.

(c) The signs shall be professionally made.

(d) No more than one sign shall be permitted per roadway frontage.

(e) Portable signs shall only be displayed along the roadway during daylight hours from sunrise to sunset. After sunset, the signs must be removed from the roadway.

(f) No sign shall be placed in such a position as to endanger traffic on the street by obscuring a clear view or by confusion with official street signs or signals, and no sign shall be placed in such a position as to endanger pedestrians using a sidewalk or other pedestrian access areas.

(4) *Directional Signs*. On-premises directional signs, provided that the

area of any such sign shall not exceed 4 square feet.

(5) *Private Property Signs*. Non-illuminated, on-premises "No Trespassing" signs, "No Hunting" signs and other similar signs indicating private ownership of roadways or other property, provided that the sign area shall not exceed 2 square feet.

(6) *Real Estate Signs*. Non-illuminated on-premises sign no larger than 4 square feet in sign area. One such sign per road frontage is permitted.

(7) *Construction Signs*. Temporary, non-illuminated construction signs shall not exceed 4 square feet in sign area, shall be removed upon completion of the work. No more than one sign per contractor performing work on a property shall be permitted.

(8) *Corporate or Company Flags*. Flags bearing a corporate or company name and/or insignia may be flown on the property where the company is located, according to the following:

(a) The flag shall be flown in conjunction with the United States flag, and the size of the corporate flag shall not exceed 75 percent of the size of the United States flag with which it is displayed. The United States flag shall be higher than the corporate flag.

(b) A corporate or company flag shall not exceed the maximum area of a permitted business sign.

(c) No other advertising shall be permitted on such flags.

B. *Illumination*. Internally illuminated signs are prohibited except in accordance with the following:

(1) The copy placed on the sign shall be of a translucent material and the background area shall be of a more opaque material.

(2) The sign meets all area and height requirements of this Chapter.

C. *Height*. The maximum height of signs in the Village District shall be as follows:

(1) Ten feet for freestanding signs for individual uses.

(2) Seventy-five percent of the wall or awning height for wall or awning signs, measured on the wall or awning upon which the sign is placed, up to a maximum of 15 feet.

(3) Twelve feet for freestanding shopping center signs and multiple direction signs.

D. *Additional Sign Regulations for Gasoline Service And / or Filling Stations*. In recognition of the unique and particular significance to the driving public, gasoline service and/or filling stations may have the following additional signs:

(1) A gasoline service and/or filling station may have one sign in addition to a single-occupancy business sign permitted under subsection .7.A(1) of this Section, according to the following regulations:

(a) Such sign shall advertise the current fuel prices only.

(b) Such sign shall not exceed 16 feet on each side.

(c) When fuel prices are displayed by means of changeable lettering,

such lettering shall be between 8 and 18 inches in height.

(d) Such sign shall be set back a minimum of 15 feet from the ultimate right-of-way line, and shall not interfere with the safe and convenient access and circulation of the property.

(2) *Canopy Sign*. A canopy sign is permitted on the structure covering fuel pumps according to the following regulations:

(a) Such sign shall not exceed the height of the canopy.

(b) Such sign shall not exceed 15 square feet.

(c) The canopy meets all required setbacks of this Chapter.

E. Permanent off-premises directional signs for a school, camp, church, healthcare service, private club or other institutions of similar nature shall be permitted with a maximum size of 2 square feet.

9. *Other Signs*.

A. *Signs for Agricultural Products*. Non-illuminated signs advertising the sale of agricultural products 50 percent of which shall be grown in the local area, provided that the individual sign area shall not exceed 6 square feet. Such signs are permitted in all zoning districts in the Township.

(1) Maximum number of 10 signs per farm stand.

(2) Maximum area of all signs advertising the products can not exceed 50 square feet.

(3) Signs shall only be posted during days when such products are actively offered for sale up to a maximum of 180 days per year.

(4) Signs shall be professionally made and shall be permitted to be off-premises.

(5) Signs shall be removed during the non-growing season.

[*Ord. 2010-1*]

B. *Public Uses*. A sign for a municipal building, public school, office or other use shall be permitted in all zoning districts and shall not exceed 35 square feet in area.

C. Temporary signs for, or relating to, campaigns, drives, or events of civic, philanthropic, educational, or religious organizations provided that they shall be removed within 10 days of the completion of the campaign, drive, or event. This Section shall not apply to political signs. [*Ord. 2010-1*]

10. The following signs shall not be included in the application of the sign requirements of this Chapter:

A. *Directional Signs*. Incidental signs not exceeding an area of 2 square foot and not including any commercial message or logo, which carry a message to identify restrooms, entrances and exits, telephone locations, an on-site direction, on-site warnings or anything similar.

B. *Official Signs*. Government signs such as official traffic and street name signs and identification, informational or directional signs required by government bodies or their agencies.

C. Flags, badges or insignia of any government, government agency, civic

organization, charitable organization or religious organization.

D. *Address Signs*. Property identification signs which do not exceed 2 square feet in area and bearing only property numbers, post box numbers, names of occupants or premises or other identification not having commercial connections.

E. Integral decoration or architectural features of buildings, except letters, trademarks, moving parts or moving lights.

F. *Agricultural Products Signs*. Signs not exceeding an area of 2 square feet advertising agricultural produce.

G. *Temporary Signs*. Less than 2 square feet.

(1) Real estate signs to be removed after the sale the property.

(2) Signs within buildings, which are not visible from any street.

(3) Garage and yard sale signs to be removed immediately after the event.

(4) Temporary contractor signs to be removed within 2 weeks after the completion of the work.

(5) General interest signs to be removed within 60 days.

[*Ord. 2010-1*]

(*Ord. 4-81*, 12/28/1981, §1030; as amended by *Ord. 2007-1*, 3/8/2007, §§3 and 4; by *Ord. 2008-2*, 10/9/2008, §1; by *Ord. 2010-1*, 4/8/2010; and by *Ord. 2011-1*, 5/12/2011)

§27-1004. Low Impact Home-Based Businesses.

1. A low impact home-based business may be pursued in either the dwelling or in a garage or accessory building. The low impact home-based business shall occupy a space which constitutes less than 25 percent of the floor area of the dwelling or less than 50 percent of the floor area of the garage or accessory building.

2. In addition to the owner of the residence, a maximum of five persons not residing at the dwelling may be employed at the low impact home-based business. The owner of the residence operating the low impact home-based business must reside on the premises.

3. No low impact home-based business shall require structural alterations of an existing structure. The exterior design shall reflect the principal residential use of the structure.

4. Signs associated with the low impact home-based business shall conform to the provisions of §27-1003.

5. The parking needs of the low impact home-based business shall be met through the use of off-street parking areas according to the provisions of §27-1002.

6. The low impact home-based business shall not create noise, vibration, glare, odors, fumes, or electrical interference beyond the bounds of the property to any event greater or more frequent than ordinarily associated with the dwelling unit. The low impact home-based business shall comply with all Federal and State regulations.

7. All storage of materials associated with the low impact home-based business shall be in enclosed buildings and comply with all other Federal and State regulations.

(*Ord. 4-81*, 12/28/1981, §1040; as amended by *Ord. 2009-1*, 1/5/2009, §§12–18)

§27-1005. Nonconforming Lots, Structures, and Uses.

Within the districts established by this Chapter, or amendments that may later be adopted, there exist lots, structures, and uses which were lawful before this Chapter was passed or amended, but which would be prohibited, regulated, or restricted under the terms of the Chapter or future amendment. It is the intent of this Chapter to permit these nonconformities to continue until they are terminated. Any lot, structure, or use which was unlawful at the effective date of this Chapter, however, shall not be deemed a nonconformity under this Chapter. Any existing use which is permitted by special exception in this Chapter shall be deemed to be a conforming use where it has met the standards and criteria of this Chapter for that special exception use.

A. *Nonconforming Uses*. A nonconforming use shall be changed only to a conforming use. A nonconforming use may be enlarged or extended only as a result of the natural expansion of that use up to 50 percent of its existing floor area if all proposed structures are in conformance with provisions of this Chapter, and no conforming use is displaced. If a structure used by a nonconforming use is accidentally and unintentionally damaged, it may be restored or reconstructed and used as before, provided that the floor area of such structure shall not exceed the floor area which existed prior to such damage, and that it be completed within 1 year of such happening.

B. *Nonconforming Structures*. The interior restoration or alteration and normal repair and maintenance of nonconforming structures that is devoted to a conforming use is permitted. The exterior restoration or alteration of a nonconforming structure shall be permitted where such work will bring that structure into conformance, or greater conformance than previously, within this Chapter, or will otherwise be beneficial or more appropriate to the general neighborhood. Achieving conformance with this Chapter shall be of highest priority. If a nonconforming structure is damaged, it may be reconstructed and used as before, provided that the floor area of such structure shall not exceed the floor area that existed prior to the damage and that it be completed within 1 year of the occurrence of the damage. A nonconforming structure shall not be extended or enlarged. [*Ord. 2-98*]

C. *Nonconforming Lots*. Any change made in the configuration of the nonconforming lot shall be to bring such lot into conformance. A nonconforming lot may be used for the erection of a dwelling only in conformance with the standards of §27-1001.2.

D. *Termination*. A nonconforming use shall be deemed to have been terminated and shall not thereafter be reinstated:

(1) When it is changed to a conforming use.

(2) When it has been voluntarily discontinued for a period of 24 consecutive months where such nonconforming use is in a building or structure designed for such use.

(3) When it has been voluntarily discontinued for a period of 12 consecutive months where such nonconforming use is in a building or structure not designed for such use, or is on a lot or land whereon there is no consequential building or structure devoted to such use.

E. *Registration of Nonconforming Uses and Structures*. The Zoning Officer

may identify and register nonconforming uses, structures, and lots in the Township of Heidelberg, as an aid to the enforcement of this Chapter. Upon identifying a nonconformity, the Zoning Officer shall send notice to the owner of record that a nonconformity exists on this property and with which provisions of this Chapter it does not conform. Failure by the Zoning Officer to identify and register a nonconforming use or structure is not to be construed as a recognition that a use, structure, or lot is in conformance with this Chapter. [*Ord. 4-90*]

(*Ord. 4-81*, 12/28/1981, §1050; as amended by *Ord. 4-90*, 10/11/1990, §22; and by *Ord. 2-98*, 4/9/1998, §11)

§27-1006. Special Regulations for Residential Uses.

1. All dwelling units shall include no less than the number of square feet of interior floor space as is specified in the following table:

No. of Bedrooms	Square Feet
1	500
2	625
3	750
4 or more	875 plus 125 for each bedroom in excess of 4

2. All fuel supply systems for residences shall be constructed and installed within the foundation wall, unless screened by fencing and/or landscaping.

3. All residential buildings shall have a pitched roof with a rise of no less than 3½ inches per foot. The roof shall overhang the exterior walls on at least two sides.

4. For all mobile homes used as permanent dwellings, which have been anchored to a mobile home stand, the hitch which is employed for the transportation of the unit shall be removed, and there shall be a decorative skirt installed around the base of the unit.

(*Ord. 4-81*, 12/28/1981, §1060; as amended by *Ord. 2-88*, 8/5/1988, §11)

§27-1007. Special Regulations for Commercial Communications Antenna.

1. Commercial communications antenna shall be permitted by right in all zoning districts except Rural and Rural Village Districts, if at least one of the following conditions exist: [*Ord. 2007-1*]

A. The commercial communications antenna is placed on an existing commercial communications tower.

B. The commercial communications antenna is placed on an existing public utility transmission tower.

C. The commercial communications antenna is placed on any structure other than a dwelling structure. For the purpose of this Section, a structure shall not include concrete or macadam pavement and/or a concrete slab.

2. Notwithstanding any other provision of this Chapter, no site plan is required for a commercial communications antenna which is co-located on an existing

commercial communications tower, public utility transmissions tower, or other nondwelling structure.

3. Every applicant for a building permit for a commercial communications antenna located higher than 50 feet above grade shall provide certification from a registered professional engineer that the antenna meets the wind resistance requirements set forth in the latest version of the *International Building Code* and shall also certify to the overall structural integrity of the commercial communications antenna. [*Ord. 2010-1*]

(*Ord. 4-81*, 12/28/1981, §1070; as amended by *Ord. 99-2A*, 11/11/1999, §3; by *Ord. 2007-1*, 3/8/2007, §§3 and 4; and by *Ord. 2010-1*, 4/8/2010)

§27-1008. Logging.

1. All logging operations shall be conducted according to current best management practices and all applicable local, State, and Federal regulations.

2. A logging plan shall be prepared and submitted to and reviewed by the Township, for each harvesting operation within the district by a professional forester or a forest technician. Pennsylvania Department of Conservation and Natural Resources (DCNR), Bureau of Forestry, shall be contacted for assistance in preparing a harvesting plan and their input shall be included in the plan. [*Ord. 2010-1*]

3. All applicants are strongly encouraged to seek woodland management assistance through the Pennsylvania "Forest Stewardship Program" administered by the Pennsylvania Bureau of Forestry.

4. The plan shall address all applicable erosion and sedimentation control and stream crossing regulations under 25 Pa.Code, Chapter 102, Erosion and Sediment Control Rules and Regulations, issued under the Clean Streams Law, 35 P.S. §691.1 *et seq*., and 25 Pa.Code, Chapter 105, Dam and Waterway Management Rules and Regulations issued under the Dam Safety and Encroachment Act, 32 P.S. §693.1 *et seq*., as amended, or subsequent applicable legislation. Any earth disturbance shall require an E & S control plan submitted to and reviewed by the Township. Any earth disturbance over 5,000 square feet shall be submitted to the Lehigh County Conservation District for their review and approval. [*Ord. 2010-1*]

5. Copies of all approved plans and permits shall be available at the site and submitted to the Township. [*Ord. 2010-1*]

6. For all tree-harvesting operations the Township Enforcement Officer shall be notified before the beginning and at the end of the operation. This meeting with the Township Enforcement Officer shall be held prior to any operation. The purpose of this meeting is to determine the appropriate permits and/or plans required for that particular operation.

7. Felling or skidding on or across any public road is prohibited without the express written consent of the Township or PennDOT, whichever is responsible for maintenance of said road.

8. No tops or slash shall be left within 25 feet of any public road and named recreational trail.

9. All tops slash between a distance of 25 feet and 50 feet from a public road and named recreational trails shall be lopped to a maximum height of 4 feet above the

surface of the ground.

10. All constant flowing streams are an important natural resource, which need special protection, logging of only selected trees as determined by DCNR will be allowed within 75 feet each side of the stream.

11. No tops or slash shall be left on or across a property boundary without written consent of the adjoining landowner.

12. Litter resulting from any logging operation shall be cleaned up and removed from the site before the operator vacates it.

(*Ord. 4-81*, 12/28/1981, §1070; as added by *Ord. 2004-3*, 8/12/2004, Art. I, §8; as amended by *Ord. 2007-1*, 3/8/2007, §2; and by *Ord. 2010-1*, 4/8/2010)

§27-1009. Boulder Fields.

1. Boulder fields are a unique natural resource and shall be protected from all type of development and excavation.

2. No utility excavation of any type shall be allowed within the boulder field.

(*Ord. 4-81*, 12/28/1981, §1080; as added by *Ord. 2004-3*, 8/12/2004, Art. I, §9)

§27-1010. No Impact Home-Based Business.

1. The business activity shall be compatible with the residential use of the property and surrounding residential uses.

2. The business shall employ no employees other than family members residing in the dwelling.

3. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.

4. There shall be no outside appearance of a business use including, but not limited to, parking, signs or lights.

5. 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, which is detectable in the neighborhood.

6. 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.

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

8. The business may not involve any illegal activity.

(*Ord. 4-81*, 12/28/1981; as added by *Ord. 2009-1*, 1/5/2009, §19)

Part 11

Zoning Hearing Board

§27-1101. Organization.

1. *General Grant of Power*. The Zoning Hearing Board existent at the time of enactment of this Chapter shall continue extant. It shall continue to perform all the duties and have all the powers prescribed by the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq*., and as herein provided.

2. The membership of the Board shall, upon the determination of the Board of Supervisors, consist of three members of the Township appointed by resolution of the Board of Supervisors. The terms of office of the Board shall be 3 years and shall be so fixed that the term of office of one member shall expire each year. The Board of Supervisors shall appoint two additional members to the Board with terms scheduled to expire in accordance with the provisions of §903 of the Municipalities Planning Code (MPC), 53 P.S. §10903. The Board shall promptly notify the Board of Supervisors of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other elected or appointed office in the Township nor shall any member be an employee of the Township. [*Ord. 2010-1*]

3. *Alternate Members*. The Board of Supervisors may appoint by resolution at least one but no more than three residents of the Township to serve as alternate members of the Board. The term of office of an alternate member shall be 3 years. When seated pursuant to the provisions of §906 of the Municipalities Planning Code, 53 P.S. §10906, an alternate shall be entitled to participate in all proceedings and discussions of the Board to the same and full extent as provided by law for Board members, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this Part and as otherwise provided by law. Alternates shall hold no other elected or appointed office in the Township, including service as a member of the Planning Commission or as a Zoning Officer, nor shall any alternate be an employee of the Township. Any alternate may participate in any proceeding or discussion of the Board but shall not be entitled to vote as a member of the Board nor be compensated pursuant to §907 of the MPC, 53 P.S. §10907, unless designated as a voting alternate member pursuant to §906. Designation of an alternate pursuant to this Section shall be made on a case by case basis in rotation according to declining seniority among all alternates. [*Ord. 2010-1*]

4. *Organization of Board*. The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board but the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board as provided in §27-1102. The Board may make, alter and rescind rules and forms for its procedures, consistent with ordinances of Heidelberg Township and laws of the Commonwealth. The Board shall keep full public records of its business and shall submit a written report of its activities to the Township Supervisors once a year.

5. *Removal of Members*. Any Board member may be removed for malfeasance,

misfeasance or nonfeasance in office or other just cause by a majority vote of the Township Supervisors, taken after the member has received 15 days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

6. *Expenditures for Services*. Within the limits of funds appropriated by the Township Supervisors, the Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Board may receive compensation for the performance of their duties, as may be fixed by the Township Supervisors, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the Township Supervisors.

(*Ord. 4-81*, 12/28/1981, §1110; as amended by *Ord. 2010-1*, 4/8/2010)

§27-1102. Hearings.

The Board shall conduct hearings and make decisions in accordance with the following requirements:

A. Public notice shall be given and written notice shall be given to the applicant, the Zoning Officer, such other persons as the Board of Supervisors shall designate by ordinance and to any property owner within 300 feet of the property line and to any person who has made timely request for the same. Written notice shall be given at such time and in such manner as shall be prescribed by ordinance or, in the absence of ordinance provision, by rules of the Board. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least 1 week prior to the hearing.

B. The Board of Supervisors may prescribe reasonable fees with respect to hearings before the Zoning Hearing Board. Fees for said hearings may include compensation for the secretary and members of the Zoning Hearing Board, notice, and advertising costs and administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other technical consultants or expert witness costs.

C. The first hearing before the Board or hearing officer shall be commenced within 60 days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the Board or hearing officer shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief with 100 days of the first hearing. Upon the request of the applicant, the Board or hearing officer shall assure that the applicant receives at least 7 hours of hearings within the 100 days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application with 100 days of the first hearing held after the presentation of the applicant's case-in-chief. Any applicant may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and Township, be granted additional hearings to complete their opposition to the application provided the applicant is

granted an equal number of additional hearings for rebuttal.

D. The hearings shall be conducted by the Board or the Board may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Board; however, the appellant or the applicant, as he case may be, in addition to the Township, may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.

E. The parties to the hearing shall be Township, any person affected by the application who has made timely appearance of record before the Board, any other person including civic or community organizations permitted to appear by the Board. The Board shall have the power to require that all persons who wish to be considered parties to enter appearances in writing on forms provided by the Board for that purpose.

F. The chairman or acting chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.

G. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.

H. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

I. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the board if the transcript is ordered by the Board or hearing officer or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

J. The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

K. The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of this Part or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing

is conducted by a hearing officer and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than 30 days after the report of the hearing officer. Except for challenges filed under §916.1 of the MPC, 53 P.S. §10916.1, where the Board fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing as provided in §908(1.2) of the MPC, 53 P.S. §10908(1.2), the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as herein above provided, the Board shall give public notice of said decision within 10 days from the last day it could have met to render a decision in the same manner as provided in MPC §908(9), 53 P.S. §10908(9). If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

L. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

(*Ord. 4-81*, 12/28/1981, §1120; as amended by *Ord. 2010-1*, 4/8/2010)

§27-1103. Jurisdiction.

1. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

A. Substantive challenges to the validity of any land use ordinance, except those brought before the Board of Supervisors pursuant to §§609.1 and 916.1(a)(2) of the MPC, 53 P.S. §§10609.1 and 10916.1(a)(2).

B. Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption, which challenges shall be raised by an appeal taken within 30 days after the effective date of said ordinance. Where the ordinance appealed from is the initial zoning ordinance of the Township and a zoning hearing board has not been previously established, the appeal raising procedural questions shall be taken directly to court.

C. Appeals from the determination of the Zoning Officer including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.

D. Appeals from a determination by a Township Engineer or the Zoning Officer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance.

E. Applications for variances from the terms of this Chapter and flood hazard ordinance or such provisions within a land use ordinance, pursuant to §910.2 of the MPC, 53 P.S. §10910.2.

F. Applications for special exceptions under this Chapter or floodplain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to §912.1 of the MPC, 53 P.S. §10912.1.

G. Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of this Chapter.

H. Appeals from the Zoning Officer's determination under §916.2 of the MPC, 53 P.S. §10916.2.

I. Appeals from the determination of the Zoning Officer or Township Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development not involving Article V or VII applications of the MPC, 53 P.S. §§10501 *et seq.*, 10701 *et seq*.

2. The Board of Supervisors or, except as to subsections .1.C, .1.D and .1.E, the planning agency, if designated, shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

A. All applications for approvals of planned residential developments under Article VII pursuant to the provisions of §702 of the MPC, 53 P.S. §10702.

B. All applications pursuant to §508 for approval of subdivisions or land developments under Article V of the MPC, 53 P.S. §10508. Any provision in a subdivision and land development ordinance requiring that final action concerning subdivision and land development applications be taken by a planning agency rather than the Board of Supervisors shall vest exclusive jurisdiction in the planning agency in lieu of the Board of Supervisors for purposes of the provisions of this paragraph.

C. Applications for conditional use under the express provisions of this Chapter pursuant to §603(c)(2) of the MPC, 53 P.S. §10603(c)(2).

D. Applications for curative amendment to a zoning ordinance pursuant to §§609.1 and 916.1(a)(2) of the MPC, 53 P.S. §§10609.1, 10916.1(a)(2).

E. All petitions for amendments to land use ordinances, pursuant to the procedures set forth in §609 of the MPC, 53 P.S. §10609. Any action on such petitions shall be deemed legislative acts, provided that nothing contained in this clause shall be deemed to enlarge or diminish existing law with reference to appeals to court.

F. Appeals from the determination of the Zoning Officer or the Township Engineer in the administration of any land use ordinance or provisions thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to application for land development under Articles V and VII of the MPC, 53 P.S. §§10501 *et seq*., 10701 *et seq*. Where such determination relates only to development not involving an Article V or VII application, the appeal from such determination of the Zoning Officer or the Township Engineer shall be to the Zoning Hearing Board pursuant to subsection .1.I. Where the

applicable land use ordinance vests jurisdiction for final administration of subdivision and land development applications in the planning agency, all appeals from determinations under this paragraph shall be to the planning agency and all appeals from the decision of the planning agency shall be to court.

G. Applications for a special encroachment permit pursuant to §405 and applications for a permit pursuant to §406 of the MPC, 53 P.S. §§10405, 10406.

(*Ord. 4-81*, 12/28/1981; as added by *Ord. 2010-1*, 4/8/2010)

§27-1104. Parties Appellant Before Board.

Appeals under §27-1103 and proceedings to challenge the ordinance under §27-1104 may be filed with the Board in writing by the landowner affected, any officer or agency of the municipality, or any person aggrieved. Requests for a variance under §27-1106 and for special exception under §27-1105 may be filed with the Board by any landowner or any tenant with the permission of such landowner.

(*Ord. 4-81*, 12/28/1981, §1150)

§27-1105. Special Exception Uses.

1. *Grant of Power*. The Board shall hear and decide requests for special exceptions pursuant to the standards and criteria set forth in this Section. In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Chapter, as it may deem necessary to implement the purposes of this Chapter.

2. *Procedure*.

A. Application for a permit authorizing a special exception use shall be made directly to the Zoning Officer in the form required by the Board.

B. The Board's decision to grant a permit for a special exception use shall be made only after public and other notification, and hearing pursuant to the requirements of §27-1102. Said permit shall apply specifically to the application and plans submitted and presented at said public hearing. Any subsequent amendments or additions by the applicant shall be subject to review and public hearing by the Zoning Hearing Board as a special exception use.

C. A special exception use for which a permit is granted by the Zoning Hearing Board pursuant to the provisions of this Section shall be construed to be a conforming use.

3. *Standards and Criteria Applicable to All Special Exceptions*.

A. Such use shall be one which is specifically authorized as a special exception use in the district within which such particular site is located.

B. For every special exception use, the Board may require a protective planting strip not less than 10 feet nor more than 30 feet in width, situated within any required side or rear yard, designed and laid out with suitable evergreen plant material which will be planted at a minimum height of 4 feet, and will attain and shall be maintained at a height of not less than 8 feet, so as to provide an effective natural screen between nonresidential and residential districts or uses. A planting plan specifying type, size, and location of existing and proposed plant material may be required.

C. For every special exception use where the installation of outdoor flood or spot lighting is intended, the Board shall determine that such lighting will not shine directly upon any abutting property, nor upon the street. No unshielded lights shall be permitted.

4. *Requirements of Specific Standards*. It is the intent of this Part to provide special controls and regulations for particular uses that may be permitted by right, by special exception, or by conditional use within the various zoning districts established in this Chapter. In addition to the general standards for special exceptions as contained in subsection .3, where applicable, the following sets forth standards that shall be applied to each individual use. These standards must be satisfied prior to approval of any application for a special exception or conditional use and/or issuance of a zoning permit. The applicant shall be required to demonstrate compliance with these standards and must furnish whatever evidence is necessary to demonstrate such compliance. All uses must comply with the standards expressed within the underlying zone, unless those standards expressed for the selected use specify different standards; in such cases, the specific use standards shall apply: [*Ord. 2010-1*]

A. *Adult-Related Facilities*. Within the Rural Village District, adult-related facilities are permitted by special exception, subject to the following criteria:

(1) An adult-related facility shall not be permitted to be located within 1,000 feet of any other adult-related facility.

(2) No adult-related facility shall be located within 1,000 feet of any residentially zoned land.

(3) No adult-related facility shall be located within 1,000 feet of any parcel of land that contains any one or more of the following specified land uses:

(a) Amusement park.

(b) Camp (for minors' activity).

(c) Child care facility.

(d) Church or other similar religious facility.

(e) Community center.

(f) Museum.

(g) Park.

(h) Playground.

(i) School.

(j) Other lands where minors congregate.

(4) The distance between any two adult-related facilities shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior parcel line of each establishment. The distance between any adult-related facilities and any land use specified in subparagraph (3) above shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior parcel line of the adult related facility to the closest point on the property line of said land use.

(5) No materials, merchandise or film offered for sale, rent, lease, loan or for view upon the premises shall be exhibited or displayed outside of a building

or structure.

(6) Any building or structure used and occupied as an adult-related facility shall be windowless or have an opaque covering over all windows or doors of any area in which materials, merchandise or film are exhibited or displayed and no sale materials, merchandise or film shall be visible from outside of the building or structure.

(7) No sign shall be erected upon the premises depicting or giving a visual representation of the type of materials, merchandise or film offered therein.

(8) Each entrance to the premises shall be posted with a notice specifying that persons under the age of 18 years are not permitted to enter therein and warning all other persons that they may be offended upon entry.

(9) No adult-related facility may change to another adult-related facility, except upon approval of an additional special exception.

(10) The use shall not create an enticement for minors because of its proximity to nearby uses where minors may congregate.

(11) No unlawful sexual activity or conduct shall be permitted.

(12) No more than one adult-related facility may be located within one building or shopping center.

[*Ord. 2010-1*]

B. *Animal Husbandry*.

(1) The minimum lot size shall be 5 acres.

(2) All milk barns and livestock shelters shall not be located closer than 500 feet from any existing dwelling, except on the home premises.

C. *Apartment*. In the Rural Village and Rural Districts and subject to the requirements of the zone in which the property is located except as herein modified and provided:

(1) Only one accessory apartment shall be permitted in a single-family dwelling unit or its accessory structure.

(2) When the accessory apartment increases the total number of bedrooms contributing to the existing septic system to four or more, the Township Sewage Enforcement Officer shall be notified to inspect and approve the septic system for any increase in sewage flows.

(3) Occupants of the accessory apartment shall be related by blood, marriage or adoption to the occupants of the principal dwelling.

(4) Additions to the principal dwelling or its accessory structure for the purpose of creating an accessory apartment shall not increase the square footage of the original structure by more than 25 percent.

(5) The accessory apartment shall not comprise more than 30 percent of the dwelling unit's total floor area (after any additions or modifications thereto).

(6) At least one additional off-street parking space shall be provided for the occupants of the accessory apartment.

(7) The appearance of the structure shall remain that of a single-family

dwelling.

[*Ord. 2010-1*]

D. *Bed and Breakfast Inn*. In all zoning districts subject to the requirements of the zone in which the property is located except as herein modified and provided:

(1) The maximum guest stays shall be limited to 30 days.

(2) A maximum of eight guest rooms shall be provided.

(3) Meals shall only be served to overnight lodgers.

(4) A minimum of one off-street parking space per guestroom shall be provided in addition to the required parking for the dwelling unit.

(5) One sign may be erected on the property. The maximum size shall be 9 square feet and it may be illuminated only by indirect lighting.

(6) The inn must comply with local regulations regarding all applicable permits including, but not limited to: fire, health and building codes.

(7) Bed and breakfast operations shall be conducted so as to be clearly incidental and accessory to the primary use of the site as a single-family dwelling.

[*Ord. 2010-1*]

E. *Business Conversion*. (Permitted only in the Rural Village District.) The conversion of all or a portion of an existing building for a business use shall be subject to the procedures and requirements specified below:

(1) *Permitted Uses*. The conversion of an existing residential structure to a nonresidential use or an existing nonresidential use to another nonresidential use shall be for a use permitted within the applicable zone in which the building is located. The conversion can be a total conversion from residential use or a conversion of a portion of the premises, with the retention of one or more dwelling units (as in the case of a first-floor retail or office use with apartment(s) on the second and higher floors).

(2) *Use, Area and Bulk Regulations*. All use, area and bulk regulations of the prevailing zoning district shall apply.

(3) *Parking Requirements*. Off-street parking spaces shall be provided on said lot for each distinct use located on it, in accordance with §27-1002.

(4) If apartment units are proposed, each unit shall be provided with separate and complete kitchen facilities, flush toilet(s) and bathing facilities within the unit.

(5) Fire escapes where required shall be located on the rear and/or the interior side of the building. A sketch of the proposed fire escape location shall be supplied as part of the application for zoning approval.

[*Ord. 2010-1*]

F. *Commercial Campground*.

(1) A commercial campground is intended to provide space for recreational vehicles, motor homes, and tents on a temporary basis. No permanent dwelling unit or mobile home shall be placed in a commercial campground, except the residence of the proprietor.

(2) Adequate sanitary facilities and a safe water supply, which comply with applicable regulations of the Pennsylvania Department of Environmental Protection, shall be provided and maintained. [*Ord. 2010-1*]

(3) The minimum lot size shall be 5 acres. All campsites and facilities shall be located no closer than 100 feet from any property line.

G. *Commercial Communication Antenna and Commercial Communications Tower*.

(1) *Site Plan*. A site plan shall be prepared and submitted for any proposed commercial communications tower and any commercial communications antenna not covered under the provisions of §§27-1007.1 and 27-1007.2.

(2) *Setback*. A commercial communications tower attached to the ground should be set back to the most restrictive of the following: a minimum distance equal to one-half its height from the nearest property or lease lot line and existing street right-of-way lines, or the distance measured to the nearest property or lease line equal to the commercial communications tower fall zone.

(3) *Base*. The base of a commercial communication tower shall be surrounded by a secure fence with a minimum height of 8 feet.

(4) *Landscaping*. The following landscaping shall be required to screen the fence surrounding the tower and any other ground level features such as a building. Any combination of existing vegetation, topography, walls, decorative fences, or other features instead of landscaping may be permitted if they achieve the same degree of screening as the required landscaping. No landscaping is required if the antenna is mounted on an existing structure and all other equipment is housed inside an existing structure.

(a) An evergreen screen shall be required to surround the site. The screen can be either a hedge (planted 3 feet on center maximum) or a row of evergreen trees (planted 10 feet on center maximum). The evergreen screen shall be a minimum height of 6 feet of planting, and shall grow to a minimum of 15 feet at maturity.

(b) All existing vegetation or and around the site shall be preserved to the greatest extent possible.

(5) *Parking*. A minimum of two off-street parking spaces shall be provided for a commercial communications tower.

(6) *Wind Resistance*. For any commercial communications tower or antenna higher than 50 feet, the applicant shall provide certification from a registered professional engineer stating that the commercial communications tower or antenna meets the wind resistance requirements stated in the Uniform Construction Code, 34 Pa.Code, Chapters 401–405. The registered professional engineer shall also certify to the overall structural integrity of the commercial communications tower or antenna. [*Ord. 2010-1*]

(7) *Federal Aviation Administration (FAA)*. Documentation of FAA approval for commercial communication towers or antennas exceeding 200 feet in height, shall be provided. Commercial communications towers or antennas less than 200 feet in height shall meet the requirements of 14 CFR, Part 77.13(a), as amended. No commercial communications tower or antenna shall

be artificially lighted except when required and approved by the FAA.

(8) *Airport Coordination*. The applicant for a proposed communications tower or antenna, located within a 5-mile radius of any existing airport, shall notify the airport of its intent to place such a structure and provide proof of such notice to the Board and/or Zoning Officer.

(9) *Federal Communications Commission* (FCC). The following documentation shall be provided by any applicant for a building permit for a commercial communications tower or antenna.

(a) Proof that the commercial communications company is licensed by the FCC.

(b) A copy of FCC approval for the proposed commercial communications tower or antenna.

(c) Proof of compliance on the part of the proposed commercial communication tower or antenna with all applicable standards established by the FCC regarding human exposure to electromagnetic radiation.

(d) Technological evidence that the tower and/or antenna must be located as proposed in order to satisfy its technological functioning requirements.

(10) *Documentation of Need*. For all new commercial communication tower applications, applicant shall provide written documentation that applicant has made reasonable efforts to site the antenna on an existing structure within close proximity to the chosen site.

(11) *Removal of Commercial Communications Towers and Antennas*. If a commercial communications tower and/or antenna remains unused for a period of 12 consecutive months, the owner or operator shall dismantle or remove the tower and/or antenna together with any foundation/footer to a depth of 10 feet within 6 months of notice to do so by the Township. The owner or operator of the tower and/or antenna shall post security in a form acceptable to the Township, in favor of the Township in an amount to cover tower and/or antenna removal and site clean-up. The security shall be utilized by the Township in the event that the owner or operator of the tower and/or antenna fails to remove the tower and/or antenna within 6 months of notification by the Township.

[*Ord. 99-2A*]

H. *Community Center Building, Public Library, Fire or Police Station*.

(1) The storage of materials and supplies shall be limited to enclosed areas.

(2) There shall be easy access to the road that will permit whatever equipment or vehicles that will be used to cross and turn without creating a traffic hazard.

(3) There shall be ample off-street parking and vehicle storage areas provided within the structure or in an adjacent building or parking area. On-street parking of fire, ambulance, or police vehicles at a station site shall be prohibited.

(4) The following size standards shall be followed in the design of a fire station.

Station Size	Frontage	Depth	Total Area (Square Feet)
1 door	100 ft.	140 ft.	14,000
2 door	125 ft.	140 ft.	17,500
3 door	150 ft.	140 ft.	21,000
4 door	175 ft.	140 ft.	24,000

(5) The following parking requirements in addition to vehicle storage shall be applied for police and fire stations.

Personnel	No. of Spaces
Chief	1
Assistant Chief(s)	1 each
Policemen or firemen (based on maximum number on duty for two largest shifts)	1 each
Visitors	2 minimum

I. *Convenience Store*. In the Rural Village District and subject to the requirements of the zone in which the property is located except as herein modified and provided:

(1) Access shall be via a major or minor collector road as identified in the Township Comprehensive Plan.

(2) Vehicle fuel dispensing facilities are permitted in conjunction with convenience stores. Such dispensing facilities shall conform to the relevant requirements of this Chapter.

[*Ord. 2010-1*]

J. *Conversion of Single-Family Detached Dwelling to Two Dwelling Units*.

(1) A single-family detached dwelling may be converted to no more than two dwelling units. The existing dwelling shall not be enlarged or added to for this purpose, except for stairwells and open porches.

(2) Each converted dwelling unit shall provide complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

(3) The Sewage Enforcement Officer shall be notified and shall make a determination whether the existing on-lot sewage disposal system is adequate to serve the proposed two dwelling units. Where it is determined that such existing system is not adequate, necessary modifications shall be made and a new adequate system provided.

(4) The applicant shall demonstrate that he has complied with all provisions of the Uniform Construction Code, 34 Pa.Code, Chapters 401–405. [*Ord. 2010-1*]

K. *Extraction of Mineral Resources*.

(1) A site plan shall be submitted to the Board by the applicant indicating existing grades and proposed grades after completion of the extraction process. No grade shall be greater than 50 percent at completion.

(2) A site plan shall show method of extraction, list all machinery to be used and location points of ingress and egress for vehicles to and from the site.

(3) Where materials are removed from the site it shall be planned in such manner that it will not cause any debris or material to be deposited beyond the site boundaries.

(4) A written agreement shall be included with the site plan from the applicant stating that all machinery and devices used for extraction purposes will be removed from the site upon completion of the process.

(5) The site and its intended uses shall also make provisions for the following: all road access points to the site shall be controlled by means of a gate with a sign warning of hazardous conditions, if such exist; the activity shall not cause earth movements or erosion to extend beyond the exterior boundary lines of the site; structures, buildings, equipment, and mining or quarrying operations shall not be located closer than 100 feet from any zoning district boundary, property line, street, road, or highway, except for office or storage building which should not be located closer than 50 feet from same; pursuant to subsection .3.B, planting strips or screens shall be provided and installed and maintained at the expense of the owner; smoke, gases, and other odorous matter, noise, vibration, light, heat, dust, or dirt shall not be emitted in quantities as to be unreasonably offensive beyond the exterior property lines of the site. [*Ord. 2-98*]

(6) The site plan and supporting materials shall provide sufficient evidence that, upon depletion of the mineral resources or discontinuance of the use of the site for extraction of mineral resources, said site shall be restored in such a manner that the condition of the site shall not be injurious to the future health and safety of Township residents and that the site could be adequately utilized as a nature area, recreation site, or possibly for other more intensive land uses. Restoration measures to be employed shall include, but not limited to, proper grading and backfilling; assurance of proper surface and subsurface drainage, provisions for sodding and topsoil; planting of trees, shrubs, and grasses. A written agreement (in a form approved by the Township Solicitor) shall be included with the site plan assuring the Township that the appropriate restoration measures will be taken and that all buildings, structures, apparatus and appurtenances accessory to the extractive operation shall be removed. A bond or guarantee in an amount necessary to complete restoration measures shall be required.

L. *Hospital or Convalescence Home*.

(1) Outside storage of gasses must be made in areas made inaccessible by and secure by the construction of fences.

(2) The location of hospital access points shall be properly suited to the safe operation of emergency vehicles.

(3) Access to hospitals shall be available at a minimum of two locations.

(4) Suitable areas shall be provided for trash storage, which are so designed as not to be visible from a public street. The trash storage areas must allow for safe, easy removal of the trash.

M. *Kennels, Animal Hospitals, Commercial Stables, or Riding Academies*. Within the Agricultural Preservation and Blue Mountain Preservation Districts and subject to the requirements of the underlying zone in which located except as herein modified and provided:

(1) *Lot Area*. Five acres minimum.

(2) *Setbacks*. All buildings, dog runs, fenced enclosures and similar structures shall be located at least 100 feet from all property or street lines.

(3) All boarding areas shall be completely within an enclosed building.

(4) All outdoor running areas shall be fenced in a manner that restricts access and provides for a full enclosure.

(5) The applicant shall furnish credible evidence that any and all other State and/or Federal approvals have been obtained or that none are required prior to the application for any permit authorizing the erection or use of any structure or land for a kennel.

(6) The applicant shall furnish credible evidence of an effective and recognized acceptable manner for the disposal of animal waste and carcasses.

(7) The owner/operator shall be responsible to exercise reasonable control over the animals and shall not allow a nuisance condition to be created in terms of excessive noise, dirt or odor.

[*Ord. 2010-1*]

N. *Large Group Care Facilities and Small Group Care Facilities*.

(1) The applicant shall demonstrate that the site is convenient to those support facilities that are essential to the functioning of the specific facility. These support facilities may include, but are not limited to transportation, medical care, educational facilities, recreation facilities, social services, and training facilities.

(2) The facility shall have obtained any and all licenses and permits required by the Federal, State, County, or local government which may be relevant to the particular type of facility.

(3) A minimum floor area of 900 square feet shall be provided for all small group care facilities.

(4) For large group care facilities, a minimum floor area of 900 square feet plus 110 square feet for every resident in excess of six shall be provided.

(5) Small group care facilities shall not have more than six residents.

(6) The group care facilities shall have 24-hour per day supervision of the residents by people qualified by training and experience in the field for which the group care facility is intended.

(7) One off-street parking space per employee for the maximum number of employees on any one shift shall be provided if the resident group members

are not allowed to operate motor vehicles. If the resident group members are allowed to operate motor vehicles, one off-street parking space shall be provided for each resident.

(8) The facility shall not provide medical, counseling, or other service to persons who do not reside at the facility.

(9) The lot on which the group care facility is sited shall be separated from lots on which other group care facilities are located by a minimum distance of 800 feet in any direction.

(10) The facility shall comply with the following requirements, by providing said information to the Zoning Officer, on or before February 1 of each year, on an annual basis.

(a) The name, addresses, and telephone numbers of the primary and alternate supervisors of the group home facility.

(b) The addresses of the operator of the group home for the acceptance of correspondence and service of documents which address shall be within the Commonwealth of Pennsylvania, or, in the event of a sponsor not maintaining an office within the Commonwealth of Pennsylvania, then the sponsor shall designate an agent for acceptance of correspondence and service of documents within the Commonwealth of Pennsylvania.

(c) A current copy of any license held by the operator of the group home authorizing the operation of the group home facility.

(d) The above information shall be accompanied by an annual fee, payable to the Township as shall be set by the Township Board of Supervisors by resolution. [*Ord. 2010-1*]

(e) The applicant shall also submit such additional information as shall be required by the annual application to be filed with the Zoning Officer to accompany the above information.

[*Ord. 2-98*]

O. *Laundry/Dry Cleaning Establishment and Self Service Laundry*. Within the Rural Village District and subject to the requirements of that zone except as herein modified and provided:

(1) Access shall be via an arterial street or collector street as designated by the Township Comprehensive Plan.

(2) Public sewer and public water shall be utilized; however, where public water and sewer facilities are not available, private, on-lot waste water recycling systems shall be required.

(3) During operation or plant cleanup and maintenance, all windows and doors shall be kept closed.

(4) Any exhaust ventilation equipment shall be directed away from adjoining residentially used or zoned properties.

(5) Self service laundries shall provide one off-street parking space for each two washing machines; other laundry or dry-cleaning uses shall provide one off-street parking pace for each 400 square feet of gross floor area.

(6) Credible evidence must be presented to show that the operation will

be conducted in accordance with all applicable State and/or Federal requirements.

[*Ord. 2010-1*]

P. *Medical Clinic*. Within the Rural Village District and subject to the requirements of the underlying zone except as herein modified and provided:

(1) *Lot Area*. One acre minimum.

(2) *Lot Width*. One hundred fifty feet minimum.

(3) Access shall be via a major or minor collector street as designated by the Township Comprehensive Plan.

(4) Where available, public sewer and public water facilities shall be utilized. On-lot sewage disposal facilities shall be inspected by a registered Sewage Enforcement Officer who shall certify that the system meets current DEP on-lot sewage disposal permitting requirements.

(5) The use shall be operated in accordance with all applicable State and/or Federal regulations.

(6) Appearance should be harmonious with adjoining properties. This feature includes, but is not limited to: landscaping, height control, sign control, building coverage and architectural controls.

(7) Parking, buffers and screening shall be provided as required by this Chapter and the Township Subdivision and Land Development Ordinance [Chapter 22].

(8) Accessory services, including laboratories and pharmacies for the use of patients visiting medical practitioners in the clinic, may be permitted as part of the clinic subject to the following specific conditions:

(a) All entrances to parts of the building in which these accessory services are provided shall be from within the building. Direct exterior access to any accessory services by patients from the street is prohibited.

(b) The hours during which these services are provided shall be the same as those during which medical practitioners are receiving patients.

(c) When two or more principal uses occupy the same building on the same lot, all parking, lot area and building area requirements pertaining to each use shall be met in full.

[*Ord. 2010-1*]

Q. *Membership Club*. It shall be demonstrated to the Board that the membership club:

(1) Will serve a purely social, athletic or community service purpose.

(2) Will operate on a nondiscriminatory membership basis.

(3) Will not be conducted as a business.

(4) Will not cause or create a nuisance to adjoining properties or to its general neighborhood in the conduct of its activities.

R. *Multi-family Dwelling*.

(1) The maximum building density for a multi-family dwelling shall be

four dwelling units per acre if served by an on-lot sanitary sewage disposal system and eight dwelling units per acre if served by a central sanitary sewage disposal system and central water system.

(2) A 20-foot wide buffer yard with screening shall be provided between any multi-family dwelling building and any abutting existing single family detached dwelling within 100 feet of such multi-family dwelling. The buffer yard shall be a landscaped area free of structures. The planting screen of trees or shrubs shall be of a type of material to form a visual screen having a minimum height when planted of 4 feet. The plants needed to form the visual screen shall be of an evergreen variety and shall be spaced and sized so it can reasonably be expected to grow to a height of at least 6 feet within 4 years of planting. Other types of plants other than the evergreen variety may be utilized if it is determined by the Zoning Hearing Board that the design will be functionally equivalent to the evergreen variety.

(3) There shall be no more than 12 dwelling units per multi-family dwelling building and the maximum length of any building shall be 200 feet.

(4) A minimum distance of 40 feet shall be maintained between any multi-family dwelling buildings.

(5) Vehicular access to a multi-family dwelling building or buildings shall be provided from the existing public road by way of one or more private drive(s) serving the interior of the lot. All parking facilities shall be located within the private parking areas located on the lot. No parking facilities shall be located adjacent to existing public roads.

(6) All interior driveways and parking areas shall be lined with curbing and sidewalks shall be installed to provide pedestrian walkways along the private driveways leading to the public road, from the parking areas to the buildings, and between the building.

(7) A legally binding mechanism for assuring the maintenance of any sanitary sewage disposal and/or collection system shall be required, together with compliance with all applicable provisions of the Heidelberg Township Subdivision and Land Development Ordinance [Chapter 22] as are applicable to that system.

[*Ord. 99-2A*]

S. *Nurseries and Greenhouses*. All structures associated with this activity shall not be located closer than 100 feet from any street, property, or dwelling, except on the home premises.

T. *Oil or Gas Well Operations*.

(1) The operation shall comply with the provisions of the Pennsylvania Oil and Gas Act, 58 P.S. §601.101 *et seq*. Compliance shall be demonstrated by the submission of a permit obtained pursuant to the provisions of the Oil and Gas Act.

(2) Internal access roads shall comply with the provisions of §22-403.6 of the Heidelberg Township Subdivision and Land Development Ordinance [Chapter 22].

(3) *Setbacks*.

(a) Wells and brine storage areas shall be setback 200 feet from all existing building and water wells.

(b) Wells and brine storage areas shall be setback 100 feet from all streams, springs, wetlands of greater than 1 acre in size.

(c) Wells and brine storage areas shall be setback 100 feet from all property lines and from public streets and rights-of-way.

(d) Other structures accessory to oil and gas operations shall meet the setback requirements specified in §§27-505 and 27-605 for "all other uses." Accessory uses shall not occur in the required rear yard.

(4) The applicant shall indicate the measures to be employed to minimize the noise impacts of the drilling operations to the nearby properties.

(5) A soil erosion and sedimentation control plan in conformance with the requirements of the Department of Environmental Protection shall be submitted.

(6) A 6-foot high chain link fence shall enclose all oil and gas operations and individual drilling sites.

(7) *Groundwater Protection*.

(a) The applicant shall submit a list of all owners of water wells within 1,000 feet of the proposed well. The applicant shall have contacted each water well owner by registered mail notifying them of the proposed well and offering to conduct a test of their well water. Copies of the letters and responses shall be provided to the Zoning Hearing Board. These tests shall be conducted without cost to the water well owners by an independent laboratory. The tests shall encompass the Environmental Protection Agency Primary Drinking Water Standards (Document #EPS 570/9-76-003) and the secondary drinking water standards of the Congressional Federal Register of 7/19/79-CFR, Part 143. Additionally, the testing shall cover specific conductivity, potassium, methane, ethane, oil, and grease. If pollution is detected based on these criteria, testing for volatile organics and base neutral extractables may be required. The results shall be provided to the water well owners, at no cost to the water well owners.

(b) Until the well has been abandoned and capped in accordance with DEP regulations, each of the water wells shall be tested annually by an independent laboratory. The tests shall encompass the same parameters as cited in subsection .4.S(7)(a). The results shall be provided to the water well owners, at no cost to the water well owners.

(c) In the event that no water wells are located within 1,000 feet of the proposed well, the applicant shall drill a monitoring well within 1,000 feet of the proposed drilling site and shall conduct the same tests as required by subsections .4.M.7.A and .4.M.7.B. The test results provided in accordance with subsections .4.M.7.A and .4.M.7.B shall be forwarded to the Township Zoning Officer.

(8) All tanks used for the storage or the production of oil shall conform to the specifications of the American Petroleum Institute. Proof of such compliance shall be submitted to the Zoning Hearing Board and to the Zoning Officer,

upon request.

(9) Portable equipment not necessary for the continuing drilling, or other use of the site shall not be stored on the property except in completely enclosed buildings.

(10) Prior to the annual anniversary of the issuance of the occupancy permit for te well, the well operator shall make application for the renewal of the occupancy permit on forms provided by the Township. The Zoning Officer shall inspect the well site and shall review relevant documentation, in order to determine if the operation complies with the provisions of the zoning ordinance and the order and/or opinion of the Zoning Hearing Board. If the Zoning Officer determines that the operations comply, the occupancy permit shall be renewed. If the Zoning Officer determines that the operations do not comply in part or all, the occupancy permit renewal shall be denied, in which case the operations of the well shall cease until the provisions of this Chapter are met. Appeals from the Zoning Officer's decisions may be pursued in accordance with the provisions of §27-1103. The annual renewal of the occupancy permit shall continue until the well has been abandoned and plugged in accordance with the rules of the Department of Environmental Protection. [*Ord. 2010-1*]

[*Ord. 2-98*]

(11) *Bonds, Letters of Credit, Indemnity and Insurance*.

(a) *Irrevocable Letter of Credit and Indemnity Bond*. Prior to the issuance of a permit for the commencement of operations, drilling, redrilling, deepening, reworking, converting or activating a well, the operator (and driller, if requested by the Township) shall provide the Township with a letter of irrevocable letter of credit or indemnity bond, or certificate of deposit or cash and certificate of insurance as follows:

1) An irrevocable letter of credit or indemnity bond in the principal sum of such amount to be determined by the Board of Supervisors of but not less than $50,000. The letter of credit or bond shall be executed by a reliable banking institution or insurance company authorized to do business in the Commonwealth of Pennsylvania, with the operator and/or driller as principal, running to the Township for the benefit of the Township and all persons concerned, conditional that the operator and/or driller will comply with the terms and conditions of this Chapter.

2) Such letter of credit or bond shall become effective on or before the date it is filed with the Township and remain in force and effect for at least a period of 3 years subsequent to the expiration of the term of the permit issue; and in addition, the bond will be conditioned that the operator and/or driller will promptly pay all legally imposed fines, penalties and other assessments imposed upon the operator and/or driller by reason of his breach of any of the terms, provisions, and conditions of this Chapter and that the operator and/or driller will promptly clear all premises of all litter, trash, waste and other substances used, allowed or occurring in the operations and

will after abandonment, or completion, grade, level, and restore such property to the same surface conditions as nearly as possible as, existed when operations were first commenced and that the operator and/or driller will defend, indemnify, and hold the Township, its officers, agents and employees harmless, from any and all liability growing out of or attributable to the granting of such permit regardless of whether the liabilities caused in part by the Township, its officers, agents or employees or any of them. If, at any time, the Board of Supervisors shall deem a driller or operator's bond or letter of credit to be insufficient for any reason, it may require the operator and/or driller to file a new bond or increase the amount of such letter of credit.

3) Whenever the Township finds that a default has occurred in the performance of any requirement or condition imposed by this Chapter, a written notice thereof shall be given to the operator. Such notices shall specify the work to be done, the estimated cost thereof and the period of time deemed by the Township to be reasonably necessary for the completion of such work. After receipt of such notice, the operator shall within the time therein specified for the completion of such work. After receipt of such notice, the operator shall, within the time therein specified, either cause the work to be performed, or failing thereupon shall pay over to the Township 125 percent of the estimated cost of doing the work as set forth in the notice. The Township shall be authorized to draw against any irrevocable letter of credit which covers the drilling operation site. Upon receipt of such monies, the Township shall proceed by such mode as deemed convenient to cause the required work to be performed and completed, but no liability shall be incurred therein other than for the expenditure of such sum in hand. In the event that the well has not been properly abandoned under the regulations of this Part, such additional money may be demanded from the operator as is necessary to restore the drill site in conformity with the regulations of this Part. In the event that any letter of credit is drawn upon, the operation shall be required to post a new letter of credit in the amount to be determined by the Board of Supervisors prior to commencement of any further work on the drilling site.

4) In the event the operator does not cause the work to be performed and fails or refuses to pay over the Township the estimated cost of the work to be done as set forth in the notice, or the bank refuses to honor any draft by the Township against any applicable bond or irrevocable letter of credit, the Township may proceed to obtain compliance and abate default by way of civil action against the operator, or by criminal action against the operator, or by both such methods. The posting of the letter of credit and/or the drawing upon same by the Township shall in no manner by construed as a liquidated damage amount and the operator shall remain liable to the Township in such amounts as may be necessary to obtain compliance

and abate the default hereunder.

5) When the well or wells, covered by said irrevocable letter of credit, have been property abandoned in conformity with all regulations of this Chapter, an in conformity with all regulations of this Chapter, and in conformity with the regulation of the Commonwealth of Pennsylvania and notice to that effect has been received by the Township or upon receipt of a satisfactory substitute, irrevocable letter of credit issued in compliance with the regulations shall be terminated and cancelled.

(b) *Insurance*. In addition to the letter of credit required pursuant to this Chapter, the operator shall carry a policy or policies of insurance issued by an insurance company or companies authorized to do business in the Commonwealth of Pennsylvania, such policy or policies in the aggregate shall provide for the following minimum coverages:

1) Standard comprehensive liability covering the surface property owner, oil and gas owner, oil and gas lessee, operator, and Township including coverage for premises, operations, blowout or explosion, products completed operations, blanket contractual liability, underground property damage, broad form property damage, independent contractors and personal injury. A certificate of insurance shall be given for the Township naming all of the above as insured.

a) Bodily injury $500,000 each occurrence, $1,000,000 aggregate.

b) Property damage $500,000 each occurrence, $1,000,000 aggregate.

2) Standard comprehensive form of automobile liability, including coverage for owned, hired, and non-owned vehicles.

a) Bodily injury (each person): $300,000.

b) Bodily injury (each accident): $1,000,000.

c) Property damage: $250,000 each occurrence.

3) Excess liability (umbrella form) $5,000,000, in excess of primary insurance.

4) Workers' compensation in the statutory amount and employer's liability $100,000 each accident.

5) The insurance policies set forth in clause (b), above, shall provide that they shall not be cancelled without prior written notice to the Township Secretary at least 30 days prior to the effective date of such cancellation or such other time period as may be agreed upon by the Township Board of Supervisors.

6) In the event such insurance policy or policies are cancelled, the permit granted shall terminate on such date of cancellation and the operator's right to operate under such permit shall cease until the operator files additional insurance as provided herein.

(c) *Certificate of Deposit*. The operator may substitute a certificate of deposit in lieu of the irrevocable letter of credit or indemnity bond set forth herein above upon the following conditions:

1) Such certificate of deposit shall be in such amount which shall be equal to or greater than the amount of the irrevocable letter of credit or indemnity bond.

2) Such certificate of deposit shall be issued by a bank, selected by the operator in Lehigh County, Pennsylvania, and shall be payable to the order of the bank (however accrued interest thereon shall be payable to the operator and the bank shall be so instructed).

3) Such certificate of deposit shall be delivered to the bank and evidence of the receipt thereof by the bank shall be submitted to the Township Secretary.

4) Such certificate of deposit shall be governed by the same terms and conditions as irrevocable letters of credit as set forth in this Chapter and the bank shall be so instructed.

[*Ord. 2010-1*]

U. *Public and Private Schools*.

(1) Applications for public schools shall include a letter from the Pennsylvania Department of Education stating that all of the requirements of that Department have been met.

(2) Private schools shall meet all requirements of the Pennsylvania Department of Education which pertain to the site, location, and siting of the school on the property. The Zoning Hearing Board shall be granted such time as is necessary to obtain the most current regulations from the Department of Education.

V. *Retail Store/Sales*. Within the Rural Village District and subject to the requirements of those zones except as herein after provided:

(1) *Lot Area*. One acre minimum.

(2) *Lot Width*. One hundred fifty feet minimum.

(3) The applicant shall demonstrate that access to and from the site and the design of the parking facilities shall not cause vehicles to backup onto abutting streets or obstruct internal access drives.

(4) Off-street parking shall not be permitted within any front yard or within any side or rear setback areas.

(5) Outdoor storage shall not be permitted within any front yard or parking area, except for the incidental display of seasonal merchandise directly within 6 feet of the front of the building. Outdoor storage shall not be permitted within any side or rear setback area.

[*Ord. 2010-1*]

W. *Sanitary Landfill*.

(1) The site and the operation of the sanitary landfill shall be duly inspected and officially approved by the Pennsylvania Department of

Environmental Protection. [*Ord. 2010-1*]

(2) A written report on the adequacy of the site for a sanitary landfill shall be submitted to the Board.

(3) The sanitary landfill shall be operated in such a way that surface or subsurface water is not contaminated, that rodents and other vermin are not encouraged to live and breed, that materials disposed at the sanitary landfill are not visible from or do not blow onto neighboring properties.

X. *Shopping Center (Strip Shopping Center)*. Within the Rural Village District and subject to the requirements of the underlying zones except as herein modified and provided:

(1) The subject tract shall front on and gain access from either a major or minor collector road as identified in the Comprehensive Plan.

(2) The following types of commercial and commercial-related establishments include, but are not limited to:

(a) Grocery store.

(b) Banks and similar financial institutions.

(c) Drugstore.

(d) Retail sale of goods, provided the total floor area is less than 40,000 square feet.

(e) Retail services, including barber/beauty salons, music, dance, art or photographic studios, repair of small appliances, and laundromat and dry cleaning collection stations.

(f) Professional offices.

(g) Restaurants and taverns.

(h) Any other establishment that in the opinion of the Board of Supervisors is of the same general character as any of the above-identified uses.

(3) The minimum lot area shall be 2 acres.

(4) The minimum lot width shall be 200 feet.

(5) The applicant shall demonstrate that access to and the design of the parking facilities shall not create vehicle back-ups onto existing abutting streets.

(6) The maximum building coverage shall be no greater than 25 percent.

(7) The maximum impervious lot coverage shall be no greater than 70 percent.

(8) The minimum landscaped area shall be no less than 30 percent.

(9) No building shall be placed closer than 50 feet to any property line. Where there exists a more stringent requirement, such requirement shall apply. Off-street parking shall not be permitted within side and rear yard setback areas.

[*Ord. 2010-1*]

Y. *Timber Harvesting*. Timbering harvesting shall be subject to the following:

(1) Timber harvesting activities shall be conducted in accordance with an erosion and sedimentation pollution control plan that is consistent with current acceptable practices to control runoff, erosion, stream siltation and soil stabilization.

(2) The erosion and sedimentation pollution control plan shall be submitted to the Lehigh County Conservation District for their review and approval prior to initiating any earth moving or timber harvesting activities.

(3) The erosion and sedimentation pollution control plan, along with evidence of the review and approval of same by the Lehigh County Conservation District, shall be submitted to the Township prior to initiating any earth moving or timber harvesting activities.

(4) All roads and trails developed as part of a timbering activity shall be dust stabilized when within 100 feet of any lot or street line.

[*Ord. 2010-1*]

Z. *Vehicle Sales, Vehicle Body Shop, Vehicle Repair Garage*. Within the Rural Village District and subject to the requirements of that zone except as herein modified and provided:

(1) The subject tract shall front on and gain access from either a major or minor collector street as identified in the Comprehensive Plan.

(2) All service and/or repair activities shall be conducted within a totally enclosed building.

(3) All uses involving drive-through service shall provide sufficient onsite stacking lanes to prevent vehicle back-ups on adjoining roads.

(4) No outdoor storage of parts, equipment, lubricants, fuel or other materials used or discarded, as part of the service operation shall be permitted. Materials discarded as part of the service operation shall be contained within wholly enclosed dumpster equipment.

(5) All exterior vehicle storage areas shall be screened from adjoining residential and residentially zoned property.

(6) The storage of unlicensed vehicles on the property is prohibited.

(7) All ventilation equipment associated with fuel storage tanks shall be at least 300 feet and oriented away from any adjoining residential property or residentially-zoned property.

(8) All vehicles shall be repaired and removed from the premises as promptly as possible. Any vehicle not receiving repair work within the preceding 7 days shall be removed.

(9) The demolition or storage of junked vehicles is prohibited.

(10) All lights shall be directed toward the business and downward on the lot.

[*Ord. 2010-1*]

AA. *Vehicle Service Station*. Within the Rural Village District and subject to the requirements of the underlying zone except as herein modified and provided:

(1) The subject tract shall front on and gain access from either a major or

minor collector street as identified in the Comprehensive Plan.

(2) The subject property shall have a minimum lot width of 125 feet.

(3) The subject property shall be at least 300 feet from the property line of any parcel containing a school, day care facility, playground, library or nursing, rest or retirement home.

(4) Any vehicle not receiving repair work within the preceding 7 days shall be removed.

(5) Gasoline pump islands shall be at least 30 feet from the street right-of-way line.

(6) Entrances and exits shall be a minimum of 40 feet in width.

(7) All ventilation equipment associated with fuel storage tanks shall be at least 300 feet from any adjoining residential property or residentially zoned property.

(8) All uses involving drive-through service shall provide sufficient onsite stacking lanes to prevent vehicle back-ups on adjoining roads.

[*Ord. 2010-1*]

5. *Standards and Criteria for Special Exceptions in Floodplains*. These standards and criteria are applicable for those special exceptions permitted pursuant to §27-904.2 for floodplains.

A. No structure, fill, deposit, obstruction, storage of materials or equipment, or other use shall be allowed as a special exception which, acting alone or in combination with existing or future uses, unduly affects the capacity of the flood way or unduly increases flood heights. Consideration of the effects of a proposed use shall be based on a reasonable assumption that there will be an equal degree of encroachment extending for a significant reach on both sides of the stream.

B. Any fill or materials proposed to be deposited in the flood way must be shown to have some beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials. Such fill or other materials shall be protected against erosion by rip-rap, vegetative cover, or bulkhead.

C. Structures shall offer the minimum obstruction to the flow of flood waters. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of the flood flow and, so far as possible, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

D. Structure shall be firmly anchored to prevent flotation, collapse or lateral movement.

E. Residential structures shall have the lowest floor (including basement) elevated 1½ feet or more above the level of the 100-year flood. Applicant shall submit a hydrologic analysis to define the 100-year level for the lot. [*Ord. 2-98*]

F. All public utilities and facilities such as sewer, gas, electrical, and water systems shall be located and constructed to minimize or eliminate flood damage, infiltration of flood waters into the systems, discharges from sewer systems into flood water and impairment to or contamination from on-site sewage disposal

systems.

G. The storage or processing of materials that in time of flooding are buoyant, flammable, explosive or could be injurious to human, animal, or plant life is prohibited. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or readily removable from the area within the time available after flood warning.

(*Ord. 4-81*, 12/28/1981, §1180; as amended by *Ord. 1-86*, 4/4/1986, §4; by *Ord. 2-88*, 8/5/1988, §12; by *Ord. 2-98*, 4/9/1998, §§14–17; by *Ord. 99-2A*, 11/11/1999, §§4 and 6; and by *Ord. 2010-1*, 4/8/2010)

§27-1106. Variances.

1. The Zoning Hearing 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.

2. The Board may grant a variance provided 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.

3. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Chapter. No variance shall be granted to allow a structure or use in a district in which such structure or use is restricted. A use permitted as the result of the granting of a variance shall be construed to be a nonconforming use.

4. Where a variance is sought within a floodplain, the Board shall determine that the granting of the variance will not result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud, or victimization of the public, or conflict with local laws or ordinances. [*Ord. 2-98*]

(*Ord. 4-81*, 12/28/1981, §1190; as amended by *Ord. 2-98*, 4/9/1998, §18)

Part 12

Administration and Enforcement

§27-1201. Interpretations.

1. In applying and interpreting the provisions of this Chapter, they shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals, comfort, convenience, and general welfare. The following specific regulations shall apply:

A. A minimum required lot or yard size for one building or structure shall not be used as any part of a required lot or yard for a second structure.

B. The required lot or yard for an existing building or structure shall not be diminished below the minimum requirements of this Chapter.

C. The parking spaces required for one building or structure or use shall not be included in the computation of required parking spaces for a second building or structure or use.

2. *Relation of this Chapter to Other Provisions of Law, and to Private Covenants and Agreements*.

A. It is not intended by this Chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties. Where this Chapter imposes a greater restriction upon the use of buildings, structures, premises, lots or land, or upon the height of buildings or structures or other open spaces than imposed or required by such other provisions of law, ordinance, or regulations, or by such easements, covenants or agreements, the provisions of this Chapter shall control.

B. Wherever the provisions of any other law or ordinance or regulations impose a greater restriction than this Chapter, the provisions of such other law or ordinance or regulations shall control.

C. No provisions contained in this Chapter shall be construed as justifying the encroachment of any building or structure within any street lines not or hereafter laid down on an Official Map of the Township.

(*Ord. 4-81*, 12/28/1981, §1210)

§27-1202. Appointment and Powers of Zoning Officer.

1. *Duties*. For the administration of this Chapter, the Zoning Officer, who shall not hold any elective office in the Township, shall be appointed. The Zoning Officer shall meet qualifications established by the Township and shall be able to demonstrate to the satisfaction of the Township a working knowledge of municipal zoning. The Zoning Officer shall administer this Chapter in accordance with its literal terms, and shall not have the power to permit any construction or use or change of use which does not conform to this Chapter. The Zoning Officer is authorized to institute civil proceedings as a means of enforcement when acting within the scope of his duties. [*Ord. 2010-1*]

2. *Inspection of Premises*. The Zoning Officer and his deputies and assistants,

after notification to owner and occupant and at a time agreeable to all parties involved, shall have the right and authority to enter any building, structure, premises, lot or land, whether already erected or put into use, or in the course of erecting and putting into use, for the purpose of determining whether or not the provisions of this Chapter are being complied with.

(*Ord. 4-81*, 12/28/1981, §1220; as amended by *Ord. 2010-1*, 4/8/2010)

§27-1203. Building Permits.

No building permit shall be issued for the erection, construction, reconstruction, structural alteration, or moving of any building, structure, or part thereof, unless the plans and intended use indicate that such building or structure is designed and intended to conform in all respects to the provisions of this Section, unless a special exception and/or variance has been granted, as applicable, by the Zoning Hearing Board.

A. *Application for Building Permit*. All procedures with respect to applications for and issuance of building permits shall be in conformity with this Chapter. All such applications shall be accompanied by such other information as may be necessary to determine and provide for the enforcement of the ordinance. The Zoning Officer may request such additional information as is reasonably necessary to exercise a proper judgment on the applicability of provisions of this Chapter to the proposal submitted.

B. *Construction and Use to Be as Provided in Application and Plans*. A building permit issued on the basis of applications and plans submitted to the Zoning Officer shall authorize only the use, arrangement, and construction set forth in the applications and plans. Substantial variations in use, arrangement, and construction from the submitted applications and plans shall be deemed a violation of this Chapter. Where substantial changes are desired once construction has begun and is not yet completed, a new building permit shall be required.

C. *Relationship to Zoning Hearing Board Functions*. Before issuing a building permit, the Zoning Officer shall obtain a written order from the Zoning Hearing Board that an application for a special exception use has met the standards and criteria for that use, as provided in §27-704 of this Chapter. In all matters where it exercises an appeal function, as provided in this Chapter, the decisions and findings of the Zoning Hearing Board shall direct the actions of the Zoning Officer.

D. *Completion of Buildings for Which Permits Have Been Issued*. Nothing in this Chapter shall require any change in the plans, construction, or designated use of a building or structure for which a lawful building permit has been issued prior to the effective date of this Chapter affecting such building or structure or the use thereof, provided that:

(1) The construction of such building or structure within 3 months from the date of such permit.

(2) The ground story framework, including the second tier of beams, shall have been completed within 6 months from the date of such permit.

(3) The entire building or structure shall be completed according to such filed and approved plans upon which the issuance of such permit was based, within 1 year from the effective date of this Chapter or any such amendment

thereto.

E. *Expiration of Building Permit*. In the event that paragraphs .D(1), .D(2), or .D(3) are not complied with, such building permit shall be revoked by the Zoning Officer. Written notice thereof shall be given to the persons affected, together with notice that further work shall not proceed unless and until a new building permit has been obtained.

F. *Requirements for Obtaining a Building Permit*.

(1) *Statement of Intent*. The intent of this Chapter is to:

(a) Promote the general health, welfare, and safety of the community.

(b) Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.

(c) Minimize danger to public health by protecting water supply and natural drainage.

(d) Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.

(2) *Applicability* It shall be unlawful for any person, partnership, business, or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Township unless an approved building permit has been obtained from the Zoning Officer.

(3) *Building Permits Required*. Building permits shall be required before any construction or development is undertaken within any area of the Township. A building permit shall not be required for minor repairs to existing buildings or structures, provided that no structural changes or modifications are involved. Building permits shall also be required for any reconstruction, enlargement, alteration, raising, or relocation of any building or structure.

(4) *Issuance of Building Permit*.

(a) The Zoning Officer shall issue a building permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.

(b) Prior to the issuance of any building permit the Zoning Officer shall review the application for permit to determine if all of the necessary governmental permits such as those required by State and Federal laws have been obtained, including those required by the Pennsylvania Sewage Facilities Act, 35 P.S. §750.1 *et seq*.; the Dam Safety and Encroachments Act, 32 P.S. §683.1 *et seq*., as amended; the U. S. Clean Streams Act, Act 394 of 1937, as amended. No permit shall be issued until this determination has been made. [*Ord. 2010-1*]

(c) No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the Township, and until all required permits or approvals have been first obtained from the Department of Environmental Protection, Regional Office, Wilkes Barre. In addition, the Federal Emergency Management Agency (FEMA) and

Pennsylvania Department of Community and Economic Development, Bureau of Community Planning, shall be notified by the Township prior to any alteration of relocation of any watercourse.[*Ord. 2010-1*]

(d) No building permit shall be issued for the erection, construction, reconstruction, structural alteration, or moving of any building, structure, or part thereof, on or in resource protected lands, as such term is used in the Township Subdivision and Land Development Ordinance [Chapter 22].

(5) *Application Procedures and Requirements*.

(a) Application for a building permit shall be made in writing to the Zoning Officer on forms supplied by the Township. Such application shall contain at least the following:

1) Name and address of applicant.

2) Name and address of owner of land on which proposed construction is to occur.

3) Name and address of contractor.

4) Site location.

5) Listing of other permits required.

6) Brief description of proposed work and estimated cost.

7) A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.

(b) If any proposed construction or development is located within, or partially within, any identified floodplain area, applicants for building permits shall provide all the necessary information in sufficient detail and clarity to enable the Zoning Officer to determine that:

1) All such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances.

2) All utilities and facilities, such as sewer, gas, electrical and water systems are located and construction to minimize or eliminate flood damage.

3) Adequate drainage is provided so as to reduce exposure to flood hazards.

(c) Applicants shall file the following minimum information plus any other pertinent information (e.g., any or all of the technical information contained in paragraph .F(5)(d)) as may be required by the Zoning Officer to make the above determination:

1) A completed building permit application form.

2) A plan of the entire site, clearly and legibly drawn at a scale of 1 inch being equal to 100 feet or less showing the following:

a) North arrow, scale, and date.

b) Topographic contour lines, if available.

c) All property and lot lines including dimensions, and the

size of the site expressed in acres or square feet.

d) The location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and land development.

e) The location of all existing streets, drives and other access ways.

f) The location of any existing bodies of water or watercourses, identified floodplain areas, and if available, information pertaining to the flood way, and the flow of water including direction and velocities.

3) Plans of all proposed buildings, structure, and other improvements, drawn at suitable scale showing the following:

a) The proposed lowest floor elevation of any proposed building based upon National Geodetic Vertical Datum of 1929.

b) The elevation of the 100-year floodplain. [*Ord. 2010-1*]

c) If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a 100-year flood.

d) Detailed information concerning any proposed floodproofing measures.

4) The following data and documentation:

a) A document, certified by a registered professional engineer or architect, which states that the proposed construction has been adequately designed to withstand the 100-year flood elevations, pressures, velocities, impact and uplift forces associated with the 100-year flood. Such statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure and/or the development.

b) The appropriate component of the Pennsylvania Department of Environmental Protection's "Planning Module for Land Development." [*Ord. 2010-1*]

c) Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.

d) Documentation, certified by a registered professional engineer or architect, to show 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. Said document and statement shall contain appropriate language when necessary to determine compliance with storage requirements (all materials that are buoyant, flammable, explosive or, in times of flooding, could be injurious to human, animal or plant life should be stored

at or above the regulatory flood elevation and/or flood proofed to the maximum extent possible in compliance with subparagraph (20)–Development which May Endanger Human Life–Hazardous Materials and Substances) including:

i. The amount, location, and purposes of any dangerous materials or substances which are intended to be used, produced, stored or otherwise maintained on site.

ii. A description of the following safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the following dangerous materials or substances listed in subparagraph (22) during a 100-year flood.

(d) Applicants for any proposed construction or development located within or partially within any identified floodplain area shall provide five copies of the building application and the additional items: [*Ord. 2010-1*]

1) A written request including a completed building permit application form.

2) A small scale map showing the vicinity in which the proposed site is located.

3) A plan of the entire site, clearly and legibly drawn at a scale of 1 inch being equal to 100 feet or less, showing the following:

a) North arrow, scale, and date.

b) Topography based upon the National Geodetic Vertical Datum of 1929, showing existing and proposed contours at intervals of 2 feet.

c) All property and lot lines including dimensions, and the size of the site expressed in acres or square feet.

d) The location of all existing streets, drives, other access ways, and parking areas, with information concerning widths, pavement types and construction and elevations.

e) The location of any existing bodies of water or watercourses, buildings, structures. And other public or private facilities, including railroad tracks and facilities, and other natural and man-made features affecting or affected by the proposed activity or development.

f) The location of the floodplain boundary line, information and spot elevations concerning the 100-year flood elevations, and information concerning the flow of water including the direction and velocities.

g) The location of all proposed buildings, structures, utilities, and any other improvements.

h) Any other information which the municipality considers necessary for adequate review of the application.

4) Plans of all proposed buildings, structures, and other

improvements, clearly and legibly drawn at suitable scale showing the following:

a) Sufficiently detailed architectural or engineering drawings including floor plans, sections, and exterior building elevations, as appropriate.

b) For any proposed building, the elevation of the lowest floor (including basement) and, as required the elevation of any other floor.

c) Complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the 100-year flood.

d) Detailed information concerning any proposed flood proofing measures.

e) Cross-section drawings for all proposed streets, drives, or other access ways, and parking areas, showing all rights-of-way and pavement width.

f) Profile drawings for all proposed streets, drives, and vehicular access ways including existing and proposed grades.

g) Plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.

5) The following data and documentation:

a) Certification from the applicant that the site upon which the activity or development is proposed is an existing separate and single parcel, owned by the applicant or the client he represents.

b) Certification from a registered professional engineer, or architect that the proposed construction has been adequately designed to protect against damage from the 100-year flood.

c) A statement, certified by a registered professional engineer, architect, or other qualified person which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a 100-year flood, including a statement concerning the effects such pollution may have on human life.

d) A statement certified by a registered professional engineer or architect which contains a complete and accurate description of the effects the proposed development will have on 100-year flood elevations and flows.

e) A statement, certified by a registered professional engineer or architect which contains a complete and accurate description of the kinds and amounts of any loose buoyant material or debris that may possibly exist or be located on the site below the 100-year flood elevation and the effects such materials

and debris may have on 100-year flood elevations and flows.

f) The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."

g) Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection to implement and maintain erosion and sedimentation control.

h) Any other applicable permits such as, but not limited to a permit for any activity regulated by the Department of Environmental Protection under §302 of the Flood Plain Management Act, 32 P.S. §679.101 *et seq*.

i) An evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a 100-year flood.

(6) *Review of Application by Others*. A copy of all plans and applications for any proposed construction or development in any identified floodplain Zoning Officer to any other appropriate agencies and/or individuals including the Township Planning Commission, if any, the Lehigh Valley Planning Commission, the Township Engineer, and the Lehigh County Soil Conservation District for further review and comment.

(7) *Changes*. After the issuance of a building permit by the Zoning Officer no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Zoning Officer. Requests for any such change shall be in writing, and shall be submitted by the applicant to the Zoning Officer for consideration.

(8) *Placards*. In addition to the building permit, the Zoning Officer shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the building permit, the date of its issuance and be signed by the Zoning Officer.

(9) *Start of Construction*. Work on any proposed project for which a permit is required shall begin within 6 months after the date of issuance of the building permit or the permit shall expire unless a time extension is granted, in writing, by the Zoning Officer. Construction and/or development shall be considered to have started with the preparation of land, land clearing, grading, filling, excavation for basement, footings, piers or foundations, erection of temporary forms, the installation of piling under proposed subsurface footing, or the installation of sewer, gas, and water pipes, or electrical or other service lines from the street.

(a) *Completion of Construction*. Work on any proposed project for which a permit is required shall be completed within 1 year after the date of issuance of the building permit or the permit shall expire unless a time extension is granted, in writing, by the Zoning Officer. Construction and/or development shall be considered to have been completed upon the issuance of a certificate of occupancy or upon successful completion of the final

inspection as required under the Uniform Construction Code, whichever shall occur first. [*Ord. 2010-1*]

(10) *Inspection and Revocation*.

(a) During the construction period, the Zoning Officer or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable Township laws and ordinances. He shall make as many inspections during and upon completion of the work as are necessary.

(b) In the discharge of his duties, the Zoning Officer shall have the authority to enter any building, structure, premises or development in the identified flood-prone area, or otherwise, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this Chapter.

(c) In the event the Zoning Officer discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement of misrepresentation by any applicant, the Zoning Officer shall revoke the building permit and report such fact to the Board of Supervisors for whatever action it considers necessary.

(d) A record of all such inspections and violations of this Chapter shall be maintained.

(11) *Permit Fees*. Applications for a building permit shall be accompanied by a fee, payable to the Township in accordance with a schedule of fees adopted by the Board of Supervisors by resolution.

(12) *Identification of Floodplain Areas*. The identified floodplain area shall be those areas of Heidelberg Township, Lehigh County, which are subject to the 100-year flood, which is identified as Zone A (area of special flood hazard) in the Flood Hazard Boundary Map (FHBM) or the most recent revision thereof as issued by the Federal Emergency Management Agency (FEMA), or on the most recent Flood Insurance Rate Map (FIRM) issued by FEMA, if such map has been prepared for the Township of Heidelberg.

(13) *Determination of the 100-Year Flood Elevation*. The 100-year flood elevation shall be used as the basis for regulation. To determine the 100-year flood elevation, the elevation at a given point on the boundary of the identified floodplain area which is nearest the construction site in question will be used. In helping to make this necessary elevation determination other sources of data where available shall be used, such as:

(a) Corps of Engineers–Floodplain Information Reports.

(b) U.S. Geological Survey–Flood-prone Quadrangles.

(c) U.S.D.A. Soil Conservation Service–County Soil Surveys (Alluvial Soils) or P.L. 566 Flood Information.

(d) Pennsylvania Department of Environmental Protection–Flood Control Investigations.

(e) Known high water marks from past floods.

(f) *Other Sources*. 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 other of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted to sufficient detail to allow a thorough technical review by the Township.

(14) *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 or possibility for such revision. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).

(15) *Disputes*. Should a dispute arise concerning any identified floodplain boundary, an initial determination shall be made by the Zoning Officer and any persons aggrieved by such decision may appeal to the Board of Supervisors, the burden of proof shall be on the applicant.

(16) *Technical Provisions*.

(a) In the identified floodplain area, the development and/or use of any land shall be permitted provided that the development and/or use complies with the restrictions and requirements of this and all other applicable codes and ordinances in force in the municipality.

(b) Within any identified floodplain area, no new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse, unless a permit is obtained from the Department of Environmental Protection, Regional Office, Wilkes Barre.

(c) Within any floodway area, no new construction or development shall be permitted that would cause any increase in the 100-year flood elevation.

(17) *Elevation and Flood Proofing Requirements*.

(a) *Residential Structures*. Within any identified floodplain area, the elevation of the lowest floor (including basement) of any new or substantially improved residential structure shall be 1½ feet or more above the 100-year flood elevation.

(b) *Nonresidential Structures*.

1) Within any identified floodplain area, the elevation of the lowest floor (including basement) of any new or substantially improved nonresidential structures shall be 1½ feet or more above the 100-year 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 structure, or part thereof, which shall not be completely or adequately elevated shall be designed and constructed to be

completely or essentially dry manner in accordance with the W1 or 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 specifications for such flood proofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards.

(c) A fully enclosed space below the lower floor (including basement) is prohibited.

(d) A partially enclosed space below the lower floor (including basement) which will be used solely for the 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 flood waters 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:

1) A minimum of two openings having 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 flood waters.

(18) *Design and Construction Standards*. The following minimum standards shall apply for all construction proposed to be undertaken 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, and settling,

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

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

(b) *Drainage Facilities*. Storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner. The system shall insure 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 flood waters.

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, 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, and not listed in subparagraph (24), shall be stored at or above the regulatory flood elevation and/or flood proofed 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 obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood water.

(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 designed and constructed of materials that are water-resistant and will withstand inundation.

3) Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are water-resistant and 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 or other finishes used at or below the regulatory flood elevation shall be of a "marine" or water resistant quality.

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

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 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 provision shall be made for the drainage of these systems in the event that flood water infiltration occurs.

(19) *Identified Floodplain Areas*.

(a) Within any identified floodplain area, all manufactured homes and any additions thereto shall be prohibited within the area measured 50 feet landward from the top-of-bank of any watercourse.

(b) Where permitted within any identified floodplain area, all manufactured homes and additions thereto shall be:

1) Anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors in accordance with the American National Standards as specified in the Standard for the Installation of Mobile Home Including Mobile Home Park Requirements (NFPA No. 501A-1974 (ANSI A119.3–1975)), as amended for Mobile Homes in Hurricane Zones, or the more current, applicable NFPA publication, or other appropriate standards, such as the following:

a) Over-the-top ties shall be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations for units 50 feet or more in length, and one additional tie per side for units less than 50 feet in length.

b) Frame ties shall be provided at each corner of the mobile home, with five additional ties per side at intermediate locations

for units 50 feet or more in length, and four additional ties per side for units less than 50 feet in length.

c) All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.

2) Elevated in accordance with the following requirements:

a) The stands or lots shall be elevated on compacted fill, or on pilings so that the lowest floor of the mobile home will be 1½ feet or more above the elevation of the 100-year flood.

b) Adequate surface drainage is provided.

c) Adequate access for a hauler is provided.

d) Where pilings are used for elevation, the lots shall be large enough to permit steps; piling foundations shall be placed in stable soil no more than 10 feet apart; reinforcement shall be provided for pilings that will extend for 6 feet or more above the ground level.

3) Mobile/manufactured homes shall be placed on a permanent foundation.

(c) An evacuation plan indicating alternate vehicular access and escape routes shall be filed with the appropriate Township Administrator for mobile home parks and mobile home subdivisions.

(20) *Development Which May Endanger Human Life; Hazardous Materials and Substances*.

(a) In accordance with the Pennsylvania Flood Plain Management Act, 32 P.S. §679.101 *et seq*., and the regulations adopted by the Pennsylvania Department of Community and Economic Development as required by the Act, any new or substantially improved structure which will be used for the production or storage of any of the following dangerous materials or substances or which 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, shall be subject to the provisions of this Section, in addition to all other applicable provisions:

1) Acetone.

2) Ammonia.

3) Benzene.

4) Calcium carbide.

5) Carbon disulfide.

6) Celluloid.

7) Chlorine.

8) Hydrochloric acid.

9) Hydrocyanic acid.

10) Magnesium.

11) Nitric acid and oxides of nitrogen.

12) Petroleum products (gasoline, fuel oil, etc.).

13) Phosphorus.

14) Potassium.

15) Sodium.

16) Sulphur and sulphur products.

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

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

(b) Within any identified floodplain area, any new or substantially improved structure of the kind described in subparagraph (20)(a), above, shall be prohibited within the area measured 50 feet landward from the top-of-bank of any watercourse.

(c) Where permitted within any identified floodplain area, any new or substantially improved structure of the kind described in paragraph (20)(a) above, shall be:

1) Elevated or designed and constructed to remain completely dry up to at least 1½ feet above the 100-year flood.

2) Designed to prevent pollution from the structure or activity during the course of any 100-year flood.

(d) Any such structure, or part thereof, that will be built below the regulatory flood elevation shall be designed and constructed in accordance with the standards for completely dry flood-proofing contained in the publication "Flood-Proofing Regulations" (U.S. Army Corps of Engineers, June 1972, as amended March 1992), or with some other equivalent watertight standard.

(e) In addition, the Township may attach whatever additional conditions and safeguards it may deem necessary and reasonable in order to implement the purposes of this ordinance and to protect the general health, safety and welfare of the public.

(21) *Existing Structures in Floodplain Areas*. Structures existing in any identified flood-prone area prior to the enactment of this Chapter, but which are not in compliance with these provisions may continue to remain subject to the following:

(a) Existing structures located in any identified floodway area shall not be expanded or enlarged, unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying improvements.

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

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

(a) The structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or 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 a low damage potential.

(d) The structure will be located on the site so as to cause the least obstruction to the flow of flood waters.

(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 movement and shall be designed to automatically provide for the entry and exit of flood waters for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:

1) Minimum of two openings having a net total area of not less than 1 square inch for every square foot of the 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 flood waters.

(23) *Activities Requiring Special Permits*. In accordance with the Pennsylvania Department of Community and Economic Development administrative regulations implementing, the Pennsylvania Flood Plain Management Act, 32 P.S. §679.101 *et seq*., the following obstructions and activities are prohibited if located entirely or partially within an identified floodplain area unless a special permit is issued:

(a) Hospitals (public or private).

(b) Nursing homes (public or private).

(c) Jails or prisons.

(d) New mobile home parks and mobile home subdivisions, and substantial improvements to them or existing mobile home parks.

(24) *Application Review Procedures*. Upon receipt of an application for a special permit by the Township, the following procedures will apply in addition to those of subparagraphs (3) through (12):

(a) Within 3 working days following receipt of the application, a

complete copy of the application and all accompanying documentation shall be forwarded to the Lehigh Valley Planning Commission by registered or certified mail for its review and recommendations. Copies of the application shall also be forwarded to the Township Planning Commission, if there be any, and the Township Engineer for review and comment.

(b) If an application is reviewed that is incomplete, the Township shall notify the applicant in writing, staling in what respects the application is deficient.

(c) If the Township decides to disapprove an application, it shall notify the applicant, in writing, of the reasons for the disapproval.

(d) If the Township approves an application, it shall file written notification, together with the application and all pertinent information, with the Department of Community and Economic Development, by registered or certified mail, within 5 working days after the date of approval. [*Ord. 2010-1*]

(e) Before issuing the special permit, the Township shall allow the Pennsylvania Department of Community and Economic Development 30 days, after receipt of the notification by the Department, to review the application and the decision made by the Township.

(f) If the Township does not receive any communication from the Pennsylvania Department of Community and Economic Development during the 30-day review period, it may issue a special permit to the applicant.

(g) If the Pennsylvania Department of Community and Economic Development should decide to disapprove an application, it shall notify the Township and the applicant, in writing, of the reasons for the disapproval, and the Township shall not issue the special permit.

(25) *Special Technical Requirements*.

(a) In addition to the requirements of subparagraphs (15) through (20) of this Section, the following minimum requirements shall also apply. If there is any conflict between any of the following requirements and those in subparagraphs (15) through (20) of this Section or in any other code, ordinance or regulation, the more restrictive provision shall apply.

(b) No application for a special permit shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:

1) Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located, and constructed so that:

a) The structure will survive inundation by waters of the 100-year flood without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the 100-year flood elevation.

b) The elevation of the lowest floor (including basement)

will be at least 1½ feet above the 100-year flood elevation.

c) The occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the 100-year flood.

2) Prevent any significant possibility of pollution increased flood levels or flows, or debris endangering life and property. All hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualification, 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 and the Pennsylvania Department of Community and Economic Development.

(c) In approving any application for a special permit, the Township may attach whatever additional conditions and safeguards it may deem necessary and reasonable in order to implement the purposes of this Chapter and to protect the general health, safety, and welfare of the public.

(26) *Variances*. If compliance with any of the requirements of this Chapter would result in an exceptional hardship for a prospective builder, developer, or landowner, the Township may, upon written request, grant relief from the strict application of the requirements. Requests for variances shall be considered by the Township in accordance with the procedures contained in subparagraph (13) and the following:

(a) No variance shall be granted for any construction, development, use or activity within any floodplain area that would cause any increase in the 100-year flood elevation.

(b) Except for a possible modification of the freeboard requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by special permit (subparagraph (23) *et seq*.) or to development which may endanger human life (subparagraph (20)).

(c) If granted, a variance shall involve only the least modification necessary to provide relief.

(d) In granting any 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.

(e) 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 variance may increase the risks to life and property.

(f) In reviewing any request for a variance, the Township shall consider, but not be limited to, the following:

1) That there is good and sufficient cause.

2) That failure to grant the variance would result in exceptional hardship to the applicant.

3) That the granting of the variance will not result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with any other applicable local or State ordinances and regulations.

(g) 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.

(h) For purposes of this Section, when the "Township" is referred to, it shall mean the Zoning Hearing Board of the Township, or if there is none, then it shall mean the Board of Supervisors.

(i) Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the 100-year flood.

(27) *Definitions*. Unless specifically defined below, words and phrases used in §§27-1203.1 through 27-1203.8 of this Section shall be interpreted so as to give this Section its most reasonable application.

Accessory use or structure–a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use of structure.

Building–a combination of materials to form a permanent structure having walls and a roof. Included shall be all mobile homes and trailers to be used for human habitation.

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

Construction–the construction, reconstruction, renovation, repair, extension, expansion, alteration, or relocation of a building or structure including the placement of mobile homes.

Development–any manmade changes to improved or unimproved real estate, and 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; grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.

Essentially dry space–a space which 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.

Flood–a temporary inundation of normally dry land areas.

Floodplain area–a relatively flat or low land area which is subject to

partial or complete inundation from an adjoining or nearby stream river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

Floodproofing–means any combination of structural and nonstructural additions, changes, or adjustments to structures which 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 a floodplain required to carry and discharge floodgates of a given magnitude. For the purpose of this Section, the flood way shall be capable of accommodating a flood of the 100-year magnitude.

Land development–any of the following activities:

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

(a) 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.

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

2) A subdivision of land.

Manufactured home–a structure, transportable in one or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length, or when erected on site is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation which connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; except that such term shall include all structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the section (HUD) and complies with the standards established under this title. For mobile homes built prior to June 15, 1976, a label certifying compliance to the Standard for Mobile Homes, NFPA 501, in effect at the time of the manufacture is required. For the purpose of this definition, a mobile home shall be considered a manufactured home. [*Ord. 2010-1*]

Manufactured home park–a parcel of land under single ownership, which has been planned and improved for the placement of two or more manufactured homes for nontransient use.

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 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–see "manufactured home."

Mobile home park–see "manufactured home park."

Obstruction–any wall, darn, wharf, embankment, levee, dike, pile abutment, projection, excavation, channel, rectification, culvert, building, fence, stockpile, refuse, fill, structure, or matter in, along, across or projecting into any channel, watercourse, or flood-prone area, which may impede, retard, or change the direction of the flow of water either in itself or by catching or collecting debris carried by such water or is placed where the flow of the water might carry the same downstream to the damage of life and property.

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

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

Special permit–a special approval which is required for hospitals, nursing homes, jails, and new mobile home parks and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain.

Structure–anything constructed or erected on the ground or attached to the ground including, but not limited to, buildings, sheds, mobile homes and other similar items.

Subdivision–the division or re-division of a lot, tract, or parcel or 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.

Basement–any area of the building having its floor below ground level on all sides.

Historic structure–any structure that is:

1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily be determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.

2) Certified or preliminarily determined by the Secretary of the

Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.

3) Individually listed on a state inventory of historic planes in states with historic preservation programs which have been approved by the Secretary of the Interior.

4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

a) By an approved state program as determined by the Secretary of the Interior.

b) Directly by the Secretary of the Interior in states without approved programs.

Identified floodplain area–the floodplain area specifically identified in this Section as being inundated by the 100-year flood.

Lowest floor–the lowest floor of the lowest fully enclosed area (including basement). An unfurnished, 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 a violation of the applicable nonelevation design requirement of this Section.

New construction–structures for which the start of construction commenced on or after March 10, 1982, and includes any subsequent improvements thereto.

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

Recreational vehicle–a vehicle which is (1) built on a single chassis; (2) not more than 400 square feet, measured at the largest horizontal projection; (3) designed to be self-propelled or permanently towable by a light-duty truck; (4) not designed for use as a permanent dwelling but as temporary living quarters for recreation, camping travel or seasonal use.

Substantial damage–damage from any costs sustained by a structure or whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent or more of the market value of the structure before the damage occurred.

Substantial improvement–any recreation, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

1) Any project for improvement of a structure to correct existing

violations of state or local health, sanitary, or safety code specifications which have been identified by the local state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

2) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

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

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

(30) *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 on rare occasions. 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 area, 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 lawfully made thereunder.

G. *Zoning Permits*.

(1) No person shall erect, convert, move, or add any sign or change the use of any land or structure, or establish any business until the Zoning Officer issues a zoning permit to the person/applicant for said change or construction or use. No zoning permit is required for normal maintenance and repairs.

(2) A zoning permit for a permitted use shall be issued by the Zoning Officer. A zoning permit for a use requiring a special exception or variance shall be issued by the Zoning Officer only upon the written order and consent of the Zoning Hearing Board after all hearing procedures. An application for a special exception use, variance or for interpretation of any part or provisions of this Section shall be made to the Zoning Hearing Board on forms which may be obtained from the Township zoning office.

(a) *Form of Application*. All applications for a zoning permit shall be made in writing on a form prescribed and furnished by the Zoning Officer and shall be accompanied by one set of plans showing at least the following information: [*Ord. 2010-1*]

1) Actual dimensions and shape of the lot which is the subject

of the application.

2) The size and location on the lot of buildings, structures, or signs, existing and/or proposed, and any proposed extensions, changes or additions thereto.

3) The number of dwelling units, if any, to be provided.

4) Parking spaces and/or loading facilities proposed or existing.

5) Statement indicating any existing and proposed uses.

6) Height of any proposed structure, building, or sign.

7) Conformance to §27-1004 relating to home occupations.

8) Any and all other information necessary for the Zoning Officer to review the application to determine conformance with and provide for enforcement of this Chapter.

H. *Relationship Between Building Permits and Zoning Permits*. The Township Zoning Officer may, in his discretion, combine the building permit and zoning permit applications and forms into a single application and permit form; provided, however, that the Zoning Officer shall not have any discretion to lessen any of the requirements of any ordinance with respect to the information required in order to obtain any permit, or to deem that entitlement to either a building permit or a zoning permit shall authorize, or shall have been the equivalent of having issued, the other permit.

(*Ord. 4-81*, 12/28/1981, §1230; as amended by *Ord. 2-98*, 4/9/1998, §§19–22; by *Ord. 2003-2*, 5/8/2003, §1; and by *Ord. 2010-1*, 4/8/2010)

§27-1204. Certificate of Occupancy.

1. *Use Change*. It shall be unlawful to use or to permit the use of any building structure, premises, lot or land or part thereof, hereafter erected or altered, enlarged or moved, in whole or in part, after the effective date of this Chapter, or any building, structure, premises, lot or land, or part thereof of which the use is changed, until a certificate of occupancy has been obtained by the owner, as provided for under the Township Building Permit Ordinance.

2. *Ordinance Conformity*. No certificate of occupancy shall be issued for any building, structure, premises, lot or land, unless the erection, construction, reconstruction, structural alteration, or moving of any building or structure or part thereof, and the intended use thereof are in conformity in all respects with the provisions of this Chapter.

3. *Special Exception Uses*. The Zoning Officer shall obtain a written order from the Zoning Hearing Board before issuing a certificate of occupancy in a case involving a special exception use pursuant to §27-1108 or a variance from the provisions of this Chapter pursuant to §27-1109.

4. *Existing Uses*. Upon written application by the owner or his authorized agent, the Zoning Officer shall issue a certificate of occupancy for any building or structure, lot or land, existing and in use at the effective date of this Chapter.

(*Ord. 4-81*, 12/28/1981, §1240)

§27-1205. Fees.

Fees for building permit applications, and for issuance of building permits and certificates of occupancy and for appeals shall be set forth in a schedule of fees as adopted as needed by the Board of Supervisors.

(*Ord. 4-81*, 12/28/1981, §1250; as amended by *Ord. 2010-1*, 4/8/2010)

§27-1206. Violations, Penalties, and Remedies.

1. *Enforcement Notice*.

A. If it appears to the Township of Heidelberg that a violation of any zoning ordinance enacted under the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq*., has occurred, the Township of Heidelberg shall initiate enforcement proceedings by sending an enforcement notice pursuant to §616.1 of the Pennsylvania Municipalities Planning Code, 53 P.S. §10616.1. [*Ord. 2-98*]

B. An enforcement notice shall state at least the following:

(1) The name of the owner of record and any other person against whom the Township of Heidelberg intends to take action.

(2) The location of the property in violation.

(3) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the ordinance.

(4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.

(5) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within 20 days from the receipt of notice. [*Ord. 2-98*]

(6) That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

2. *Causes of Action*. In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained, or used in violation of any ordinance enacted under the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq*., or prior enabling laws, the Board of Supervisors or, with the approval of the Board of Supervisors, an officer of the Township of Heidelberg, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice or that action shall be served upon the Township of Heidelberg at least 30 days prior to the time the action is begun by serving a copy of the complaint on the governing body of the Township of Heidelberg. No such action may be maintained until such notice has been given. [*Ord. 4-90*]

3. *Enforcement Remedies* [*Ord. 4-90*]

A. Any person, partnership, or corporation who or which has violated or permitted the violation of the provisions of any zoning ordinance exacted under the

Pennsylvania Municipalities Planning Code or prior enabling laws shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Board of Supervisors, pay a judgement of not more than $500 plus all court costs, including reasonable attorney fees incurred by the Board of Supervisors as a result thereof. No judgement shall commence or be imposed, levied, or payable until the date of the determination of a violation by the magisterial district judge. If the defendant neither pays nor timely appeals the judgement, the Board of Supervisors may enforce the judgement pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the magisterial district judge determining that there has been a violation further determines that there was good faith basis for the person, partnership, or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date the determination of a violation by the magisterial district judge and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs, and reasonable attorney fees collected for the violation of this Chapter shall be paid over to the Township of Heidelberg. [*Ord. 2010-1*]

B. The Court of Common Pleas of Lehigh County, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgment pending a final adjudication of the violation and judgment.

C. Nothing contained in this Section Shall be construed or interpreted to grant to any person or entity other than the Board of Supervisors the right to commence any action for enforcement pursuant to this Section.

(*Ord. 4-81*, 12/28/1981, §1260; as amended by *Ord. 4-88*, 9/23/1988; by *Ord. 4-90*, 10/11/1990, §23; by *Ord. 2-98*, 4/9/1998, §§23 and 24; and by *Ord. 2010-1*, 4/8/2010)

§27-1207. Public Records.

Duly certified copies of this Chapter and of the Official Zoning Map which forms a part thereof, together with copies of all amendments hereto, shall be filed in the Township Secretary's office and in the Zoning Officer's office and shall be open to public inspection.

(*Ord. 4-81*, 12/28/1981, §1270)

§27-1208. Enactment of Zoning Ordinance Amendments.

1. For the preparation of amendments to zoning ordinances, the procedure set forth in §607 of the Municipalities Planning Code, 53 P.S. §10607, for the preparation of a proposed zoning ordinance shall be optional.

2. A. Before voting on the enactment of an amendment, the Board of Supervisors shall hold a public hearing thereon, pursuant to public notice. In addition, if the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by the Township at points deemed sufficient by the Township along the 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.

B. (1) In addition to the requirement that notice be posted under paragraph

.A, where the proposed amendment involves a zoning map change, notice of the public hearing shall be mailed by the Township at least 30 days prior to the date of the hearing by first class mail to the addresses to which real estate tax bills are sent for all real property located within the area being rezoned, as evidenced by tax records within the possession of the Township. The notice shall include the location, date and time of the public hearing. A good faith effort and substantial compliance shall satisfy the requirements of this subsection.

(2) This paragraph shall not apply when the rezoning constitutes a comprehensive rezoning.

3. In the case of an amendment other than that prepared by the Township Planning Commission, the Board of Supervisors shall submit each such amendment to the Township Planning Commission at least 30 days prior to the hearing on such proposed amendment to provide the Planning Commission an opportunity to submit recommendations.

4. If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, the Board of Supervisors shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.

5. At least 30 days prior to the public hearing on the amendment by the Board of Supervisors, the Township shall submit the proposed amendment to the Lehigh Valley Planning Commission for recommendations.

6. The Township may offer a mediation option as an aid in completing proceedings authorized by this Section. In exercising such an option, the Township and mediating parties shall meet the stipulations and follow the procedures set forth in Article IX of the Pennsylvania MPC, 53 P.S. §10901 *et seq*.

7. Within 30 days after enactment, a copy of the amendment to the zoning ordinance shall be forwarded to the Lehigh Valley Planning Commission.

8. *Publication, Advertisement and Availability of Ordinances*.

A. Proposed zoning ordinances and amendments shall not be enacted unless notice of proposed enactment is given in the manner set forth in this Section, and shall include the time and place of the meeting at which passage will be considered, a reference to a place within the Township where copies of the proposed ordinance or amendment may be examined without charge or obtained for a charge not greater than the cost thereof. The Board of Supervisors shall publish the proposed ordinance or amendment once in one newspaper of general circulation in the Township not more than 60 days nor less than 7 days prior to passage. Publication of the proposed ordinance or amendment shall include either the full text thereof or the title and a brief summary, prepared by the Township Solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:

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

(2) An attested copy of the proposed ordinance shall be filed in the Lehigh County Law Library or other County office designated by the County Commissioners, who may impose a fee no greater than that necessary to cover

the actual costs of storing said ordinances.

B. In the event substantial amendments are made in the proposed ordinance or amendment, before voting upon enactment, the Board of Supervisors shall, at least 10 days prior to enactment, re-advertise, in one newspaper of general circulation in the Township, a brief summary setting forth all the provisions in reasonable detail together with a summary of the amendments.

C. Zoning ordinances and amendments may be incorporated into official ordinance books by reference with the same force and effect as if duly recorded therein.

(*Ord. 4-81*, 12/28/1981, §1280; as amended by *Ord. 4-90*, 10/11/1990, §§24–26; by *Ord. 2-98*, 4/9/1998, §§25 and 26; and by *Ord. 2010-1*, 4/8/2010)

§27-1209. Exemptions.

1. This Chapter shall not apply to any existing or proposed building, or extension thereof, used or to be used by a public utility corporation, if, upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.

2. This Chapter shall not apply to any existing or proposed building, or extension thereof, or any tract or parcel of land, used or to be used by the Township of Heidelberg.

3. This Chapter shall not apply to any highway safety shelter which shall be approved by the respective agencies as required in the Heidelberg Township Highway Safety Shelter Ordinance.

(*Ord. 4-81*, 12/28/1981, §1290)

Part 13

Prevention of the Creation or Establishment of Airport Hazards

§27-1301. Short Title and Description.

This Part shall be known and may be cited as the "Heidelberg Township Airport Zoning Ordinance."

(*Ord. 5-90*, 10/11/1990, §1)

§27-1302. Declaration of Policy.

1. This Part is adopted pursuant to the authority conferred by 74 Pa.C.S.A. §5101 *et seq*. It is hereby found that an obstruction has the potential for endangering the lives and property of users of the Flying "M" Aerodrome, and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of the Flying "M" Aerodrome; and, that an obstruction may reduce the size of areas available for the landing, takeoff and maneuvering of aircraft, thus tending to destroy or impair the utility of the Flying "M" Aerodrome and the public investment therein. Accordingly, it is declared:

A. That the creation or establishment of an obstruction has the potential of being a public nuisance and may inure the region served by the Flying "M" Aerodrome.

B. That it is necessary in the interest of the public health, safety, morals, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented.

C. That the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

2. It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

(*Ord. 5-90*, 10/11/1990, §2)

§27-1303. General Definitions.

The following words and phrases when used in this Part shall have the meaning given to them in this Section unless the context clearly indicates otherwise:

Aircraft–any contrivance, except an unpowered hangglider or parachute, used for manned ascent into or flight through the air.

Airport–Flying "M" Aerodrome. Defined as: Any area of land or water which is used, or intended to be used, for the landing and takeoff of aircraft and any appurtenant areas which are used, or intended to be used, for airport buildings or air navigation facilities or rights-of-way, together with all airport buildings and facilities thereon. As used herein, the term "airport" includes public airports but excludes private airports and heliports. Public and private airports are defined

separately in this Section.

Airport elevation–710 feet mean sea level (MSL). Defined as: The highest point of an airport's usable landing area measured in feet above sea level.

Airport hazard–any structure or object, natural or manmade, or use of land which obstructs the airspace required For flight or aircraft in landing or taking off at an airport or is otherwise hazardous as defined by "airport hazard" in 74 Pa.C.S.A. §5102.

Airport hazard area–any area of land or water upon which an airport hazard might be established if not prevented as provided for in this Part and the Aviation Code, 74 Pa.C.S.A. §5101 *et seq*.

Approach surface–a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach surface zone height limitation slope set forth in §27-304 of this Part. In plan the perimeter of the approach surface coincides with the perimeter of the approach surface zone.

Approach, transitional, horizontal and conical surface zones–these zones are set forth in §27-304 of this Part.

Board of Appeals or Adjustment–a Board appointed by the authority adopting these regulations. The number of members, powers, governing rules, etc. of the Board are set forth in §27-1309 of this Part. "Joint Airport Zoning Board" is defined in §27-1310.

Conical surface–a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

Department–Pennsylvania Department of Transportation.

FAA–Federal Aviation Administration of the United States Department of Transportation.

Height–for the purpose of determining the height limits in all zones set forth in this Part and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

Horizontal surface–a horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal surface zone.

Larger than utility runway–a runway that is constructed for and intended to be used by propeller drive aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

Nonconforming use–any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Part or an amendment thereto.

Nonprecision instrument runway–a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

Obstruction–any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in §27-1305 of this Part.

Person–an individual, firm partnership, corporation, company, association, joint stock association, or governmental entity; includes a trustee, a receiver, an assignee or a similar representative of any of them.

Precision instrument runway–a runway having an existing instrument approach procedure utilizing an instrument landing system (ILS) or a precision approach radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

Primary surface–a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. For military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth as 250 feet for runways classified under §27-1304.1, 500 feet for runways classified under §27-1304.2, .3, and .4 and 1,000 feet for runways classified under §27-1304.5 and .6. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

Private airport–an airport which is privately owned and which is not open or intended to be open to the public as defined in 74 Pa.C.S.A. §5102.

Public airport–an airport which is either publicly or privately owned and which is open to the public as defined in 74 Pa.C.S.A. §5102.

Runway–a defined area on an airport prepared for landing and takeoff of aircraft along its length.

Structure–an object, including a mobile object, constructed or installed by man, including but without limitation, buildings, lowers, cranes, smokestacks, earth formation and overhead transmission lines.

Transitional surfaces–these surfaces extend outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically from the sides of the primary approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90-degree angles to the extended runway centerline.

Tree–any object of natural growth.

Utility runway–a runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

Visual runway–a runway intended solely for the operation of aircraft using visual approach procedures.

(*Ord. 5-90*, 10/11/1990, §3)

§27-1304. Airport Surface Zones.

In order to carry out the provisions of this Part, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces and conical surfaces as they apply

to the Flying "M" Aerodrome. Such zones are shown on the Flying "M" Aerodrome Height Limitation and Zoning District Map prepared by the Pennsylvania Department of Transportation, Bureau of Aviation, and dated Spring, 1989, which is attached to this Part and made a part hereof. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

A. *Utility Runway Visual Approach Surface Zone*. Established beneath the visual approach surface. The inner edge of this zone coincides with the width of the primary surface and is 250 feet wide. The zone expands outwardly at a 30-degree angle from the corners or the primary surface uniformly at a horizontal distance of 5000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

B. *Utility Runway Nonprecision Instrument Approach Surface Zone*. Established beneath the nonprecision instrument approach surface. The inner edge of this zone coincides with the width of the primary surface and is 500 feet wide. The zone expands outward uniformly to a width of 2,000 feet at a horizontal distance 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

C. *Runway Larger Than Utility Visual Approach Surface Zone*. Established beneath the visual approach surface. The inner edge of this zone coincides with the width of the primary surface and is 500 feet wide. The zone expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

D. *Runway Larger Than Utility With A Visibility Minimum Greater Than ¾ Mile Nonprecision Instrument Approach Surface Zone*. Established beneath the nonprecision instrument approach surface. The inner edge of this zone coincides with the width of the primary surface and is 500 feet wide. The zone expands outward uniformly to a width of 3,500; feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

E. *Runway Larger than Utility with a Visibility Minimum as Low as ¾ Mike Nonprecision, Instrument Approach Surface Zone*. Established beneath the nonprecision instrument approach surface. The inner edge of this zone coincides with the width of the primary surface and is 1,000 feet wide. The zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

F. *Precision Instrument Runway Approach Surface Zone*. Established beneath the precision instrument approach surface. The inner edge of this zone coincides with the width of the primary surface and is 1,000 feet wide. The zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

G. *Transitional Surface Zones*. Established beneath the transitional surface adjacent to each runway and approach surface as indicated on the Height Limitation and Zoning District Map.

H. *Horizontal Surface Zone*. Established beneath the horizontal surface, 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 5,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal surface zone does not include the approach surface and transitional surface zones.

I. *Conical Surface Zone*. Established beneath the conical surface. This zone commences at the periphery of the horizontal surface and extends outward therefrom a horizontal distance of 4,000 feet or to the Township boundary, whichever is first encountered.

(*Ord. 5-90*, 10/11/1990, §4)

§27-1305. Airport Surface Zone Height Limitations.

Except as otherwise provided in this Part, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Part to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

A. *Utility Runway Visual Approach Surface Zone*. Slopes 30 feet outward for each foot upward beginning at the end of and at the sane elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

B. *Utility Runway Nonprecision Instrument Approach Surface Zone*. Slopes 30 feet outward for each foot upward beginning at the end of and at the sane elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

C. *Runway Larger than Utility Visual Approach Surface Zone*. Slopes 30 feet outward for each foot upward beginning at the end of and at the sane elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

D. *Runway Larger than Unlit with a Visibility Minimum Greater than ¾ Mile Nonprecision Instrument Approach Surface Zone*. Slopes 34 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

E. *Runway Larger than Utility with a Visibility, Minimum, as Low as ¾ Mile Nonprecision Instrument Approach, Surface Zone*. Slopes 34 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

F. *Precision Instrument Runway Approach Surface Zone*. Slopes 50 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward 40 feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended

runway centerline.

G. *Transitional Surface Zones*. Slopes 7 feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 710 feet above mean sea level. In addition to the foregoing when an airport has a precision instrument runway approach zone, there are established height limits sloping 7 feet outward for each foot upward beginning at the sides where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping 7 feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.

H. *Horizontal Surface Zone*. Established at 150 feet above the established airport elevation or at a height of 860 feet above mean sea level.

I. *Conical Surface Zone*. Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal surface and at 150 feet above the established airport elevation or at a height of 860 feet above mean sea level and ending at a horizontal distance therefrom of 4,000 feet or to the Township boundary, whichever is first encountered.

J. *Excepted Height Limitations*. Nothing in this Part shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 3 feet above the surface of the land.

(*Ord. 5-90*, 10/11/1990, §5)

§27-1306. Airport Zoning Requirements.

1. *Reasonableness*. All airport zoning regulations adopted under this Part shall be reasonable; none shall impose any requirement or restriction unless it is reasonably necessary to effectuate the purpose of this Part. In determining what regulations it may adopt, each municipality and joint airport zoning board shall consider, among other factors, the character of the flying operations expected to be conducted at the airport, the nature of the terrain within the airport hazard area, the character of the neighborhood and the uses to which the property to be zoned is put and adaptable.

2. *Use Restrictions*. Notwithstanding any other provisions of this Part, no use may be made of land or water within any zone established by this Part in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

3. *Nonconforming Uses*.

A. *Regulations Not Retroactive*. The regulations prescribed by this Part shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Part, or otherwise interfere with the continuance of any nonconforming use, except as provided in §27-1307 (relating to permits and variances). Nothing

contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Part and is diligently executed.

B. *Marking and Lighting*. Notwithstanding the preceding provision the owners of any existing nonconforming structure or tree may be required to permit the installation, operation, and maintenance thereon or nearby of such markers and lights as shall be deemed necessary by the Township Administrator but only after such Township Administrator shall have received a written request from the Flying "M" Aerodrome which marker and/or light shall indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. In the event such markers and lights shall be installed, the cost of such installation, operation and maintenance shall be borne exclusively by the Flying "M" Aerodrome, including reasonable Township costs incurred with respect to administrative costs pertaining to same.

(*Ord. 5-90*, 10/11/1990, §6)

§27-1307. Permits and Variances.

1. *Future Uses*. Except as specifically provided in paragraphs .A, .B, or .C hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Part shall he granted unless a variance has been approved in accordance with subsection .6.

A. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when, because of terrain, land contour or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

B. In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when, because of terrain, land contour or topographic features, such tree or structure would extend above the height limit prescribed for such approach zones.

C. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zones, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic feature, would extend above the height limit prescribed for such transition zones.

2. Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Part, except

that no permit is required to make maintenance repairs to or to replace parts of existing structures which do not enlarge or increase the height of an existing structure.

3. All permits issued under this Part shall contain the following language conspicuously printed on the permit form or the permit application form:

"WARNING: The permit being requested concerns construction or activity within the boundaries regulated by the Heidelberg Township Airport Zoning Ordinance and is within proximity to an airport regulated thereby. Applicant should be aware of and expect the related noise, odors, and other activities related to airport operation that will take place."

4. *Existing Uses*. Before any nonconforming structure may be replaced, substantially altered or rebuilt or tree allowed to grow higher or replanted, a permit must be secured from the municipality authorizing the replacement or change. No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was as of the effective date of this Part or any amendments thereto or than it is when the application for a perm it is made.

5. *Nonconforming Uses Abandoned or Destroyed*. Whenever the Zoning Code Enforcement Officer determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from this Part.

6. *Variance*.

A. Any person desiring to erect any structure or increase the height of any structure or permit the growth of any object of natural growth or otherwise use his property in violation of airport zoning regulations may apply to the Board of Adjustment for a variance from the zoning regulations in question. A variance shall only be granted after the requirements of §27-1308 are satisfied. A variance may be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and would be in accordance with the spirit of the regulations and this Part. Any variance may be granted subject to any reasonable conditions that the Board of Adjustment may deem necessary to effectuate the purposes of this Part.

B. The application for a variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Additionally, no application for a variance to the requirements of this Part may be considered by the Board of Adjustment unless a copy of the application has been furnished to the Airport Manager (or person of equivalent description) of the Flying "M" Aerodrome for advice as to the aeronautical effects of the variance. If the Airport Manager (or person of equivalent description) does not respond to the application within 15 days after receipt, the Board of Adjustment may act without such input to grant or deny said application.

7. *Hazard Marking and Lighting*. In granting any permit or variance under this Section, the Board shall, if it deems the action advisable to effectuate the purpose of this Part and reasonable under the circumstances, so condition the permit or variance

as to require the owner of the structure or object of natural growth in question to permit the municipality, at its own expense, or require the person or persons requesting the permit or variance, to install, operate and maintain thereon such markers and lights as may be required by guidelines or regulations adopted by the FAA.

(*Ord. 5-90*, 10/11/1990, §7)

§27-1308. Enforcement/Notice.

1. *Local Enforcement*. It shall be the duty of the Zoning Officer to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Zoning Officer upon a form published for that purpose. Applications required by this Part to be submitted to the Zoning Officer shall be promptly considered and granted or denied. Application for action by the Board of Adjustment shall be forthwith transmitted by the Zoning Officer. Unless a separate form shall have been promulgated, the existing forms employed by the Township for building/occupancy permits as well as applications for zoning hearings shall be used for the purposes of this Part; however, the Zoning Officer is empowered to request such further information on said permit forms as may be necessary to affect the purposes of this Part. [*Ord. 2010-1*]

2. *Notice to Department*. Notwithstanding any other provision of law, a municipality or board which decides to grant a permit or variance under this Part shall notify the Department of Transportation of its decision. This notice shall be in writing and shall be sent so as to reach the department at least 10 days before the date upon which the decision is to issue.

(*Ord. 5-90*, 10/11/1990, §8; as amended by *Ord. 2010-1*, 4/8/2010)

§27-1309. Board of Adjustment.

1. *Powers*. There is hereby created a Board of Adjustment to have and exercise the following powers: (1) to hear and decide appeals from any order, requirement, decision or determination made by the Zoning Officer in the enforcement of this Part; (2) to hear and decide special exceptions to the terms of this Part upon which such Board of Adjustment under such regulations may be required to pass; and (3) to hear and decide specific variances. [*Ord. 2010-1*]

2. *Creation/Members/Removal*. The Zoning Hearing Board of Heidelberg Township shall be the "Board of Adjustment" for purposes of this Part.

3. *Governing Rules*. The Board of Adjustment shall adopt rules for its governance and in harmony with the provisions of this Part. Meetings of the Board of Adjustment shall be held at the call of the Chairperson and at such other times as the Board of Adjustment may determine. For conduct of any hearing or taking of any action, a quorum shall not be less than a majority of all members. The Chairperson or, in the absence of the Chairperson, the Acting Chairperson may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be public. The Board of Adjustment 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, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Zoning Officer and on due cause shown. [*Ord. 2010-1*]

4. *Findings of Fact/Conclusions of Law*. The Board of Adjustment shall make

written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming or modifying any order, requirement, decision, or determination which comes before it under the provisions of this Part.

5. *Voting*. The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision or determination of the Zoning Officer or decide in favor of the applicant on any matter upon which it is required to pass under this Part, or to effect variation to this Part. [*Ord. 2010-1*]

(*Ord. 5-90*, 10/11/1990, §9; as amended by *Ord. 2010-1*, 4/8/2010)

§27-1310. Joint Airport Zoning Board.

Where any airport hazard appertaining to an airport is located outside the territorial limits of the municipality encompassing the airport, all of the municipalities involved may, by ordinance or resolution, create a joint airport zoning board which shall have the same power to adopt, administer, and enforce airport zoning regulations applicable to the airport hazard area in question as that vested in the municipality in which the municipality is located. Each joint airport zoning board shall have as members two representatives appointed by each municipality participating in its creation and, in addition, a chairman elected by a majority of the members so appointed.

(*Ord. 5-90*, 10/11/1990, §10)

§27-1311. Appeals.

1. *Right of Appeal*. Any person aggrieved or taxpayer affected by any decision of the municipality or joint zoning hiring board may appeal to the Board of Adjustment as provided by law.

2. *Reasonable Time Requirement*. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment. The Board shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the sane within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. Unless such other time has been established by statute or separate ordinance, the Board shall convene a hearing within 60 days of the filing of a completed application for a hearing and, shall render a decision within 45 days of the last hearing on the application. Notice of the decision shall be rendered in writing by the Board within 14 days of the entry of the decision; however, the failure of the Board to render a decision in writing within such time shall not be deemed an approval of the application.

3. *Stay of Proceedings*. An appeal shall stay all proceedings in furtherance of the action appealed from unless the municipality or Joint Zoning Hearing Board certifies to the Board, after the notice of appeal has been filed with it, that, by reason of the facts stated in the certificate, a stay would in its opinion cause imminent peril to life or property. In such cases proceedings shall not be stayed otherwise than by order of the Board or notice to the municipality or joint zoning appeal board.

4. *Power to Reverse, Affirm, or Modify Orders*. The Board of Adjustment may, in conformity with the provisions of this Part, reverse or affirm, in whole or in part, or

modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision or determination as may be appropriate under the circumstances.

(*Ord. 5-90*, 10/11/1990, §11)

§27-1312. Acquisition of Air Rights.

In any case in which it is desired to remove, lower or otherwise terminate a nonconforming structure or use, or the approach protection necessary cannot, because of constitutional limitations, be provided by airport zoning regulations, or it appears advisable that the necessary approach protection be provided by acquisition of property rights, rather than by airport zoning regulations, the municipality within which the property or nonconforming use is located, or the municipality or municipal authority owning the airport or served by it, may acquire by purchase, grant or condemnation, in the manner provided by the law under which municipalities are authorized to acquire real property for public purposes, such air right, aviation easement or other estate or interest in the property or nonconforming structure or use in question as may be necessary to effectuate the purpose of this Part. In the case of the purchase of any property or any easement or estate, or interest therein, or the acquisition thereof by the power of eminent domain, the municipality making the purchase of exercising the power shall, in addition to the damages for the taking, injury or destruction of property, also pay the cost of the removal and relocation of any structure or any public utility which is required to be moved to a new location. Nothing in this section shall require the municipality to so exercise its power of eminent domain.

(*Ord. 5-90*, 10/11/1990, §12)

§27-1313. Relation to Other Zoning Regulations.

1. *Incorporation*. In the event that a municipality has adopted or hereafter adopts a comprehensive zoning ordinance regulating, among other things, the height of buildings, any airport zoning regulations applicable to the same area or portion thereof may be incorporated in and made a part of the comprehensive zoning regulations and be administered and enforced in connection therewith.

2. *Conflicts*. In the event of conflict between any airport zoning regulations adopted under this Part and any other regulations applicable to the same area, whether the conflict be with respect to the height or structures or trees, and the use of land, or any other matter, and whether the other regulations were adopted by the municipality which adopted the airport zoning regulations or be some other municipality or otherwise, the more stringent limitation or requirement shall govern and prevail.

(*Ord. 5-90*, 10/11/1990, §13)

§27-1314. Judicial Review.

Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, may appeal to the Court of Common Pleas as provided by law. In cases where applicable law does not provide an appeal from a municipality to a Board, a person or taxpayer may appeal from a decision of a municipality or joint airport zoning board, as provided by law for similar zoning proceedings.

(*Ord. 5-90*, 10/11/1990, §14)

§27-1315. Interpretation of Language and Captions.

1. *Use of Language*. Words of any gender used in this Part shall be held and construed to include any other gender, and words in the singular shall be used to include the plural, unless the context otherwise requires.

2. *Use of Captions*. The captions or headings of sections in this Part are inserted for convenience only, and shall not be considered in construing the provisions herein if any question of intent should arise.

(*Ord. 5-90*, 10/11/1990, §16)

§27-1316. Penalties.

Any person, partnership, or corporation who or which has violated or permitted the violation of the provisions of any zoning ordinance enacted under this act or prior enabling laws shall, upon being found liable therefore in a civil enforcement proceeding commenced by a municipality, pay a judgment of not more than $500 plus all court costs, including reasonable attorney fees incurred by a municipality as a result thereof. No judgment shall commence or be imposed, levied, or payable until the date of the determination of a violation by the magisterial district judge. If the defendant neither pays nor timely appeals the judgment, the municipality may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the magisterial district judge determining that there has been a violation further determines that there was a good faith basis for the person, partnership, or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the magisterial district judge and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of zoning ordinances shall be paid over to the municipality whose ordinance has been violated. The court of common pleas, upon petition may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the municipality the right to commence any action for enforcement pursuant to this Section.

(*Ord. 5-90*, 10/11/1990, §17; as amended by *Ord. 2010-1*, 4/8/2010)

§27-1317. Adoption and Amendment of Ordinance.

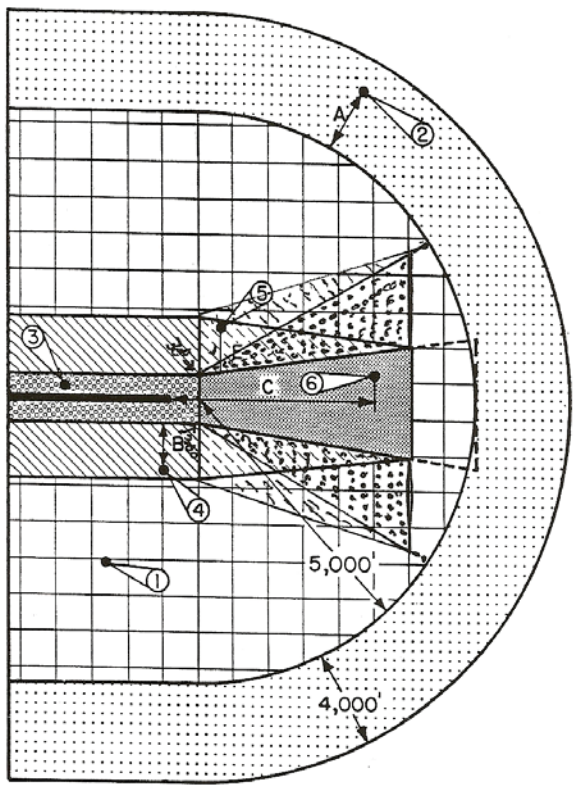
1. *Notice of Hearing*. No airport zoning regulations shall be adopted, amended, or changed except by action of the municipality or the joint airport zoning board after a public hearing in relation thereto at which parties in interest and citizens shall have an opportunity to be heard. The notice shall be published once each week for 2 successive weeks in a newspaper of general circulation in the municipality or municipalities affected. The 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 or less than 14 days from the date of the hearing.

2. *Effective Date*. This Part shall become effective 5 days of the enactment hereof.

(*Ord. 5-90*, 10/11/1990, §18)

Appendix 27-13A

Visual and Utility Non-Precision Runway Zones



ALLOWABLE HEIGHT FORMULAS

	LOCATION ZONE	FORMULA
1	Horizontal Surface	Allowable Height = (Established Airport Elevation) + (150') - (Ground Elevation)
2	Conical Surface	Allowable Height = (Established Airport Elevation) + (150') + (A ÷ 20) - (Ground Elevation)
3	Primary Surface	Allowable Height = (Elevation of the Runway Perpendicular to the Location Point) - (Ground Elevation)
4	Transitional Surface	Allowable Height = (Elevation of the Primary Surface along the Runway Centerline Perpendicular to the Location Point) + (B÷7) - (Ground Elevation)
5	Transitional Surface	Allowable Height = (Elevation of the Approach Surface along the Runway Centerline Perpendicular to the Location Point) + (E÷7) - (Ground Elevation)
6	Approach Surface	Allowable Height = (Runway End Elevation) + ((C-200)* ÷ 20) - (Ground Elevation)

*For Turf Runways do not subtract 200 from C

Appendix 27-13B

Maximum Allowable Height

The following figures and formulas have been prepared for determining the maximum allowable heights of objects within the airport's vicinity. The formulas are used in conjunction with the figure; whereas a formula is assigned a number, that formula corresponds with a point location of the same number on the figure. By using the formula and following the steps outlined below, the maximum allowable height at a point location can be determined.

1. Locate the point (object) in question on the figure (sample point locations identified by numbers are given in various coded airport zones).

2. Apply the formula having the same number as the chosen point location to calculate the maximum allowable height for an object at that point (some formulas will have letter variables A, B, C, etc., which are shown on the figure).

Zoning Map Amendments

Ord.	Date	Description
97-1	10/27/1997	Amending to expand the Village Center Zoning District (Pleasant Corners).