

# HOPEWELL TOWNSHIP, BEAVER COUNTY, PA

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## ZONING ORDINANCE NO. 2004-01

Part 2 88-161

**HOPEWELL TOWNSHIP**  
**ZONING ORDINANCE NO. 2004-01**

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2. Directional signs shall be mounted on a post with a maximum area of three (3) square feet on a single face or three (3) square feet on each face of a double-faced sign. If more than one (1) sign is erected on one (1) premises, each sign must be uniform in size and design.
  3. The content of directional signs shall be limited to the name of the establishment and direction and distance information.
  4. The maximum height of any directional sign shall not exceed a height of nine feet (9') above grade level and shall be located not less than five feet (5') from the paved edge of a cartway.
  5. A maximum of three (3) directional signs are permitted to be erected by any one person, agency or business.
  6. Any directional sign to be located in a right-of-way must have the written permission of the abutting property owners of said right-of-way.
- F. Historical & Memorial Markers: Plaques, signs, tablets or markers which document or honor historical events, or the historical or memorial significance of persons or buildings.
- G. Identification Signs for Places of Worship: Signs identifying places of worship, when located on the premises thereof, and not more than twenty-four (24) square feet in sign area.
- H. Illuminated: A sign that is artificially illuminated, either internally, indirectly or externally, by means of electricity or gas. An internally illuminated sign is one which is lighted by means of lamps or devices internal to the sign, which is either behind the face of the sign or is an integral part of the sign structures and advertising effect. An indirectly or externally illuminated sign is one which is lighted by means of lamps or devices external to, and reflected on the sign, which lighting is stationary and constant in intensity and color at all times and which is shielded so that the illumination is concentrated on the face of the sign and there is no spillover of illumination or glare beyond the face of the sign.
1. Illuminated signs in all Residential Districts shall be limited to a maximum top to bottom height of twenty-four inches (24"). In all other districts, an illuminated sign shall be restricted according to its classification as otherwise defined in this Ordinance.
  2. No form of illumination from a moving sign shall be permitted except in the C-2 District.
  3. All exterior illuminated signs shall have concealed connecting wires.
  4. All electrically illuminated signs shall conform to all building and electrical codes of the Township.
- I. Individual Letters or Symbols: Identifying letters, symbols, designs or characters attached to an awning, marquee, roof, building surface, wall or signboard, which provide identification to the premises.
1. Sign area shall be computed by measuring the area which encompasses all of the individual letters or symbols.

2. Individual letters or symbols shall not project more than twelve inches (12") from the building surface at the point of attachment.
  3. Individual letters and symbols shall not extend above the building facade or roof cornice, or project beyond the ends of the wall to which they are attached.
- J. Municipal signs: Signs erected by the Board of Commissioners of Hopewell Township or under the direction of the Board, the Pennsylvania Department of Transportation or Beaver County of which bear no commercial advertising, including but not limited to, traffic control or advisory signs, railroad crossing signs, safety signs, signs identifying public schools, public roads and playgrounds, etc.
- K. Name and Address signs: A sign displaying the name and street number of the resident, business or building for each premises, but not to include any commercial advertising.
1. Two (2) address signs shall be allowed for each premises or one (1) for each building located upon a premises.
  2. The address sign may be attached to the building or affixed to a post and may be illuminated or nonilluminated. Post mounted signs shall not exceed five feet (5') in height above grade level.
  3. The address sign shall not exceed two (2) square feet and shall not be located less than five feet (5') from a right-of-way or property line.
  4. A sign identifying by name or address a residential or commercial development shall fall under this classification and shall meet the following additional requirements:
    - a. One (1) development sign shall be permitted on each premises provided the total area of the sign shall not exceed seventy (70) square feet.
    - b. A development sign shall only contain the street address and/or name of the development or plan and shall be either a wall or free-standing sign.
    - c. A development sign shall be nonilluminated or indirectly illuminated and, depending on the design, must meet any other applicable requirements pursuant to this Ordinance.
- L. No Trespassing Signs: "No Trespassing" signs or other such signs regulating the use of a property not to exceed two (2) square feet in sign area in residential districts and five (5) square feet in all commercial and industrial districts.
- M. On-Premises Signs for Home Occupations: On-premises signs identifying professional and home occupation uses, including names and credentials. Such signs shall be limited to three (3) square feet and shall contain no commercial advertising.
1. The home occupation sign shall denote only the name, office hours, symbols, credentials and/or profession of the occupant.

2. The home occupation sign shall not exceed three (3) square feet.
  3. The home occupation sign may be attached to the building or affixed to a free-standing post. Post mounted signs shall not exceed nine feet (9') in height above grade level.
- N. On-Premises Information Signs: Signs regulating on-premises traffic, parking, or other functional information, e.g. "Lubrication," "Sales Department," "Exit" etc. bearing no commercial advertising.
1. On any premises which contains two (2) or more multi-family or nonresidential buildings and/or on any lot which provides more than twenty (20) parking spaces, on-premises information signs shall be permitted provided that the sign area of any one (1) sign shall not exceed thirty-two (32) square feet.
  2. On lots with areas less than one (1) acre, a maximum of four (4) such signs shall be permitted. On lots with areas of one (1) acre or more, a maximum of six (6) such signs shall be permitted on the first acre. For each additional acre or fraction thereof over one (1) acre, two (2) additional such signs shall be permitted.
- O. Political: A sign designed and intended to influence the vote of the electorate on a law, statute, ordinance, amendment, rule, regulation or other measure, or on the nomination or election of a candidate for any public office. Such signs shall be stationary, temporary and unlighted except where otherwise permitted.
1. Political signs are permitted in all districts if stationary and nonilluminated. This section does not apply to political signs which are also billboards.
  2. Nonilluminated temporary political signs erected during a political campaign shall be permitted, provided that the surface area of such signs shall not exceed thirty-two (32) square feet. The signs shall not be erected before thirty (30) days prior to the election and shall be removed within ten (10) days after the election for which they were erected. The Township may immediately remove and destroy any political sign which is not removed within ten (10) days after the election for which it was erected.
  3. Political signs shall not be attached to street signs or poles.
- P. Public Service: A sign located for the purpose of providing a public service message or directions toward a use not readily visible from a public street, e.g., public restrooms, telephone, parking, business district, hospital, school, etc.
1. The public service sign necessary for public safety and convenience shall not exceed four (4) square feet in area.
  2. The public service sign shall not exhibit commercial advertising.
- Q. Real Estate Management Signs: Such signs may include the name, address, and telephone number of a real estate management company but shall not include any commercial advertising; they shall be not more than six (6) square feet in sign area and there shall be not more than two (2) such signs per premises.

- R. Real Estate Signs: A sign advertising a property for sale, for rent or having been sold or rented and erected by a broker or other person interested in the sale or rental. These signs are not to exceed six (6) square feet in residential districts and thirty-two (32) square feet in all other districts. Such signs shall be maintained in a serviceable condition and shall be removed within ten (10) days after the premises advertised has been sold, rented or leased. Such signs shall be located not less than ten feet (10') from a right-of-way.
1. The real estate sign shall not be illuminated.
  2. Only one (1) real estate sign shall be allowed for each one hundred and fifty feet (150') of street frontage. The sign content shall be limited to the property being sold or rented and the identity of the broker, agent, tenant, developer or owner of the premises.
  3. All real estate signs shall be removed within ten (10) days after the closing of the sale of the real estate or the rental of the real estate.
  4. The Zoning Officer is empowered to remove real estate signs when the period required for removal has expired at the owner's expense.
- S. Temporary Advertising - Community Activities, Auctions, Garage or Yard Sales, Special Events of Charitable or Public Service Groups: Such signs shall be limited to a maximum area of six (6) square feet and located on the property where such event or activity is to be held. Signs shall not be erected earlier than thirty (30) days prior to the advertised event or activity and shall be removed within forty-eight (48) hours following the event or activity. A temporary sign is intended to be used for a period of thirty (30) days or less, announcing an event or advertising a special limited time offer not normally available on the premises.
1. Temporary signs pertaining to special sales or events may be displayed for a period of thirty (30) days or less.
  2. The cumulative area of temporary window sign(s) shall not exceed fifty percent (50%) of the area of each display window or public entrance on the building site. For purposes of this subsection, any display window that faces a separate public right-of-way or which is separated from any other display window by a public entrance shall be considered a single display window.
  3. Holiday message and decorations are excluded from the restrictions under this section.
- T. Wall: A sign which is mounted to an exterior wall or vertical surface of a building or structure, or which is painted directly upon a building or structure.
1. The wall sign shall not project more than twelve inches (12") from the building surface.
  2. The wall sign shall not extend above the building facade or roof cornice, or project beyond the ends of the wall or surface to which it is attached.

- U. Window: A permanent sign painted on or attached to the inside or outside glass of a window or glass-paneled door, including decals, or suspended within a window.
1. The total area of any permanent window sign shall not exceed thirty percent (30%) of the total glass area of the display window. For purposes of this subsection, any display window that faces a separate public right-of-way or which is separated from any other display window by a public entrance shall be considered a separate display window.
  2. The contents of the window sign shall only advertise an on-premise use.
  3. The total area of a permanent window sign shall be included in computing the total area of signs on the building frontage.
  4. The area of a window sign shall be computed by measuring the area which encompasses all of the individual letters or symbols thereof.

### **SECTION 2003 SIGNS PROHIBITED IN ALL DISTRICTS**

Signs listed in this Section are prohibited in all districts:

- A. Any moving sign except those permitted in the C-2 District.
- B. Any sign which, by reason of its size, location, content, coloring or manner of illumination, constitutes a traffic hazard or a detriment to traffic safety by obstructing the vision of drivers, or detracting from the visibility of any traffic sign or control device on public streets and roads. No sign shall exceed a height of three and one half feet (3 1/2') above ground level at any right-of-way intersection, so as to obstruct the clear sight triangle.
- C. Any sign which obstructs free ingress to or egress from a public right-of-way or required door, window, fire escape or other required exit way or which interferes with the proper function of the building.
- D. Any sign or sign structure which is structurally unsafe; constitutes a hazard to safety or health by reason of inadequate maintenance or dilapidation; is not kept in good repair; or is capable of causing electrical shocks to persons likely to come in contact with it; and any abandoned sign.
- E. With the exception of Municipal signs, signs which make use of words such as STOP, LOOK, DANGER, etc., or any phrases, symbols or characters which may interfere with, obstruct, mislead, or confuse traffic.
- F. Flashing, blinking or pulsating string lights used in connection with commercial premises for commercial purposes except those permitted in the C-2 District and except temporary holiday decorations which are permitted in all districts.
- G. Searchlights, commercial advertising banners, flags, pennants, spinners and streamers except for use as a temporary sign.
- H. Signs which are affixed to street signs, posts or traffic signs except temporary holiday decorations.

- I. Any sign not expressly permitted in a given district by this Ordinance is prohibited by this Ordinance as is any sign which violates any other provision of any Hopewell Township ordinance or Federal or State law.
- J. No sign shall be erected, placed or constructed in any district on a movable or portable base, sled, trailer vehicles or other device of any type where the principal use of the same is for the purpose of displaying a sign which is capable of being moved or transported from one location to another except as expressly permitted by this Article.
- K. No signs are permitted which are affixed to vehicles and/or trailers which are parked on a public right-of-way, public property or private property, other than temporarily for overnight storage on the site of a business or for maintenance, repair, loading, unloading or rendering a service at any location, which are visible from the public right-of-way and where the apparent purpose is to advertise a product or direct people to a business or activity located on the same or nearby property.
- L. No person shall maintain an abandoned nonconforming sign or permit an abandoned sign to be maintained on a premises under their ownership or control. Any such abandoned sign shall be removed by the landowner or person controlling the property within thirty (30) days of the abandonment.

#### **SECTION 2004 SIGN RESTRICTIONS IN ALL DISTRICTS**

- A. General Requirements: All signs shall conform to the general regulations and design standards for the types of signs provided for and required by this Ordinance and any other applicable Federal law or law of the Commonwealth of Pennsylvania. No signs, except portable sidewalk signs, shall be located in or upon a public right-of-way where the same interferes with public use. Unless otherwise provided herein, no sign, or any part thereof, including braces, supports, or lights shall exceed a height of twenty feet (20') measured from grade level to the highest part of the sign area.
- B. Limit on Number of Signs: Except as otherwise provided herein, there shall be a total of no more than two (2) signs regardless of classification permitted on a single premises.
- C. Limit on Sign Area: The maximum sign area permitted for buildings within all commercial districts, regardless of the number of premises contained therein and regardless of the number of signs located thereon, shall not exceed one and one half (1 1/2) square feet for every two (2) lineal feet of building face parallel to or substantially parallel to a public right-of-way. If a building fronts on two (2) or more streets, the maximum sign area for each street frontage shall be computed separately. A lot without a building situated thereon shall be entitled to a maximum sign area of twenty-four (24) square feet.
- D. Limit on Content of Signs: Trademarks that are registered for a specific commodity may occupy no more than ten percent (10%) of the maximum sign

area, unless the commodity is the principal product sold or manufactured on the premises, except for:

1. Off-premises signs, which shall be regulated by the standards for off-premises advertising signs; and
  2. Sponsor signs placed on recreational facilities or fences surrounding recreational areas which are not visible from a public right-of-way.
- E. Safety and Maintenance: Every sign and all structural parts thereof shall be constructed of durable materials and maintained in a secure and safe condition. If, in the opinion of the Zoning Officer, a sign is not secure, safe and in a good state of repair or otherwise not in compliance with this Ordinance, the Zoning Officer shall give written notice of this to the owner, lessor, tenant, lessee and permit holder as applicable. If the sign is not made compliant within ten (10) days of said notice, the Township shall remove the sign at the owner's expense.
- F. Any sign which no longer serves a useful purpose shall be immediately removed by the owner, lessor, tenant, lessee and/or permit holder as applicable. If the sign is not removed within ten (10) days of notice to do so, the Township shall remove the sign at the owner's expense.
- G. Except for billboards, free-standing, directional and political signs, all signs shall be located on the premises which they are intended to serve.
- H. In the event that any given sign may meet the definition of more than one classification under this Ordinance, it must meet the design requirements of all applicable classifications. In the event that any design requirement under two (2) or more classifications is in direct contradiction with another, the more restrictive requirement shall apply.

## **SECTION 2005 ADMINISTRATION AND ENFORCEMENT**

### **A. Sign Inspection and Enforcement:**

1. The Zoning Officer shall inspect signs and enforce the provisions hereof.
2. The Zoning Officer shall receive and examine all applications for permits to erect signs and shall issue permits for all signs which conform to the requirements hereof.
3. The Zoning Officer shall record and file all applications, conduct an annual inspection of all signs and make such reports as the Township may require.
4. Enforcement of these provisions regulating signs in Hopewell Township shall be in accordance with this Section, and Article XXIX of this Ordinance.
5. The Township Zoning Officer, Manager or Board of Commissioners may designate an individual to exercise the duties and obligations of the Zoning Officer as provided herein to effectuate the provisions of this Ordinance.

B. General Provisions for All Sign Permits:

1. All signs except those specifically exempted in this Section hereof shall require a permit.
2. All sign approval permits shall be filed on application forms provided by the Township and administered by the Zoning Officer.
3. One (1) application form may be used to describe and permit multiple sign installations on the same property, provided that complete information is provided for each sign as required by Subsection C herein.
4. Sign approval permits are valid until the sign is replaced, remodeled or structurally altered, in which case a new permit shall be required.

C. Permits to Erect New Signs or to Alter or Move Existing Signs:

1. No sign shall be erected, structurally altered, or moved until a permit has been obtained from the Zoning Officer. A permit shall only be issued when the Zoning Officer determines that the sign plans comply with all applicable provisions hereof.
2. Any person desiring a sign permit shall file an application on a form provided by the Township and administered by the Zoning Officer.
3. The sign permit application form shall contain the following information:
  - a. Applicant name, address and telephone number.
  - b. A plan, drawn to scale, showing the location of the building, structure or lot to which the sign is to be attached or erected, and showing the position of the sign in relation to the property lines, adjoining or nearby buildings, streets, or highways.
  - c. A description of the dimensions, shape, color, material, supports, anchoring and height of the sign and the intensity of illumination.
  - d. A sketch of the sign, drawn to scale, illustrating the style of letters, words, symbols or other graphics.
  - e. Name of the person or firm constructing, altering, or moving the sign.
  - f. Written consent of the property owner, if different from the applicant.
  - g. Any other conditions which the Zoning Officer may require to demonstrate full compliance with this Ordinance and other applicable laws of the Township.
4. The Zoning Officer shall process applications for sign approval permits within thirty (30) days from the date of the filing of a complete application with the required fee.
5. Approval to erect, alter or move a sign shall be granted subject to the provisions hereof or other applicable ordinances and any other specific conditions which may be stipulated on the permit application form, as may be required by the Zoning Officer.
6. The Zoning Officer shall inspect the sign installation for conformance to all applicable requirements and conditions. Signs deemed to be in compliance with the terms and conditions of the permit application shall

be granted a permit. The permit shall be validated by the signature of the Zoning Officer. A copy of the validated sign permit shall be provided to the sign owner.

7. The sign owner shall notify the Zoning Officer upon the removal of any permitted sign.
  8. All requests for a permit for signs which have a vertical height which exceeds the horizontal distance to any highway or right-of-way or property line shall be accompanied by stress sheets and calculations showing the sign structure is designed for dead load and wind pressure in any direction in accordance with the Building Officials and Code Administrators Code (BOCA) specifications for wind pressure on signs.
- D. Nonconforming Signs: All signs existing at the time this Section is enacted which do not conform to one (1) or more applicable provisions hereof shall be deemed to be nonconforming signs and shall be subject to the following requirements:
1. Any sign heretofore legally erected may continue to be maintained. However, no such sign shall be enlarged, added to or replaced by another nonconforming sign.
  2. A nonconforming sign may be temporarily removed for repair and maintenance and re-erected if restored within six (6) months. Signs not restored within a six (6) month period shall be deemed abandoned and the use of the nonconforming sign shall terminate.
  3. Nonconforming signs or sign locations which are discontinued or not used for a period of at least six (6) months shall be deemed abandoned and the use of the nonconforming sign shall terminate.
  4. Any nonconforming sign that becomes unsafe or which is destroyed or damaged beyond repair shall be removed. Nonconforming signs which are unsafe, destroyed or damaged beyond repair for a period of six (6) months or more shall be deemed abandoned and the use of the nonconforming sign shall terminate.
  5. Failure to comply with the approved permit provisions for removal of nonconforming signs shall result in penalties for noncompliance as set forth in this Section and Article XXIX of this Ordinance.
- E. Fees for Sign Permit:
1. Applications for erecting, altering, or moving a sign or signs, as well as the filing of a request for a variance with the Zoning Hearing Board, shall be accompanied by the fees established in the Schedule of Fees adopted by the Township.
  2. No fee shall be charged for resubmitting an application which adopts the suggested modifications of the Zoning Hearing Board.
  3. No fee shall be charged for the painting or repair of a sign that is an exact duplicate of the existing approved sign.

4. No permit shall be issued, nor variance granted, without the payment of required fees.

## **SECTION 2006 REMOVAL OF PROHIBITED ADVERTISING DEVICES**

In addition to the penalties prescribed in this Article, the Township may institute any appropriate action or proceeding after thirty (30) days written notice of a violation of this Ordinance to the person or persons maintaining or allowing to be maintained such sign, to prevent, restrain, correct or abate a violation or to cause the removal of any sign erected or maintained in violation of the provisions of this Ordinance, or the Township may have any such sign corrected or removed by its employees. In the event of such removal, the person or persons responsible for the erection or maintenance of such sign and the person or persons allowing such sign to be maintained shall be liable to the Township for the cost of removal or correction of such sign. Neither the Township nor any other employee acting at its discretion shall be liable in any criminal or civil action for damages for any action authorized by this Article.

## SECTION 2007 QUICK REFERENCE TABLE OF PERMITTED SIGN USES

	R1	R2	R3	R4	C1	C2	MU	IP	I	SP	NSD	RID
Awning	P	P	P	P	P	P	P	P	P	P	P	P
Banner	P	P	P	P	P	P	P	P	P	P	P	P
Billboard	P	N	N	N	N	N	N	N	N	N	N	P
Community Directory	P	P	P	P	P	P	P	P	P	P	P	P
Construction Project	P	P	P	P	P	P	P	P	P	P	P	P
Directional	P	P	P	P	P	P	P	P	P	P	P	P
Free-Standing	N	N	N	N	P	P	P	P	P	P	P	P
Historical/Memorial	P	P	P	P	P	P	P	P	P	P	P	P
Home Occupation	P	P	P	P	P	P	P	P	P	P	P	P
Identification/Worship	P	P	P	P	P	P	P	P	P	P	P	P
Illuminated	P	P	P	P	P	P	P	P	P	P	P	P
Individual Letters/Symbols	P	P	P	P	P	P	P	P	P	P	P	P
Marquee	N	N	N	N	P	P	P	P	P	P	P	P
Moving	N	N	N	N	N	P	N	N	N	N	N	N
Municipal	P	P	P	P	P	P	P	P	P	P	P	P
Name and Address	P	P	P	P	P	P	P	P	P	P	P	P
No Trespassing	P	P	P	P	P	P	P	P	P	P	P	P
On Premises Information	P	P	P	P	P	P	P	P	P	P	P	P
Political	P	P	P	P	P	P	P	P	P	P	P	P
Portable Sidewalk	N	N	N	N	P	P	P	P	P	P	P	P
Projecting	N	N	N	N	P	P	P	P	P	P	P	P
Public Service	P	P	P	P	P	P	P	P	P	P	P	P
Real Estate	P	P	P	P	P	P	P	P	P	P	P	P
Real Estate Management	P	P	P	P	P	P	P	P	P	P	P	P
Roof	N	N	N	N	P	P	P	P	P	P	P	P
Shopping Plaza	N	N	N	N	N	P	N	N	N	N	N	N
Temporary	P	P	P	P	P	P	P	P	P	P	P	P
Wall	P	P	P	P	P	P	P	P	P	P	P	P
Window	P	P	P	P	P	P	P	P	P	P	P	P

P - Permitted

N - Not Permitted

### Zoning District Code

R1 Agricultural	C1 Highway	I Industrial
R2 Low	C2 Shopping Center	SP Special Growth
R3 Medium	MU Mixed Use	NSD Neighborhood Service
R4 High	IP Industrial Park	RID Riverfront Industrial

## ARTICLE XXI

### PARKING AND LOADING FACILITIES

#### SECTION 2100 GENERAL REGULATIONS

- A. Off-street parking, loading and unloading facilities shall be provided to lessen congestion in the streets. The facilities required herein shall be available throughout the hours of operation of the particular business or use for which such facilities are provided. As used herein, the term "parking space" includes either covered garage space or uncovered parking lot space located off or beyond the public right-of-way.
- B. Each parking space shall have an area of not less than one hundred sixty-two (162) square feet (9 feet x 18 feet), whether inside or outside of a structure, for the temporary standing of automobile vehicles to be used exclusively as a parking stall for one (1) automobile vehicle.

The aisle width used exclusively for turning and access to the parking stall shall be designed in accordance with the following minimum standards.

Parking Angle (Degrees)	Aisle Width (Feet)
45	12
60	18
90	22 (two way)

Aisle width is exclusive of the parking space area.

- C. A garage or carport may be located wholly or partly inside the walls of the principal building, or attached to the outer walls. If separated from the principal building, the garage shall conform to all accessory building requirements. The garage may be constructed under a yard or court. The space above an underground garage shall be deemed to be part of the open space of the lot on which it is located.
- D. Parking spaces may be located on a lot other than that containing the principal use with the approval of the Board of Commissioners.
- E. Surfacing:
1. Any off-street parking area shall be graded for proper drainage and shall be surfaced so as to provide a durable and dustless surface, such as concrete or bituminous concrete surface, and shall be so arranged as to provide for orderly and safe parking and storage of vehicles.
- F. Lighting: Any lighting used to illuminate any off-street parking area shall be so arranged as to reflect the light away from adjoining premises and public rights-of-way.

- G. There shall be adequate provision for ingress and egress to all parking and loading spaces designed for use by employees, customers, delivery services, sales people and/or the general public. Where a parking or loading area does not abut on a public right-of-way, or private alley or easement of access, there shall be provided an access drive of not less than twelve (12) feet in width per lane of traffic; and not less than eighteen (18) feet in width in all cases where the access is to storage areas or loading and unloading spaces required hereunder.

## **SECTION 2101 PARKING FACILITIES**

Any structure or building hereafter erected, converted or enlarged for any of the following uses, or any open area hereafter used for commercial purposes, shall be provided with not less than the minimum spaces, as set forth below. Said spaces shall be readily accessible to the uses served thereby. Fractional number of parking spaces shall be increased to the next whole number. The final number of parking spaces shall be subject to review by the Planning Commission and approval of the Board of Commissioners.

### **A. Residential Parking:**

1. All single family and double family dwelling units shall be provided with two (2) off-street parking spaces per dwelling unit.
2. All three (3) family, four (4) family and multiple family dwelling units shall be provided with two and one half (2.5) off street parking spaces per dwelling unit.

### **B. Commercial Parking:**

1. Theaters, churches, schools, or any other places of public or private assembly: at least one (1) parking space for each three (3) seats provided for public or private assembly. This shall be in addition to employee parking needs, which shall include one (1) parking space for each employee working the shift where the greatest number of employees is on duty.
2. Retail and service oriented and other places for business: One (1) parking space for each one hundred (100) square feet of floor area for public use. This shall be in addition to employee parking needs, which shall include one (1) parking space for each employee working the shift where the greatest number of employees is required.
3. Restaurants: One (1) parking space for each fifty (50) square feet of floor area for public use. This shall be in addition to employee parking needs, which shall include one (1) parking space for each employee working the shift where the greatest number of employees is required.
4. Bowling alleys: Five (5) parking spaces for each alley. This shall be in addition to employee parking needs, which shall include one (1) parking space for each employee working the shift where the greatest number of employees is required.

5. Professional office buildings: At least one (1) parking space for each three hundred fifty (350) square feet of floor area. This shall be in addition to employee parking needs, which shall include one (1) parking space for each employee working the shift where the greatest number of employees is required.
6. Automobile and gasoline service stations: At least one (1) parking space for each two hundred (200) square feet of floor area, or fraction thereof, devoted to repair or service facilities, and one (1) parking space for each employee on the largest shift. This shall be in addition to the space allocated for the normal storage of motor vehicles. No parking shall be permitted on the public right-of-way.
7. Hospitals: At least one (1) parking space for each three (3) beds. Such spaces shall be in addition to those necessary for doctors, administrative personnel and other regular employees. One (1) parking space shall be provided for each employee on the largest shift.
8. Other commercial buildings: At least one (1) parking space for each four hundred (400) square feet of floor area. This shall be in addition to employee parking needs, which shall include one (1) parking space for each employee working the shift where the greatest number of employees is required.
9. Open areas used for commercial recreation purposes:
  - a. Golf driving range: At least one (1) parking space for each tee provided. This shall be in addition to employee parking needs.
  - b. Miniature golf: At least one (1) parking space for each tee. This shall be in addition to employee parking needs, which shall include one parking space for each employee working the shift where the greatest number of employees is required.
  - c. Other open areas: At least one (1) parking space for each two thousand five hundred (2,500) square feet of area or fraction thereof.
10. Funeral homes: At least one (1) parking space for each one hundred (100) square feet of floor area for public use. Such space shall be in addition to:
  - a. Employee parking needs, which shall include one (1) parking space for each employee working the shift where the greatest number of employees is required.; and
  - b. A service area for mobile equipment, such as hearses and ambulances.
11. Home occupations: At least two (2) parking spaces for the resident, one (1) parking space for each nonresident employee and two (2) parking spaces for patron use.
12. No off-street parking space or area shall be located or arranged so as to permit or cause any vehicle to be backed out on to any public street or highway.

- C. **Industrial Parking:** These regulations shall apply to industrial expansion and industrial installations erected after the effective date of this Ordinance. Off-street parking shall be provided on the premises in accordance with the following schedule:

1. Industrial and manufacturing establishments: One (1) parking space for each two (2) employees on the combined major and next largest shift.
2. Truck terminals and wholesale warehouses: One (1) parking space for each two (2) employees on the combined major and next largest shift.
3. Visitors and salesmen: Space shall be provided in addition to the above parking requirements according to specific needs.

## **SECTION 2102    LOADING AND UNLOADING SPACE**

- A. In addition to the off-street parking space required above, any building erected, converted or enlarged in any district for commercial, office building, manufacturing, wholesale, hospital or similar uses, shall provide adequate off-street areas for loading and unloading of vehicles. The minimum size loading space shall be forty-five (45) feet in length, twelve (12) feet in width, with an overhead clearance of fifteen (15) feet.
- B. All commercial and industrial establishments shall provide loading and unloading and commercial vehicle storage space adequate for their needs. This required space will be provided in addition to established requirements for patron and employee parking.
1. In no case where a building is erected, converted or enlarged for commercial, manufacturing or business purposes shall the public right-of-way be used for loading or unloading of materials.

## **SECTION 2103    PARKING AND LOADING AREA SETBACKS**

All nonresidential parking and loading areas and parallel circulation and service lanes shall be separated from the right-of-way line of a public thoroughfare or adjoining property line by a planting strip at least twenty (20) feet in depth.

## **ARTICLE XXII**

### **SUPPLEMENTAL REGULATIONS**

The provisions of this Zoning Ordinance shall be subject to such exceptions, additions, or modifications as herein provided by the following supplemental regulations.

#### **SECTION 2200 CELLAR DWELLINGS**

No living quarters other than a game or recreational room shall be placed in a cellar structure having less than one-half its height (floor to ceiling) above the average ground level as measured from front to rear of the structure.

#### **SECTION 2201 CLEAR SIGHT TRIANGLE**

In order to prevent the creation of a traffic hazard by limiting visibility at a street intersection, no structure, building, earthen bank or vegetation exceeding two and one half (2 1/2) feet in height above the finished paved area at the center of the roadway shall be allowed within the clear sight triangle on corner lots. (See Standard Details in the Hopewell Township Subdivision and Land Development Ordinance)

#### **SECTION 2202 CONSTRUCTION OF ACCESSORY BUILDING**

No accessory building shall be constructed upon a lot until the construction of the principal building has been actually commenced and except as provided elsewhere in this Zoning Ordinance, no accessory building shall be used for residential purposes. Provided, however, that one (1) residential unit for a caretaker may be permitted in conjunction with any industrial establishment.

#### **SECTION 2203 FENCES, HEDGES AND BUFFERYARDS**

- A. In consideration of the health, safety and welfare of the residents of Hopewell Township, no person, corporation, partnership, company or other entity shall construct, install, add to or alter a fence, wall or other barrier or any combination thereof in Hopewell Township unless a permit is first secured therefor.
- B. A drawing with precise dimensions and materials to be used shall be submitted with the permit application. Any fence, wall or other barrier or combination thereof which is erected and does not comply with the drawing submitted by the applicant shall be deemed a violation of this Ordinance.
- C. Subject to the following conditions, fences may be erected along the boundaries of a lot:
  - 1. Fences, hedges or other plantings, structures or walls at street corners shall not be located so as to interfere with the clear sight triangle on

corner lots. The height of such objects is restricted to two and one half (2 1/2) feet within the clear sight triangle above the center line of the adjacent road surface.

2. Fences may be erected to a height not exceeding two and one half (2 1/2) feet if within ten (10) feet of a street in residential districts, and to a height not exceeding six (6) feet in Commercial Districts.
  3. Any fence that is erected shall be of durable material, and shall be constructed so as to be compatible with the character of the neighborhood and constructed of materials in-use within the zoning district. Such fences include but are not limited to cyclone fences, redwood or similar wood material fences and fences constructed of masonry or stone.
  4. The finished surface of materials used to construct a fence shall face the abutting property or where, because of the method of construction, there is no distinction in surface treatment, the material shall be placed at the discretion of the property owner who secured the permit.
- D. HEIGHT LIMITATIONS: No fence, wall or other barrier or any combination thereof shall be constructed which exceeds any of the following height limitations:
1. Forty-two inches (42") in front of the building line applicable to the subject property.
  2. Seventy-two inches (72") behind the building line applicable to the subject property, except as otherwise provided in subsection 3 herein;
  3. Forty-two inches (42") wherever the fence, wall or other barrier or any combination thereof shall be located on any portion of any lot that abuts a street, intersection or common drive that empties onto a public streets; and
  4. Eight feet (8') in any Industrial Zoning District.
  5. No fence, wall or other barrier, hedge, shrub, tree or other landscaping feature or structure shall be located so as to interfere with the clear sight triangle at street intersections. The height of such objects is restricted to forty-two inches (42") above the elevation of the grade of the street at the centerline of the intersection.

E. PROHIBITED FENCES, WALLS OR OTHER BARRIERS:

1. Barbed wire and all other fencing, walls or barriers that are designed to cut or injure are prohibited in all residential districts. In zoning districts other than residential, such fencing, wall or barrier shall not be permitted, unless a request is made to the Board of Commissioners and approved by a majority vote at a public meeting.
2. No fence, wall or other barrier or any combination thereof of any type shall be erected or permitted to remain in any public or utility right of way. If a fence, wall or other barrier or any combination thereof of any type is erected or permitted to remain in any public or utility right of way, the property owner shall be deemed to have consented to the Township

removing same and the costs therefore assessed to the property owner as a confession of judgment.

3. Fences, walls or other barriers or any combination thereof shall not be constructed of Jersey Barriers, I-Beams (except when used for weight bearing), Barrels or Drums, Wooden Pallets, Plywood Sheets or any other materials not generally utilized or accepted in the industry as appropriate for said purpose.

**F. CONSTRUCTION STANDARDS:**

1. All fences, walls or other barriers erected must be of good quality and workmanship and must be firmly and sturdily footed in the ground. Only those materials regularly used in the industry for the construction of fences, walls or other barriers may be utilized.
2. The finished or decorative side of the fence, wall or other barrier shall face outward from the property on which it has been erected and toward adjacent properties, streets or alleys.

**G. TREATMENT OF METAL FENCES:**

1. Any fence erected which is made of a metal fabric or which is partially made of any metal fabric shall be galvanized or otherwise treated to prevent the formation of rust, and the metal used in the fabric shall be at least eleven gauge or heavier, unless it is subject to the provisions of Section 2208 regarding the gauge of metal fences around pools.
2. Any fence which becomes more rusted than not shall be repaired or replaced by the property owner within sixty (60) days notice thereof.

**H. MAINTENANCE; STURDINESS:**

1. All fences, walls or other barriers shall be maintained in a sturdy and good condition. Fences, walls or other barriers which overturn, collapse, fall, deteriorate or become loose, rusted or rotted, whether in whole or in part, shall be repaired, replaced or removed within sixty (60) days notice thereof.
2. Any fence, wall or other barrier that cannot support a weight equal to one hundred (100) pounds without bending, breaking, leaning or moving shall be deemed not to be sturdy.

**SECTION 2204 GENERAL STORAGE**

No lot or premise shall be used as a storage area for junk automobiles, appliances or the storage or collection of any other miscellaneous items unless permitted under the I, Industrial District. Also, no lot or premise shall be used as a garbage dump or dead animal rendering plant nor any manure, rubbish or miscellaneous refuse be stored in the open within any district where the same may be construed as a menace to the public health or safety. No exceptions shall be made except by official action of the Board of Commissioners.

## **SECTION 2205 HEIGHT REGULATION EXCEPTIONS**

- A. Municipal facilities, hospitals, public institutions, schools, and multi-story, multi-family buildings when permitted in a district, may be erected to a height not exceeding sixty (60) feet, and churches or temples may be erected to a height not exceeding sixty-five (65) feet, if the building is set back from each yard line at least one (1) foot for each additional two (2) feet of building height above the height limit provided in the district in which the building is located.
- B. Certain industrial structures such as cooling towers, elevator bulkheads, fire towers, tanks and water towers which require a greater height than provided in the district may be erected to a greater height than permitted provided that:
  - 1. The structure shall not occupy more than twenty-five percent (25%) of the lot area; and,
  - 2. The yard requirements of the district in which the structure is erected shall be increased by one (1) foot for each foot of height over the maximum height permitted.
- C. The height limitations of this Zoning Ordinance shall not apply to flagpoles, church spires, belfries, chimneys or antennas other than cellular telecommunications antennas.
- D. Agricultural structures shall have no height limitations.

## **SECTION 2206 JUNK YARDS**

All junk yards existing at the effective date of this Ordinance and all new junk yards, where permitted, shall comply with the following provisions:

- A. No junk material, appurtenant structure, or other enclosure shall be stored or placed within one hundred (100) feet of any adjoining property or public right-of-way and such setback area shall be kept free of weeds unless the adjoining property is wooded.
- B. All junk yards shall be completely enclosed with a visual screen of evergreen or evergreen type hedge or tree-row of a variety and size at the time of planting that will attain a height of eight (8) feet within three (3) years thereafter and it shall be maintained in a sound and attractive manner.
- C. All junk shall be stored or arranged so as to permit access by fire fighting equipment and to prevent the accumulation of water, and with no junk piled to a height of more than six (6) feet.
- D. No oil, grease, tires, gasoline or other similar materials shall be burned at any time, and all other burning shall be attended and controlled at all times.
- E. All junk yards shall be maintained in such a manner as to cause no public or private nuisance, nor to cause any offensive or noxious sounds or odors, nor to cause the breeding or harboring of rats, flies or other vectors.

## **SECTION 2207 PATIOS**

A patio as defined in this Ordinance may extend into the front, side or rear yards of the principal building. A patio is not considered a part of the principal building (see patio definition) and is, therefore, permitted to extend into any required yards.

## **SECTION 2208 PRIVATE SWIMMING POOLS**

Private swimming pools shall comply with the following conditions and requirements:

- A. The pool is intended and is to be used solely for the enjoyment of the occupants or guests of the principal use of the property on which it is located.
- B. It may be located only in the rear yard or side yard of the property.
- C. It may not be located closer than ten (10) feet to the rear property line nor closer to a side lot line than the required side yard depth of the principal use.
- D. The swimming pool shall be so walled or fenced or otherwise protected as to prevent uncontrolled access by children from the street or from adjacent properties. Said barrier shall not be less than four (4) feet but not more than six (6) feet in height and maintained in good condition with a self-latching gate.

## **SECTION 2209 RECREATIONAL VEHICLES AND RECREATIONAL EQUIPMENT**

Trailers including travel trailers, pickup coaches, motorized homes and boat trailers may be parked or stored subject to the following requirements:

- A. Camping and recreational equipment belonging to persons other than the owner of the property may be temporarily parked on a residential property in residential districts provided a temporary trailer parking permit is obtained. Temporary trailer parking permits shall be limited to a maximum of one (1) consecutive two (2) week period in any one (1) calendar year.
- B. Permanent parking and storing of camping and recreational equipment shall be limited to that portion of the lot behind the principal building.

## **SECTION 2210 MOBILE HOMES**

Mobile homes on single lots outside of a mobile home park shall be provided with masonry or concrete foundation piers on reinforced concrete footers and held to the foundation by tie-downs imbedded in concrete screw augers or arrow-held anchors. Mobile homes shall be skirted within thirty (30) days of arrival on the lot.

## **SECTION 2211 REDUCTION IN LOT AREA**

No lot area, though it may consist of one (1) or more adjacent lots of record, shall be reduced in area so that the yard lot area per family, lot width, building area or other requirements of this Ordinance are not maintained.

## **SECTION 2212 STRUCTURE ON SMALL LOTS OF RECORD**

Notwithstanding, the limitations imposed by any other provisions of this Ordinance, the Zoning Officer may permit erection of a structure on any lot of record separately owned or under contract of sale and containing, at the time of the passage of this Ordinance, an area or a width smaller than that required in this Ordinance, provided all setback requirements in the particular Zoning District are met.

## **SECTION 2213 HOME OCCUPATION**

No exterior changes shall be made to the principal residential building or accessory structure to accommodate a home occupation and a maximum of twenty-five percent (25%) of the gross floor area of the dwelling may be used for the home based business.

- A. Not more than one (1) person not a resident may be employed.
- B. No goods shall be publicly displayed on the premises.
- C. Signage shall be in compliance with Article XX.
- D. Such incidental uses shall include, but not be limited to, the practice of law and engineering, artists, barbers, beauticians and animal grooming excluding the boarding of such animals in kennels or stables.
- E. Off-street parking shall be in compliance with Article XXI.

## **SECTION 2214 TEMPORARY USES**

Only the following uses are permitted temporarily (from a period of one (1) to four (4) weeks in one (1) calendar year):

- A. Christmas tree sales in Commercial Districts.
- B. Carnival, circus and street fairs in Commercial or Industrial Districts.
- C. Mobile amusements and lighting equipment for promotion, advertisement and grand openings in Commercial and Industrial Districts.

## **SECTION 2215 YARD REQUIREMENTS**

- A. All yards required under this Zoning Ordinance shall be unobstructed by any building or structure except for accessory buildings in the rear and side yards and fences.

- B. The following may project into the required yards as established in this Zoning Ordinance:
1. Steps and stoops not exceeding thirty (30) square feet.
  2. Open or lattice enclosed fire escapes, fireproof outside stairways and balconies opening upon fire towers and the ordinary projection of chimneys and flues into the rear yard not exceeding three and one half (3 1/2) feet in width and placed so as to not obstruct light or ventilation.
  3. Sills, eaves, belt courses, cornices and ornamental features not exceeding two (2) feet in width.
  4. Patios.
- C. The front yard requirements heretofore established may be adjusted in the following cases:
1. Where forty percent (40%) or more of the frontage on one (1) side of a street between two (2) intersecting streets is developed with buildings that have observed (with a variation of five (5) feet or less), a front yard greater in depth than herein required, new buildings shall not be erected closer to the street than the front yard so established by the existing buildings.
  2. Where forty percent (40%) or more of the frontage on one (1) side of a street between two (2) intersecting streets is developed with the buildings that have not observed a front yard as described above, then:
    - a. Where a building is to be erected on a parcel of land that is within one hundred (100) feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the two (2) closest front cornices of the adjacent structures on the two (2) sides; or
    - b. When a building is to be erected on a parcel of land that is within one hundred (100) feet of an existing building on one (1) side only, such building may be erected as close to the street as the existing adjacent building.

## **SECTION 2216 USES NOT LISTED**

When a land use proposed by a property owner is not listed as a permitted use, a conditional use or a use by special exception in any of the established zoning districts the Zoning Officer shall, at the request of the owner, refer such proposed land use to the Zoning Hearing Board following denial of the zoning permit. The proposed use shall be reviewed as a request for a special exception. The Zoning Hearing Board shall apply the general standards outlined in Article XXIII, Section 2301 to all such requests.

## **SECTION 2217 PERFORMANCE STANDARDS**

No use, land or structure in any district shall involve any element or cause any condition that may be dangerous, injurious or noxious, or cause offensive odor, smoke, dust, dirt, noise, vibration, glare, excessive traffic, attract vermin or rodents or constitute a nuisance or be a detriment to the health, safety, moral or general welfare of the

community or to any other person or property in the Township. All uses in all districts shall be subject to the following standards of operation:

A. **Environmental Performance Standards:** The developer shall determine the presence of environmental or natural features on any site proposed for land development and shall meet the following standards for environmental protection. Site alterations, erosion and sedimentation control, regrading, filling, the clearing of vegetation or timbering and forestry activities without an appropriate and current permit prior to approval of the plans for development, shall be a violation of this Article.

1. **Floodway Delineation:** One hundred (100) year floodways shall be delineated as per the provisions of the current Township ordinance. Within the floodway, the following uses and activities having a low flood damage potential and not obstructing flood flows shall be permitted, provided that they are in compliance with the provisions of the underlying District and are not prohibited by any other Ordinance, and do not require structures, fill or storage of materials and equipment:
  - a. Agricultural uses;
  - b. Public and private recreational uses and activities such as parks, picnic grounds, hiking and horseback riding trails, wildlife and nature preserves, hunting and fishing;
  - c. Accessory residential uses such as yard areas, gardens and play areas.
2. **Floodplains:** For the purpose of this Section, normally dry land area adjacent to stream channels that is susceptible to being inundated by overbank stream flows. Development activities shall be regulated as per the provisions of the current Township ordinance.
3. **Steep Slopes:** In areas of steep slopes, i.e., those above fifteen percent (15%), the following standards shall apply, except as approved by the Township Engineer:
  - a. 16-24%: No more than sixty percent (60%) of such areas shall be developed and/or regraded or stripped of vegetation.
  - b. 25% or more: Earth disturbance activities in these areas in preparation for development are restricted except as approved by the Township Engineer.
4. **Forest:** No more than fifty percent (50%) of any forest as defined may be cleared or developed, unless trees are the primary crop being harvested.
5. **Ponds, Watercourses or Wetlands:** No development, filling, piping or diverting shall be permitted except for required roads and utility line extensions, unless permitted by the appropriate state, county or regulatory agency.
6. **Stormwater Drainage and Management:** All plans shall comply with the provisions of Hopewell Township's Subdivision and Land Development Ordinance, and all amendments thereto.

7. **Soil Erosion and Sedimentation:** With any earth disturbance there shall be control of erosion and the protection of streams and ponds from sedimentation in accordance with the "Clean Streams Law P.L. 1987", Chapter 102 of Title 25 of the Pennsylvania Code, and the "Soil Erosion and Sedimentation Control Manual" of the Pennsylvania Department of Environmental Protection. In addition, a Soil Erosion and Sediment Control Plan (ES & SC Plan) shall be required as part of the application for any Township permit where earth disturbance or excavation will occur. As a minimum where sediment can be transported away from the disturbed area, a silt fence or straw bale barrier shall be erected and maintained in working order until vegetation is fully established as determined by the Pennsylvania Department of Environmental Protection (PaDEP), or erosion resistant ground cover has been installed. Additional sediment pollution control measures may be required where land development is more extensive than single family construction.
- B. **Odor:** Those standards for the control of odorous emissions established by the Pennsylvania Department of Environmental Protection (PaDEP) shall be applied in all zoning districts. Where an odor is deemed offensive a duly authorized Township representative shall refer the matter to the Pennsylvania Department of Environmental Protection (PaDEP) where it has jurisdiction relative to an established airshed.
- C. **Storage and Waste Disposal:**
  1. No highly flammable, explosive or toxic liquids, solids or gases shall be stored in bulk (over five hundred [500] gallons), above ground, except in an enclosed building and except new tanks or drums of fuel connected directly with energy devices or heating appliances located and operated on the same lot as the tanks or drums of fuel.
  2. All new permanent bulk outdoor storage facilities for fuel over five hundred (500) gallons, raw materials and products and all fuel, raw materials and products stored outdoors, shall be enclosed by an approved safety fence.
  3. No materials or wastes shall be deposited upon a lot in such form or manner that they may be transported off the lot by natural causes or forces; nor shall any substance which can contaminate wells, watercourses, or potable water supplies otherwise render such wells, watercourses, or potable water supplies undesirable as sources of water supply or recreation; nor shall any substance which will destroy aquatic life be allowed to enter any wells, watercourses, or potable water supplies, where applicable. A Pennsylvania Department of Environmental Protection (PaDEP) approved plan for spill containment shall be submitted to the Township for review by the Township Engineer prior to the issuance of any required permit.
  4. Any materials or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible or otherwise attractive to rodents or insects shall be stored outdoors only if enclosed in containers adequate to eliminate such hazards.

- D. Air Pollution: No emission at any point from any chimney or otherwise of visible smoke in excess of that permitted by the air pollution control regulations of the Commonwealth agency with jurisdiction, shall be permitted.
- E. Dust, Fumes, Vapors, and Gases: The emission of dust, dirt, fly ash, fumes, vapors or gases which can cause any damage to human health, to animals, to vegetation, or to property or which can cause any soiling or staining of persons or property at any point beyond the lot line of the use creating the emission is herewith prohibited.
- F. Glare: No use shall produce a strong, dazzling light or a reflection of a strong, dazzling light or employ unshielded illumination sources beyond its lot lines or onto any public road. Spillover lighting from parking areas shall not exceed two (2) foot-candles per square foot beyond the property line except as otherwise specified.
- G. Vibrations: No use shall cause earth vibrations, or concussions detectable beyond its lot lines without the aid of instruments, with the exception of vibration produced as a result of temporary construction activity.
- H. Discharge: No discharge at any point into any private sewage disposal system or stream or into the ground, of any materials in such a way or in such manner or temperature as can contaminate any public or private water supply or otherwise cause the emission of dangerous, noxious or objectionable elements, or the accumulation of solid wastes conducive to the breeding of rodents or insects, is permitted.
- I. Heat, Cold, Dampness or Movement of Air: No activities producing heat, cold, dampness or movement of air are permitted which shall produce any material effect on the temperature, motion or humidity of the atmosphere at the lot line or beyond.
- J. Noise: No new use proposed in any district which by the nature of its use, operation or activity produces noise of objectionable character or volume as noted by a person at the property line of the parcel upon which the offending use is located, will be permitted:
  - 1. Residential Uses:
    - a. In excess of sixty (60) dba for any period of time between the hours of 10:00 p.m. and 7 a.m.
    - b. In excess of eighty (80) dba for any period of time between the hours of 7:01 a.m. and 9:59 p.m.
    - c. The use of maintenance equipment including, but not limited to, power mowers, on a temporary basis, in residentially zoned districts shall be exempt from the standards in this Section.
  - 2. Commercial Uses: In excess of ninety (90) dba for more than two (2) hours during a twenty-four (24) hour period.
  - 3. Industrial Uses: In excess of ninety (90) dba for two (2) hours during a twenty-four (24) hour period.

- K. **Electrical Disturbance or Radioactivity:** No activities which emit dangerous radioactivity or continuous cumulative low level radiation, at any point are permitted and no electrical disturbance adversely affecting the operation at any point of any equipment other than that of the creator of such disturbance shall be permitted.
- L. **Maintenance of Yards, Adjacent Undeveloped Property:** The owner or lessee of the property, whether occupied or vacant located within or adjacent to any developed area, shall maintain such premises so that:
1. All portions of the property shall be kept free of junk, debris, disabled motor vehicles and dangerous, or noxious material.
- M. **Vehicle and Equipment Maintenance:**
1. In industrial and commercially zoned areas, all vehicles and movable equipment repairs done on the property shall be performed within an enclosed building, except that minor maintenance activities may be completed on the exterior of a lot where space has been provided for the temporary parking or storage of vehicles and movable equipment.
  2. In residentially zoned areas, minor vehicle maintenance activities on vehicles owned by the occupant may be conducted in driveways, but in no case shall repairs be made on vehicles and movable equipment which would result in the storage of said vehicles or movable equipment on the exterior of the lot for more than forty-eight (48) hours, unless said vehicles are stored in an enclosed building.
- N. **Water Supply:** All new water wells which provide the primary source of potable water for the residence of the same lot shall produce at a minimum 3.5 gallons per minute, per well, continuously.
1. Documentation shall be submitted to the Township which verifies the capacity of each new well providing the primary source of potable water.
  2. No subdivision or land development which relies on well water as the primary source of potable water shall be approved unless the minimum capacity identified herein is met.
- O. **Access:** Residential subdivisions or land developments with a maximum of sixty (60) dwelling units proposed may be provided with only one (1) primary point of access. When sixty-one (61) or more units are proposed, the subdivision or land development shall provide two (2) points of vehicular access where access is physically possible to construct.
- P. **Bufferyards:** Where screening or bufferyards are called for in this Ordinance, they shall consist of a minimum twenty foot (20') wide area with plantings of a mix of fifty percent (50%) evergreen and fifty percent (50%) deciduous trees, of a minimum two inch (2") caliper, planted in two (2) staggered rows on ten foot (10') centers.

## ARTICLE XXIII

### STANDARDS AND CRITERIA GOVERNING ALLOWANCE OF SPECIAL EXCEPTIONS AND CONDITIONAL USES

#### SECTION 2300 GENERAL STANDARDS AND CRITERIA

The following are hereby established as the standards and criteria governing the allowance of special exceptions and conditional uses herein authorized, following review by the Zoning Hearing Board and/or the Board of Commissioners.

- A. No use or structure shall be allowed which shall contravene or violate the spirit and intent of the purposes and Community Development Objectives of this Ordinance.
- B. The use or structure shall not involve any element or cause any conditions that may be dangerous, injurious or noxious to any other property or persons and shall comply with the performance standards hereinafter set forth.
- C. The use or structure shall be sited, oriented and landscaped to produce an aesthetically compatible or architecturally harmonious relationship of buildings and grounds to adjacent buildings and properties.
- D. The use or structure shall produce a total visual impression and environment which is consistent with the environment of the neighborhood.
- E. The use or structure shall have no substantial adverse impact on neighboring uses nor cause a reduction of the property values thereof.
- F. The use or structure shall be substantially conforming to the surrounding uses of property.
- G. The use or structure shall satisfy every reasonable consideration made for the safety and convenience of the traveling public, including without limitation, safe ingress and egress, and the avoidance of hazard and congestion to travel and transportation. To effectuate this standard, the Board of Commissioners, in granting allowance of any use or structure hereunder, may impose upon the applicant and/or developer the cost and expense of off-site improvements including without limitation, traffic signals, street lighting, road widening and other street and highway improvements.
- H. The use or structure shall satisfy every reasonable consideration made for the health and safety of the general public, including without limitation safe water supply and sanitary sewage collection facilities.
- I. The use or structure shall avoid and/or satisfy such resulting impact upon neighboring uses as may affect the health and safety of persons and the value and use of property therein. To effectuate this standard, the Board of Commissioners, in granting allowance of any use or structure hereunder, may impose upon the applicant and/or developer the cost and expense of providing

offsite improvements including without limitations, encased storm water facilities and appurtenances, street lighting, sanitary sewage collection facilities and treatment and community fire apparatus and equipment which may be required for any unusual use or activity.

## **SECTION 2301    PROCEDURE FOR REVIEW FOR USES BY SPECIAL EXCEPTION**

- A. A developer or owner/applicant proposing a special exception use shall submit an application of appeal to the Zoning Hearing Board accompanied by the following materials to the Township Secretary or Township Zoning Officer:
1. A written statement supporting the general criteria outlined in this Section and describing in detail the proposed use;
  2. An accurate scaled illustrative site plan showing the arrangement of the proposed use on the site, including property lines, uses and structures on adjacent properties, abutting streets, buildings existing and proposed on the site by use and height, points of access into the site, internal driveways, parking area layout with number of spaces noted, freestanding signs to remain or are proposed, areas of earth moving with proposed grade of finished slopes identified, method of collecting and disposing of stormwater, proposed landscaping and other pertinent information to illustrate the proposal.
  3. The approval of a Special Exception Application shall be valid for a period of twelve (12) months from the date of approval. If within this period, the building permit has not been applied for and/or construction/development begun, then the Special Exception Approval shall be revoked and the applicant must reapply for approval. One (1) extension of up to six (6) months may be granted by the approving body where the applicant can show good cause for the delay.
- B. The Zoning Hearing Board shall call and hold a public hearing pursuant to public notice on the proposal within sixty (60) days of receipt of the required materials and a complete application, in the same manner as for any action requested of it.
- C. The Board shall, within forty-five (45) days of the conclusion of the public hearing, render a decision on the proposal to either:
1. Approve the use as submitted;
  2. Approve the use with conditions determined by the Board;
  3. Deny the proposal.
- D. The applicant shall have thirty (30) days in which to notify the Board that he accepts any attached conditions. Failure to accept will render the approval null and void.
- E. The Board shall authorize the Zoning Officer to issue a zoning/building permit for any approved special exception use.

- F. Failure of the applicant to apply for a zoning/building permit within one (1) year of receiving approval shall render the decision by the Board null and void.

## **SECTION 2302 SPECIFIC CRITERIA FOR USES BY SPECIAL EXCEPTION**

A. Assisted living facility: Use by Special Exception in the R-3 District.

1. The minimum site area required for an assisted living facility shall be five (5) acres.
2. The dwelling unit density shall not exceed twelve (12) dwelling units per acre.
3. Off-street parking shall be provided at the rate of one (1) parking space for each staff person on peak shift, plus one (1) parking space for each dwelling unit, plus one (1) parking space for each ten (10) dwelling units to be designated for visitor parking.
4. Common outdoor open space shall be provided on the site to accommodate the leisure and recreational needs of the residents. These areas shall be adequately buffered from any commercial uses on adjoining properties.
5. The facility shall be designed to maximize accessibility by firefighting and emergency vehicles.
6. The facility shall be designed to provide a protected off-street area for dropping off and picking up residents.
7. An assisted living facility shall include a common dining area and common leisure and/or recreational areas.
8. Supporting uses:
  - a. An assisted living facility may include one or more of the following supporting uses, subject to approval by the Zoning Hearing Board as part of the application for the use by special exception:
    - (1) Postal station.
    - (2) Banking facility.
    - (3) Pharmacy and/or medical offices.
    - (4) Personal services, such as beauty shop, barbershop, dry cleaner's, valet and common laundry.
    - (5) Ice cream parlor and/or flower or gift shop.
    - (6) Taxi, van or similar transportation service.
9. The foregoing uses shall be restricted to use by the residents and staff only and shall be located within the principal building or buildings which contain the dwelling units. There shall be no exterior signs or other evidence of the uses visible from the outside of the residential buildings.

B. Cellular Telecommunications Facilities: Use by Special Exception in the I and IP Districts.

1. If shared use of an existing or approved facility is not proposed, the applicant shall demonstrate that the proposed use cannot be

accommodated on an existing or approved facility for the following reasons:

- a. the proposed use would exceed the structural capacity of the existing or approved facility and reinforcement of the existing or approved facility can not be accomplished at a reasonable cost.
  - b. the proposed use will cause RF (Radio Frequency) interference with other existing or proposed users for that facility and the interference cannot be prevented at a reasonable cost.
  - c. existing or proposed facilities do not have adequate space to accommodate the proposed use.
  - d. addition of the proposed equipment would result in NIER (Non-ionizing Electromagnetic Radiation) levels which exceed any adopted local, State or Federal emission standards.
  - e. there are other valid reasons that make it impractical to place the proposed use on any existing or approved facility.
2. Any guy wire or anchor for the Cellular Telecommunications Facility shall be clearly marked so as to be visible at all times and shall meet the required setbacks set forth herein.
  3. The Cellular Telecommunications Facility shall be securely fixed to the ground and the applicant shall submit evidence that the facility has been designed by a registered engineer.
  4. An annual inspection shall be performed by a professional engineer and paid for by the owner of the Cellular Telecommunications Facility. An annual inspection report shall be submitted to the Township annually, documenting that an inspection has been performed of the facility within the previous thirty (30) days and that the facility and surrounding site are in compliance with the requirements of this Ordinance.
  5. Any structures related to the facility shall be equipped with a twenty-four (24) hour security system.
  6. The Cellular Telecommunications Facility and related equipment shall be promptly removed if the facility is not used for communication purposes for any continuous one (1) year period.
  7. Lot Size: The lot size dimensions (depth and width) shall be dictated by the fall radius of the tower. The minimum dimensions shall be the radius of the height of the tower in each direction. (Example - 200' high tower would be required to have a 400' diameter parcel).
  8. The communications company is required to demonstrate, using technological evidence, that the antenna must go where it is proposed, in order to satisfy its function in the company's grid system.
  9. If the communications company proposes to build a tower (as opposed to mounting the antenna on an existing structure), it is required to demonstrate that it contacted the owners of tall structures within a one-quarter (1/4) mile radius of the site proposed, asked for permission to install the antenna on those structures, and was denied for reasons other

than economic ones. This would include smoke stacks, water towers, tall buildings, antenna support structures of other communications companies, other communications towers (fire, police, etc.), and other tall structures. Hopewell Township may deny the application to construct a new tower if the applicant has not made a good faith effort to mount the antenna on an existing structure.

10. The applicant shall demonstrate that the antenna is the minimum height required to function satisfactorily. No antenna that is taller than this minimum height shall be approved. In addition, no antenna shall exceed two hundred feet (200') in height.
11. All communications towers must be stealth towers. A stealth tower is a Communications Tower which is not recognizable as a conventional Communications Tower (e.g. a metal lattice structure), but instead is disguised or concealed in such a fashion as to conform to its surroundings. Examples of such stealth towers include a tower which looks like a tree or a clock tower, or one which is concealed in a church steeple or concrete silo.
12. The Zoning Hearing Board may waive the stealth tower requirement where the applicant can demonstrate that the requirement is not necessary to protect the health, safety and welfare, considering items such as impact on surrounding and abutting property values; height; screening; number of uses per tower, including public uses; location; and actual setbacks.
13. Setbacks from base of antenna support structure: If a new antenna support structure is constructed (as opposed to mounting the antenna on an existing structure), the minimum distance between the base of the support structure or any guy wire anchors and any property line shall be the largest of the following:
  - (1) One hundred percent (100%) of antenna height.
  - (2) The minimum setback in the underlying zoning district.
  - (3) Fifty feet (50') minimum.
14. Fencing: A fence shall be required around the antenna support structure and other equipment, unless the antenna is mounted on an existing structure. The fence shall be a minimum of eight feet (8') in height.
15. Landscaping: The following landscaping shall be required to screen as much of the support structure as possible, the fence surrounding the support structure, and any other ground level features (such as a building), and in general soften the appearance of the cell site. Hopewell Township may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping. If the antenna is mounted on an existing structure, and other equipment is housed inside an existing structure, landscaping shall not be required.
  - a. An evergreen screen shall be required to surround the site. The screen can be either a hedge (planted three feet [3'] on center

maximum) or a row of evergreen trees (planted ten feet [10'] on center maximum). The evergreen screen shall be a minimum height of six feet (6') at planting, and shall grow to a minimum of fifteen feet (15') at maturity.

- b. In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.
  16. In order to reduce the number of antenna support structures needed in the community in the future, the proposed support structure shall be required to accommodate other users, including other communications companies, and local police, fire, ambulance services and municipal authority and road departments. In addition, a linear two (2) mile separation shall be maintained between communications towers, measured from the base of the support structure.
  17. The communications company must demonstrate that it is licensed by the Federal Communications Commission (FCC).
  18. Antenna support structure under two hundred feet (200') in height should be painted silver or have a galvanized finish retained, in order to reduce the visual impact. Support structures may be painted green up to the height of nearby trees. Support structures near airports, shall meet all Pennsylvania Department of Transportation, Bureau of Aviation and Federal Aviation Administration regulations. No antenna support structure may be artificially lighted except as provided for and required by the Pennsylvania Department of Transportation, Bureau of Aviation and FAA.
  19. A land development plan shall be required for all cell sites, showing the antenna, antenna support structure, building, fencing, buffering, access to public rights-of-way and all other items required in the Hopewell Township Subdivision and Land Development Ordinance. The site plan shall not be required if the antenna is to be mounted on an existing structure.
  20. In granting the use, the Zoning Hearing Board may attach reasonable conditions warranted to protect the public health, safety and welfare, including, but not limited to, location, fencing, screening, increased setbacks and the right to use said facilities for public purposes.
  21. All approvals will be only for specific facilities set forth in the application. No additions or alterations thereto will be permitted without a new application.
- C. Extended care facility: Use by Special Exception in the R-3 District.
1. The appropriate area, bulk and height regulations for the appropriate residential district or the appropriate commercial district must be met.
  2. The lot area shall be provided at a minimum lot area required under this Ordinance in which the area might be located plus an additional five hundred (500) square feet for each sleeping room in excess of three (3). Every unit of two (2) beds, or fraction thereof, in a sleeping room shall be counted as a separate sleeping room.

3. There shall not be more than one (1) personal care home located in any one building.
  4. No personal care home shall be located in a building that is occupied by any other residential type of use.
  5. No personal care home shall be spaced closer than eight hundred feet (800') from any other personal care home. Said distance of eight hundred feet (800') shall be measured by imposing a circular area of an accurate plan by locating a point on the center of the subject building and by extending a radius of eight hundred feet (800') from said center point. Any other building occupied or used as a personal care home and located totally or partially within said circular space shall be cause for rejection of the application for conditional use.
  6. Prior to approval of any application for establishment or operation of any personal care home, the applicant shall provide proof satisfactory to Board, that the applicant either has acquired, or will be able to acquire, all appropriate licenses and permits from the Pennsylvania Department of Public Welfare, prior to the issuance of a building permit by the Township. No building or other structure shall be occupied as, or used as, a personal care home until a Township Certificate of Occupancy is issued.
  7. Sleeping rooms, accommodations or facilities shall not be located in any basement or cellar and shall comply with all applicable life-safety and health codes.
  8. The applicant and/or operator shall provide adequate external lighting facilities, as required at the discretion of the Board, for the protection of all clients, employees, operators, and visitors to the personal care home.
  9. On-site parking facilities shall be provided at the ratio of one (1) space for every three (3) residents and shall be required to be screened from adjacent residential properties.
  10. The owner and/or operator of the institutional home shall permit inspections of the facility from time to time by Township officials and representatives of the Township including, but not limited to, the Township Fire Marshall, Fire Chief or Assistant Fire Chief and the Township Zoning Officer. Such inspections shall be conducted at reasonable times but shall not be limited to daytime hours, nor to normal business hours. Such inspections shall be conducted to ascertain the continued compliance by the operator with all applicable Federal, State, County and local statutes, ordinances, regulations and rules.
  11. The Zoning Hearing Board may attach such reasonable conditions and safeguards, in addition to those expressly set forth in the Zoning Ordinances, as the Board may deem necessary to implement the purposes of this Ordinance.
- D. Funeral homes: Use by Special Exception in the R-3 District.
1. The site shall have direct vehicular access to an arterial or collector street as defined.

2. The minimum site area shall be twenty-one thousand seven hundred and eighty (21,780) square feet.
  3. Off-street parking and loading shall be provided in accordance with Article XXI.
  4. All outdoor lighting shall be shielded and reflected away from adjacent properties.
  5. Parking areas adjoining property lines of adjoining properties containing a residential use or zoning classification shall be screened by a six foot (6') compact hedge, or privacy fences.
- E. Home based day care for six (6) or less children: Use by Special Exception in the MU District.
1. The facility shall be registered with or licensed by the Commonwealth, if applicable.
  2. Outdoor play areas shall be provided which shall have a minimum area of sixty-five (65) square feet per child and which shall be secured by a fence with self-latching gate.
  3. Outdoor play areas which adjoin residential lots shall be screened.
  4. The general safety of the property proposed for a day care center shall meet the needs of small children.
  5. Off-street parking shall be provided in accordance with the requirements of Article XXI of this Ordinance.
- F. Institutional uses including but not limited to libraries, private and parochial schools and foundation office: Use by Special Exception in the MU District.
1. An exterior lighting plan shall accompany all site development applications which shall include the location, fixture type and height, shielding and proposed illumination levels.
  2. Emergency access shall be provided on at least two (2) sides of each building. The Planning Commission may require emergency access to more than two (2) sides of the building if warranted by site conditions and the layout of the land development plan. Emergency access may be provided by means of a fire lane, a public or private street, a driveway or aisle in a parking area or an unobstructed landscaped area.
  3. Where said use abuts a residentially zoned property, a bufferyard of fifteen feet (15') shall run parallel to the perimeter property boundary line. A mix of fifty percent (50%) evergreen and fifty percent (50%) deciduous trees with a minimum one and one half (1 1/2) caliper at four foot (4') from grade level shall be planted at ten foot (10') intervals within the bufferyard.
  4. Building materials proposed for said use shall be compatible with existing structural and finished materials.
- G. Intermediate care facility: Use by Special Exception in the R-3 District.
1. No two (2) such facilities shall be placed closer together than one thousand five hundred feet (1,500') to one another;

2. All State and County approvals shall have been issued prior to Township final action;
  3. Off-street parking shall include one (1) off-street parking space for each person employed in the home on the largest shift, one (1) space for visitors and one (1) space for vehicles used to transport residents, and shall be required to be screened from adjacent residential properties.
  4. The owner and/or operator of the institutional home shall permit inspections of the facility from time to time by Township officials and representatives of the Township including, but not limited to, the Township Fire Marshall, Fire Chief or Assistant Fire Chief and the Township Zoning Officer. Such inspections shall be conducted at reasonable times but shall not be limited to daytime hours, nor to normal business hours. Such inspections shall be conducted to ascertain the continued compliance by the operator with all applicable Federal, State, County and local statutes, ordinances, regulations and rules.
- H. Nursing homes: Use by Special Exception in the R-3 District.
1. All required State and Federal licenses for operation shall be obtained by applicant.
  2. Exterior lighting shall be of the sharp, cut-off luminaire type.
  3. Emergency access lanes shall be provided on a minimum of two (2) sides of the principal structure.
  4. A planted bufferyard of a minimum fifteen feet (15') in width shall be provided along perimeters abutting residentially zoned parcels.
- I. Public Utility Structures: Use by Special Exception in the IP District.
1. Structures and/or outbuildings shall be designed to be compatible with the surrounding architecture.
  2. Structures and/or outbuildings shall be sited so as to provide the least environmental disturbance.
  3. All parking and/or loading areas shall be screened from adjacent properties, as per Article XXI.
  4. Access to the site shall be located so as to provide the maximum sight distance available.
  5. All required Federal, State and County permits shall be provided prior to the issuance of an Occupancy Permit by the Township.
  6. All utilities shall be placed underground with a minimum easement of twenty feet (20').
- J. Self-storage (mini-storage) facilities: Use by Special Exception in the MU District. These structures are also known as self-service storage facilities and consist of one (1) or more larger buildings which are divided into small separate units. These units, often the size of a single garage, are then rented for storage, normally for personal goods. Such uses must adhere to the following regulations:

1. There shall be no outdoor storage of any type, at any time.
  2. In addition to the required side and rear yards, an additional ten foot (10') bufferyard shall be required. This bufferyard is to be planted in evergreen trees to provide a visual buffer to surrounding properties.
  3. Each such facility shall be serviced by at least two (2) well-marked driveways of ten to twelve feet (10' - 12') in width.
  4. The entire complex shall be surrounded by a security fence at least six feet (6') but not greater than eight feet (8') in height. Said fence shall be no closer to any lot line than ten feet (10').
  5. The hours of operation shall not begin before 6:30 a.m. nor extend beyond 12:00 midnight, prevailing time.
- K. Triplex: Use by Special Exception in the R-3 District.
1. Off-street parking shall be provided as per the provisions of Article XXI.
  2. No more than six (6) consecutive lots shall accommodate this residential use on any single roadway segment.
- L. Veterinary: Use by Special Exception in the C-1 District.
1. Veterinary clinics, with kennels, in the C-1 District shall have a minimum site area of one (1) acre.
  2. Outdoor kennels shall be located at least two hundred feet (200') from any property line adjoining residential use or residential zoning classification and at least fifty feet (50') from any other property line.
  3. Outdoor runs and similar facilities shall be constructed for easy cleaning, shall be adequately secured by a fence with self-latching gate and shall be screened by a bufferyard as defined by Section 2203 of this Ordinance.
  4. Kennels constructed in conjunction with veterinary clinics shall meet the criteria for kennels in accordance with Section 2304E.

## **SECTION 2303    PROCEDURE FOR REVIEW FOR CONDITIONAL USES**

- A. A developer or owner/applicant requesting a conditional use shall submit two (2) copies of the following materials, together with a completed application and appropriate fee, to the Township Secretary for referral to the Township Zoning Officer. All information submitted shall be reviewed by the Zoning Officer for completeness.
1. A written statement supporting the general criteria outlined in this Section and describing in detail the proposed use;
  2. An accurately scaled illustrative site plan showing the arrangement of the proposed use on the site, including property lines, uses on adjacent properties, abutting streets, buildings existing and proposed on the site by use and height, points of access into the site, internal driveways, parking area layout with number of spaces noted, signs to remain or proposed, areas of earthmoving with proposed grade of finished slopes noted,

method of collecting and disposing of stormwater, proposed landscaping and other pertinent information to illustrate the proposal.

- B. The Planning Commission shall review such requests and forward its recommendation on the application to the Board of Commissioners. Within the prescribed time frame, including any agreed-upon extension, the Commission may also hold a public hearing pursuant to public notice to inform the public and obtain comment prior to taking action on a proposed conditional use.
- C. Within the time period set forth in this Section, the Commission shall take one of the following actions. Failure to take action within the prescribed period, including any extension, shall be deemed a recommendation for approval of the application as presented:
  - 1. Recommend to the Board of Commissioners approval of the application as submitted;
  - 2. Recommend to the Board of Commissioners approval of the application with certain conditions subject to the applicant's consent;
  - 3. Recommend to the Board of Commissioners denial of the application on the basis of specific findings communicated to the applicant in writing.
- D. The Board of Commissioners shall commence a public hearing, pursuant to public notice, on a completed request, as determined by the Zoning Officer for conditional use within sixty (60) days from the date of receipt of the completed request, unless the applicant agrees in writing to a time extension. Each subsequent hearing shall be held within forty-five days of the prior hearing unless otherwise agreed to by the applicant. Any party aggrieved by the schedule or progress of the hearings may apply to the Court of Common Pleas for judicial relief. The hearing shall be completed no later than one hundred (100) days after the completion of the applicant's case in chief, unless extended for good cause upon application to the Court of Common Pleas. The Board of Commissioners may ask for additional information or continue the hearing, but shall render a written decision as indicated in this Section within forty-five (45) days of conclusion of the hearing.
- E. The hearing shall be conducted by the Board of Commissioners 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 applicant in addition to the municipality 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.
- F. Within the time period set forth herein, the Board of Commissioners shall take one of the following actions. Failure to take action within the prescribed period, including any extension, shall be deemed approval of the application as presented:
  - 1. Approve the application;
  - 2. Approve the application with conditions subject to the applicant's consent;  
or

3. Deny the application on the basis of specific findings communicated to the applicant in writing.
  4. The Board of Commissioners may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to implement the purposes of this Ordinance. The applicant shall have thirty (30) days in which to notify the Board of Commissioners that he accepts any attached conditions or stipulations. Failure to accept will render the approval null and void.
- G. An applicant whose conditional use application is approved must obtain a zoning/building permit. As set forth in this Section, an applicant proposing development containing a use that is permitted only as a conditional use may submit an application for a zoning permit at the same time he or she submits the application for conditional use approval. Duplicate submittal materials are not required, and the review and approval process for both the conditional use and zoning/building permit may proceed independently.
- H. All development, construction, and use shall be in accordance with the approved conditional use plan, unless a revised plan is submitted and approved. The approved plan shall consist of the application for conditional use, together with all its attachments and exhibits, as finally approved by the Board of Commissioners, and all conditions and stipulations attached by the Board. Any development contrary to the approved plan shall constitute a violation of this Ordinance.
- I. Failure of the applicant to apply for a building permit within one (1) year of receiving approval of the conditional use shall render the decision by the Board of Commissioners null and void. In addition, where the Board of Commissioners fails to commence the required hearing within sixty (60) days of receipt of a complete application or fails to complete the hearing no later than one hundred (100) days after the completion of the applicant's case in chief, unless extended for good cause, the decision shall be deemed to have been rendered in favor of the applicant, unless an extension of time has been agreed to by the applicant.
- J. In granting allowance of a conditional use, the Board of Commissioners may attach such reasonable conditions and safeguards, in addition to those set forth in this Ordinance, as appear necessary to implement the purposes of this Ordinance, the Community Development Objectives stated in the adopted Comprehensive Development Plan, and the Pennsylvania Municipalities Planning Code. Such conditions and safeguards may include, without limitation, the right to retain jurisdiction over the use of property and erection of buildings and other structures thereon and the further right to impose additional reasonable restrictions and limitations as the circumstances may require. The applicant seeking allowance of conditional use shall have the burden of proving that this proposed use or structure is not inconsistent with the purposes of this Ordinance, the Community Development Objectives, and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

## SECTION 2304 SPECIFIC CRITERIA FOR CONDITIONAL USES

### A. Adult Businesses: Conditional Use in the MU District.

This use shall be subject to the following express standards and criteria, and to any other standards and criteria generally applicable to all conditional uses:

1. Adult businesses may be established only in the Mixed Use District.
2. Persons or owners who intend to open an adult business must obtain from Hopewell Township a license to operate such an enterprise and must pay a \$500 investigation fee to Hopewell Township. In addition, such persons or owners must supply to the Township detailed information as to the ownership and financing as required on the licensing application form. This form can be obtained at the office of the Township Manager.
3. No adult business can be located within five hundred (500) feet of a property boundary line of a pre-existing school, hospital, day care center, nursing home, sanitarium, retirement or convalescent home, group home, personal care home, public park, church or an establishment which is licensed to and does sell alcoholic beverages or other adult business.
4. No adult business can be located within five hundred (500) feet of a property boundary line of a pre-existing residence.
5. An adult business shall be initially licensed, where it has met all ordinance requirements, through December 31st of the year in which the license is issued. For each year thereafter that the adult business intends to continue its business as an adult commercial enterprise, it must seek from the office of the Manager of Hopewell Township a renewal of this license. The application for renewal is due in the Manager's office no later than November 1st of the year preceding the year for which the license renewal is sought. The lack of a license or the failure to seek license renewal on a timely basis shall be a proper basis for the Township to deny or revoke an Occupancy Permit to an adult business.
6. Any adult business found to be in violation of the Hopewell Township Zoning Ordinance as amended shall be subject to the enforcement penalties provided for in the Hopewell Township Zoning Ordinance and/or the Pennsylvania Municipalities Planning Code, Act 247, as amended.
7. Any adult business which exhibits on the premises film, video cassette or other method of image production which depicts nudity or sexual conduct shall comply with the following:
  - a. At least one (1) employee shall be on duty at all times that any patron is on the premises.
  - b. Where viewing rooms are located on the premises, an unobstructed view of access to all such rooms shall be available to the employee on duty.
  - c. No viewing room shall be occupied by more than one (1) person at any time.

- d. No connections or openings to adjoining viewing rooms shall be permitted.
  - e. A minimum of one (1) foot candle of illumination measured at floor level, shall be provided in every area where patrons are permitted access.
  - f. Where live performances are given, separate stage and viewing areas shall be provided with separate access to each and no connecting access between the areas.
  - g. Alcoholic beverages shall not be permitted on the premises of an adult business.
8. An annual Occupancy Permit issued by the Zoning Officer shall be secured prior to the operation of any adult business
- B. Billboards (See Section 2001): Conditional Use in the R-1 District.
- C. Correctional facilities: Conditional Use in the RID District.
- 1. Any new construction, expansion or change of use or change in level of custody within the correctional facility which was not approved as part of the original conditional use application shall be subject to resubmission and approval of a revised conditional use application to determine continued compliance with these criteria.
  - 2. The site shall have frontage on a street defined by this Ordinance as an arterial street or on a public or private street located entirely within the Riverfront Industrial District. Vehicular access shall be directly to the arterial street or, if direct access to the arterial street is not feasible or practical, vehicular access to the site shall be limited to a public or private street located entirely within the Riverfront Industrial District.
  - 3. In the event that the site has frontage on more than one (1) arterial street, the vehicular access to the site shall be provided only from the street which has the higher volume of traffic.
  - 4. The conditional use application shall include a traffic study prepared by a qualified traffic engineer which details the nature and extent of trip generation expected to result from the proposed development based on the ratios and methodology contained in the current edition of the manuals of the Institute of Transportation Engineers. The report shall include current and projected capacities and levels of services of all streets and intersections within one thousand feet (1,000') of the entire perimeter of the site proposed for development and recommendations for improvements to streets and/or traffic control devices within the site or immediately adjacent to the site.
  - 5. Perimeter security, as defined herein, shall be appropriately provided to secure the highest level of custody, as defined herein, to be provided at the correctional facility.
  - 6. All outdoor activity areas shall be located inside the required perimeter security.

7. The maximum height of the correctional facility shall be no more than forty feet (40'). Any request for an increase in building height beyond forty feet (40') shall be conditioned upon demonstration by the applicant that firefighting equipment and fire suppression and protection systems necessary to service the building or buildings are available and accessible to the satisfaction of the Township. In any event, the maximum building height shall not exceed ten (10) stories and no more than one hundred twenty feet (120').
8. The minimum institutional buffer, as defined herein, required for all correctional facilities, regardless of level of custody provided within the correctional facility, shall be set by the Township Board of Commissioners at the Board's discretion and as a condition to the use, but in no event shall said buffer be less than twenty-five feet (25') nor more than three hundred feet (300').
9. Off-street parking for correctional institutions which do not house any inmates with a level of custody of three (3) or greater may be located within the institutional buffer. Off-street parking for levels of custody three (3) through five (5) shall be located outside the institutional buffer.
  - a. The off-street parking required shall be based on the ratio of one (1) parking space for each employee working on the peak shift. Additionally, in the case of a State or Federal correctional facility or a private facility which is operated under contract with the State or Federal government, one (1) space for each ten (10) inmates housed shall be provided for visitors, including family, friends, counselors, attorneys, medical personnel and others who visit the site, but do not work on the site on a daily basis. In the case of County correctional facilities or private facilities operated under contract with the County, one (1) space for each four (4) inmates housed shall be provided for visitors, including family, friends, counselors, attorneys, medical personnel and others who visit the site, but do not work on the site on a daily basis.
  - b. The parking ratio for offices and other administrative facilities, including courtrooms, shall be determined by the ratios for "professional and business offices" and "indoor places of assembly," and shall be in addition to the spaces required by this Subsection for employees and visitors.
10. Any property line of the site of the correctional facility which fronts on a public street or is visible from and adjacent to residential or commercial uses shall be screened by a bufferyard, as enumerated in Subsection 20 of this Section.
11. All other property lines of the site of the correctional facility shall be screened by a bufferyard, as enumerated Subsection 20 of this Section, except where the property line adjoins the bank of a river.
12. The required plantings shall be in a location which maximizes their effectiveness while not compromising the security of the correctional facility.

13. The Chief Administrator of the facility shall file an emergency management plan, including the planned response to fire, security and medical emergencies, with the Board of Commissioners, Township Police Department, Emergency Medical Services and the Township Fire Department for review and comment as part of the conditional use application and shall file an updated plan with each of these agencies annually by January 31st of each year after the facility is occupied.
  - a. The emergency management plan shall include a proposal to provide an automatic alarm to the Township Police Department and a unique audible warning signal acceptable to the Township to warn the community in the event of a breach of security. Such warning signal shall be differentiated from other warning signals used by public safety and other public or private facilities in the area and the design and intensity of the warning signal shall be based on the location of the correctional facility, characteristics of the surrounding physical environment and the proximity of commercial and residential uses.
  - b. Failure to timely file an emergency management plan or an updated plan or to properly maintain in working order the audible warning signal may be treated by the Township as a violation of this Zoning Ordinance and each day that a violation occurs shall be subject to the enforcement remedies and penalties contained in Article XXIX of this Ordinance.
14. Fire alarm and fire suppression systems shall be provided in accordance with the requirements of the Township Fire Prevention Code and the most recent edition of the Building Officials Conference of America (BOCA) basic building code.
15. The applicant shall provide evidence of all required Federal, State or County permits prior to issuance of the building permits and shall maintain valid permits throughout the operation of the facility. Any suspension or revocation of the permits required to operate the facility shall result in automatic revocation of the certificate of occupancy by the Township. Reinstatement of the certificate of occupancy shall be subject to submission of all valid permits and a certification by the Zoning Officer regarding continued compliance with all conditions attached to approval of the conditional use.
16. Failure to maintain valid permits as required throughout the operation of the facility may be treated by the Township as a violation of this Zoning Ordinance and each day that a violation occurs shall be subject to the enforcement remedies and penalties contained in Article XXIX of this Ordinance.
17. Failure to file the required annual report may be treated by the Township as a violation of this Zoning Ordinance and each day that a violation occurs shall be subject to this enforcement remedies and penalties contained in Article XXIX of this Ordinance.
18. All correction facilities, whether governmental, quasi-governmental or private, shall be designed to meet the current performance criteria of the

American Correctional Association (ACA) and the Pennsylvania Department of Corrections. In the event of a conflict between these criteria, the more restrictive shall apply.

19. In correction facilities which contain several levels of custody, the design of the facility shall be such that there shall be no commingling of levels of custody and that Sally Ports or other entrances used by inmates, including work release inmates, are separate from entrances used by the general public.
20. Additional requirement: A buffer zone may be required, where deemed necessary by the Board of Commissioners, in this District in order to minimize the effects of glare from headlights of vehicles, exterior lighting from structures, noise, movement of people and vehicles and to shield activities from adjacent properties, etc. In order to establish an adequate buffer, the minimum width shall be twenty feet (20') with a fifty/fifty percent (50%/50%) mix of evergreen and deciduous trees a minimum of two inches (2") caliper planted in staggered rows on ten foot (10') centers.

D. Hotels, motels: Conditional Use in the RID District.

1. All structures shall be compatible with the area.
2. All structures within fifty feet (50') of adjacent residential property line(s) shall be screened from the adjacent properties.
3. Access shall be from a primary street only.
4. All parking areas shall be lighted, with such lighting being shielded from surrounding residential properties.
5. All parking areas shall be screened from abutting residential properties, such buffer to be a minimum of six feet (6') in height.
6. All land area not used for structures or parking shall be landscaped and maintained.

E. Kennel: Conditional Use in the R-1 District.

1. Any sale of related items and supplies must be clearly incidental to the principal use.
2. Areas to be occupied by animals shall be fenced and screened from view from adjacent properties or roads.
3. Dogs, cats and other kenneled animals shall be kenneled in a soundproofed, totally enclosed structure only.
4. Indoor exercise runs shall be required.
5. All indoor areas shall have skylight windows or provide ultra-violet lighting.
6. Facility shall be licensed by the Commonwealth as applicable.
7. Facility shall demonstrate compliance with all State statues relating to domestic animals or pets.

F. Mobile Home Parks (See Section 1201, Subdivision and Land Development Ordinance. Conditional Use in the R-1 District

G. Neighborhood commercial establishments: Conditional Use in the R-3 District.

1. There shall be submitted with the application a market analysis of the potential service area prepared by an individual or an organization indicated by documentary evidence as qualified to make such an analysis. The analysis shall include data on population, income and buying habits of the people.
2. The use shall be an integral part of the planned neighborhood shopping center development, and the gross floor area of the proposed store shall not be in excess of thirty (30) percent of the total gross floor area of the prospective ultimate development of said shopping center.
3. Council shall determine that the proposed use is related to its potential service area and in keeping with principles of the adopted master plan.

H. Nursing homes or assisted living facility: Conditional Use in the SP District.

1. All required State and Federal licenses for operation shall be obtained by applicant.
2. Exterior lighting shall be of the sharp, cut-off luminaire type.
3. Emergency access lanes shall be provided on a minimum of two (2) sides of the principal structure.
4. A planted bufferyard of a minimum fifteen feet (15') in width shall be provided along perimeters abutting residentially zoned parcels.

I. Planned Residential Developments in accordance with Article XIX. Conditional Use in the R-1, R-3 and R-4 Districts.

J. Recreational vehicle parks (See Section 1301, Subdivision and Land Development Ordinance.) Conditional Use in the R-1 District.

K. Restaurant: Conditional Use in the NSD District.

1. All requirements otherwise applicable to permitted uses in the neighborhood service district shall apply.
2. All requirements of the Hopewell Township Zoning Ordinance, the Pennsylvania Municipalities Planning Code, Act 247, as amended, and any and all Township Ordinances that would relate to the operation of a restaurant facility shall apply.
3. When applicable, that permits be obtained from the Pennsylvania Department of Transportation indicating Commonwealth approval of the design and location of means of ingress or regress.
4. A buffer zone will be required in order to minimize the efforts of glare from headlights of vehicles, lights from structures, noise, movement of people and vehicles and to shield activities from adjacent properties. The type, location, width and height of the buffer zone shall be subject to the approval of the Board of Commissioners.
5. The restaurant facility shall not be open for business prior to 7:00 a.m. prevailing time on any day nor after 11:00 p.m. The business shall be closed and all patrons shall be off the premises by 12:00 midnight.

6. All deliveries to the facility shall be made during business hours as set forth in this Subsection.
  7. No exterior storage of material shall be permitted unless such storage is effectively screened from sight by trees, landscaped earth forms, fencing, walls or some combination thereof, all of which is subject to approval by the Board of Commissioners.
  8. The owners of said restaurant facility shall not permit the parking of vehicles on the premises except during regular business hours.
  9. Any approved conditional restaurant use shall not be expanded, altered, modified or otherwise changed without the approval of the Board of Commissioners.
  10. No "drive through" windows of any kind shall be permitted on the premises.
- L. Riding Academy: Conditional Use in the R-1 District.
1. The property to contain a stable or riding academy shall be at least ten (10) acres in area.
  2. Outdoor areas to be occupied by animals shall be as remote as possible from neighboring residences. Buildings on the site, landscaping and/or changes of grade may be used to screen adjacent housing areas or potential areas of housing.
  3. All outdoor areas to which animals have access shall be fenced to contain the animals and such outdoor areas shall be not closer than fifty (50) feet to any property line.
  4. Run-off from outdoor fenced areas shall be diverted away from neighboring occupied properties and odors emanating from the operation controlled.
- M. Stable, Private: Conditional Use in the R-1 District.
1. Such use shall be accessory to a farm or, when proposed as a principal use, shall have a minimum site of ten (10) acres.
  2. Buildings housing animals shall be located at least two hundred feet (200') from any property line.
  3. All training areas and bridal paths shall be adequately fenced and secured to protect adjoining properties.
  4. Outdoor runs and similar facilities shall be constructed for easy cleaning, shall be adequately secured by a fence with a self-latching gate and shall be screened from view from adjoining properties on which there are existing residences by a minimum six foot (6') high hedge or opaque fence.
- N. Transportation terminals (dispatch or maintenance): Conditional use in the IP and RID Districts.
1. The site shall have frontage on and direct vehicular access to an arterial or collector street as defined by this Ordinance.

2. The applicant shall demonstrate that the granting of the proposed use shall not substantially increase traffic congestion on adjacent roads and highways.
  3. Ingress, egress and internal traffic circulation shall be designed to ensure safety and minimize congestion.
  4. Outdoor lighting shall be shielded and reflected away from streets and adjoining properties.
  5. All property lines adjoining residential use or zoning classification shall be screened by a bufferyard as required by Article XXII, Section 2217, Subsection P of this Ordinance.
  6. Off-street parking and loading shall be provided in accordance with the requirements of Article XXI of this Ordinance.
  7. All materials and equipment shall be stored within a completely enclosed structure.
  8. No shipping or receiving shall be permitted within three hundred feet (300') of a property in a residential zoning district between the hours of 6:00 p.m. and 7:00 a.m.
  9. All operations shall comply with the performance standards of Section 2217 of this Ordinance.
- O. Public or Private School: Conditional Use in the SP District.
1. All required Federal, State and County permits shall be acquired prior to final action by the Township.
  2. The minimum lot size shall be five (5) acres.
  3. The educational facility shall be the sole occupant of the property.
  4. All structures shall be set back a minimum of one hundred feet (100') from all property lines.
  5. All parking areas shall be screened from adjacent residential properties as per Article XXII, Section 2217, Subsection P.
  6. All lighting shall be directed away from, and shall not create glare towards, adjacent residential properties.
- P. Integrated Retail Center: Conditional Use in the C-1 District.
1. Structures shall be horizontally integrated with tenant spaces, for the most part, sharing common party walls.
  2. At a minimum, one (1) anchor tenant or major retailer shall be included in the mix of uses.
  3. Parking and loading areas and pedestrian facilities shall be designed for the entire site.
  4. No hazardous condition shall result from any aspect of design or construction.

**Q. Day Care Center for seven (7) or more children: Conditional Use in the MU District.**

1. The facility shall be registered with or licensed by the Commonwealth, if applicable.
2. Outdoor play areas shall be provided which shall have a minimum area of sixty-five (65) square feet per child and which shall be secured by a fence with self-latching gate.
3. Outdoor play areas which adjoin residential lots shall be screened.
4. The general safety of the property proposed for a day care center shall meet the needs of small children.
5. Off-street parking shall be provided in accordance with the requirements of Article XXI of this Ordinance.

**SECTION 2305 PERFORMANCE STANDARDS**

All uses and structures approved as a special exception or conditional use shall comply with the standards enumerated in Section 2217.

## **ARTICLE XXIV**

### **NONCONFORMING USES**

#### **SECTION 2400 USE OF PROPERTY**

A nonconforming use means a use, whether of land or of structure, which does not comply with the applicable use provisions of this Zoning Ordinance or any Amendment 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.

#### **SECTION 2401 PERMITTED CONTINUATION**

A nonconforming use may continue, be bought or sold, altered, restored or extended subject to the provisions of this Article even though such use does not conform to the regulations established for that Zoning District in which it is located.

#### **SECTION 2402 ALTERATIONS**

- A. A nonconforming building or structure may be altered, improved or reconstructed provided:
  - 1. Such alterations do not result in the expansion of the exterior dimensions of the nonconforming building or structure, and
  - 2. Such work does not exceed fifty percent (50%) of the current replacement value of the building or structure as determined by the Beaver County Assessor, and premised upon its value when first constructed.
- B. A nonconforming building or structure may be altered, improved or reconstructed in excess of fifty percent (50%) of the current replacement value of the building or structure, but not exceeding one hundred percent (100%) of the current replacement value as determined by the Beaver County Assessor, if approved as a Special Exception by the Zoning Hearing Board.
- C. A nonconforming building or structure may be altered to the extent necessary, if such alteration is intended and will result in the building or structure's conversion to a conforming use.

#### **SECTION 2403 EXTENSION OR EXPANSION**

A nonconforming use may be extended upon approval as a Special Exception by the Zoning Hearing Board subject to and provided the following:

- A. The extension or expansion becomes an attached part of the main structure and does not utilize additional or adjoining land area other than the original parcel.

- B. The extension or expansion does not encroach upon the lot area requirements and maximum building height requirements of the District in which the nonconforming use is presently located.
- C. Such extension or expansion does not result in an increase in total floor area or lot use area of more than fifty percent (50%) of the original floor area or lot area coverage.
- D. The extension or expansion is for the purpose of expanding the nonconforming use in existence at the time of the adoption of this Zoning Ordinance. Extension or expansions proposed in excess of fifty percent (50%) and up to one hundred percent (100%) of the original floor area or lot coverage of the existing use shall require review and approval as a conditional use.
- E. Adequate parking can be provided in conformance with this Ordinance to serve both the original plus expanded use.
- F. Such expansion does not present a threat to the health or safety of the community or its residents.

#### **SECTION 2404 CHANGES**

Any nonconforming building or structure accommodating a nonconforming use may accommodate a different nonconforming use, where such use is considered by the Zoning Officer to be equal to or less nonconforming than the existing use. Appeals from the Zoning Officer's determination shall be referred to the Zoning Hearing Board.

#### **SECTION 2405 RESTORATIONS.**

- A. A lawful nonconforming building which is damaged by fire, explosion, flood or other casualty to the extent of sixty percent (60%) or more of its value (exclusive of walls below grade) as determined by the Beaver County Assessor, and which does not comply with the use, area or height regulations of this Ordinance, shall not be restored except in conformity with the regulations for the use district in which such building is located.
- B. A lawful nonconforming building destroyed to the extent of up to fifty-nine percent (59%) by fire, explosion, flood or other casualty or legally condemned, may be reconstructed and used for the same nonconforming use, provided that (1) the reconstructed building shall not exceed in height, area or volume, the building destroyed or condemned; and (2) building reconstruction shall be commenced within one (1) year from the date the building was destroyed or condemned.

#### **SECTION 2406 ABANDONMENT**

- A. The nonconforming use of a building or land which has been abandoned shall not thereafter be returned to such nonconforming use. A nonconforming use shall be considered abandoned when one (1) of the following conditions exist:
  - 1. When the intent of the owner to discontinue the use is apparent;

2. When the characteristic equipment and furnishings of the nonconforming use have been removed from the premises and have not been replaced by similar equipment within (6) months, unless other facts show intention to resume the nonconforming use;
  3. When a nonconforming use has been discontinued for a period of one (1) year; and
  4. When it has been replaced by a conforming use.
- B. Any nonconforming use of a sign or billboard which is discontinued or not used for three (3) months shall not be resumed, and if any sign or billboard is removed, it shall not be reconstructed.

#### **SECTION 2407    UNSAFE STRUCTURES**

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any portion of a building declared unsafe by a proper authority.

#### **SECTION 2408    UNLAWFUL USES NOT AUTHORIZED**

Nothing in this Zoning Ordinance shall be interpreted as authorization for or approval of the continuance of the illegal use of a structure or premises in violation of zoning controls in existence at the time of enactment of this Zoning Ordinance.

#### **SECTION 2409    DISTRICT CHANGES**

Whenever the boundaries of a district shall be changed so as to transfer an area from one (1) district to another district of a different classification, the foregoing provisions of this Article shall apply to any nonconforming uses created therein.

#### **SECTION 2410    CONSTRUCTION APPROVED PRIOR TO LEGAL ENACTMENT OF ORDINANCE**

Nothing herein shall require any change in plans, construction or designated use of a building or structure for which a permit has been issued and construction of which shall have diligently proceeded within two (2) months of the date of issuance of such permit, and the ground story framework of which shall have been completed within four (4) months of the date of the permit, and which entire building shall be completed according to such plans as filed within one (1) year from the date of the permit.

#### **SECTION 2411    REGISTRATION**

The Zoning Officer may prepare a list registering all nonconforming uses, nonconforming lots and nonconforming structures existing at the time of the legal enactment of this Ordinance. Said list shall include general descriptions of the nature and extent of the nonconformity and may include photographs as documentation. Further, said list shall be maintained for public use and information.

## **ARTICLE XXV**

### **ZONING HEARING BOARD**

#### **SECTION 2500 CREATION AND APPOINTMENT**

- A. The membership of the Board shall consist of three (3) residents of the Township appointed by resolution of the Board of Commissioners. The terms of the office shall be three (3) years and shall be so fixed that the term of the office of one member shall expire each year. The Board shall promptly notify the Board of Commissioners 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 office in the municipality.
- B. The Board of Commissioners may appoint by resolution at least one but not more than three (3) residents of the Township to serve as alternate members of the Board. The term of office of an alternate member shall be three (3) years. When seated pursuant to the provisions of this Section, 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 Article and as otherwise provided by law. Alternates shall hold no other office in the municipality, including membership on the planning commission and the position of Zoning Officer. 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 this Article unless designated as a voting alternate member.

#### **SECTION 2501 FINANCES AND EXPENDITURES**

- A. The governing body may appropriate funds to finance the preparation of zoning and subdivision and land development ordinances and shall appropriate funds for the administration, enforcement and for actions to support or oppose, upon appeal to the courts, decisions of the Zoning Hearing Board.
- B. The Board of Commissioners shall make provisions in its budget and appropriate funds for the operation of the Zoning Hearing Board.
- C. The Zoning Hearing Board may employ or contract for and fix the compensation of legal counsel, as the need arises. The legal counsel shall be an attorney other than the municipal solicitor. The Board may also employ or contract for and fix the compensation of experts and other staff and may contract for services as it shall deem necessary. The compensation of legal counsel, experts and staff and the sums expended for services shall not exceed the amount appropriated by the Board of Commissioners for this use.
- D. Members of the Board and alternates, when performing as a member of the Board, may receive compensation for the performance of their duties, as fixed

by the Commissioners, but in no case shall it exceed the rate of compensation authorized to be paid to the Board of Commissioners.

- E. For the same purpose, the Board of Commissioners may accept gifts and grants of money and services from private sources and from the county, State and Federal Governments.
- F. The Board of Commissioners may prescribe reasonable fees with respect to the administration of this Zoning Ordinance and with respect to hearings before the Zoning Hearing Board. Fees for these hearings may include compensation for the secretary and members of the Zoning Hearing Board, notice and advertising costs and necessary 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.

## **SECTION 2502 REMOVAL OF MEMBERS**

Any Zoning Hearing Board member may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause by a majority vote of the Board of Commissioners taken after the member has received fifteen (15) days' advance notice of the intent to take such vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

## **SECTION 2503 ORGANIZATION OF ZONING HEARING BOARD**

- A. The Zoning Hearing 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 members of the Zoning Hearing Board, but the Zoning Hearing 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 Section 908 of the Pennsylvania Municipalities Planning Code, Act 247, as amended.
- B. If, by reason of absence or disqualification of a member, a quorum is not reached, the chairman of the board shall designate as many alternate members of the Board to sit on the Board as may be needed to provide a quorum. Any alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which the alternate was initially appointed until the Board has made a final determination of the matter or case. 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.
- C. The Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the municipality and laws of the Commonwealth. The Board shall keep full public records of its business, which records shall be

the property of the municipality and shall submit a report of its activities to the Board of Commissioners as requested by the Board of Commissioners.

**D. Mediation:**

1. Parties to proceedings authorized in this Article may utilize mediation as an aid in completing such proceedings. In proceedings before the Zoning Hearing Board, in no case shall the Zoning Hearing Board initiate mediation or participate as a mediating party. Mediation shall supplement, not replace, those procedures in this article once they have been formally initiated. Nothing in this Section shall be interpreted as expanding or limiting municipal police powers or as modifying any principles of substantive law.
2. Participation in mediation shall be wholly voluntary. The appropriateness of mediation shall be determined by the particulars of each case and the willingness of the parties to negotiate. Any municipality offering the mediation option shall assure that, in each case, the mediating parties, assisted by the mediator as appropriate, develop terms and conditions for:
  - a. Funding mediation.
  - b. Selecting a mediator who, at a minimum, shall have a working knowledge of municipal zoning and subdivision procedures and demonstrated skills in mediation.
  - c. Completing mediation, including time limits for such completion.
  - d. Suspending time limits otherwise authorized in this act, provided there is a written consent by the mediating parties, and by an applicant or municipal decision making body if either is not a party to the mediation.
  - e. Identifying all parties and affording them the opportunity to participate.
  - f. Subject to legal restraints, determining whether some or all of the mediation sessions shall be open or closed to the public.
  - g. Assuring that mediated solutions are in writing and signed by the parties, and become subject to review and approval by the appropriate decisionmaking body pursuant to the authorized procedures set forth in the other sections of this act.
3. No offers or statements made in the mediation sessions, excluding the final written mediated agreement, shall be admissible as evidence in any subsequent judicial or administrative proceedings.

**SECTION 2504 BOARD FUNCTIONS, VARIANCES AND SPECIAL EXCEPTIONS**

- A. Variances: The Zoning Hearing Board shall hear requests for variances from the requirements of this Ordinance where it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the applicant following the procedures set forth in Section 2506. The Board may grant a variance subject

to this Article, provided the following findings are made where relevant in a given case:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness or 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 the Zoning Ordinance in the neighborhood or district in which the property is located;
  2. 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 the Zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
  3. That such unnecessary hardship has not been created by the appellant;
  4. 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; and
  5. 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.
  6. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance.
- B. Special Exceptions: The Zoning Hearing Board shall hear and decide requests for Special Exceptions in those cases where this Ordinance indicates a Special Exception may be granted subject to compliance with the standards and criteria of Section 2301 prescribed herein. In granting a Special Exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to implement the purposes of this Ordinance.

## SECTION 2505 JURISDICTION

- A. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
1. Substantive challenges to the validity of any land use ordinance, except those brought before the Board of Commissioners pursuant to Section 609.1 and 916.1(a)(2) of the Pennsylvania Municipalities Planning Code, Act 247, as amended.
  2. Challenges to the validity of a land use ordinance raising procedural questions of alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said ordinance. Where the ordinance appealed

from is the initial Zoning Ordinance of Hopewell Township, and the Zoning Hearing Board has not been previously established, the appeal raising procedural questions shall be taken directly to court.

3. 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 therefore, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.
  4. Appeals from a determination by the 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.
  5. Applications for variances from the terms of this Ordinance and flood hazard ordinance or such provisions within a land use ordinance, pursuant to Section 910.2 of the Pennsylvania Municipalities Planning Code, Act 247, as amended. (See Section 2504, Subsection A)
  6. Applications for special exceptions under this Ordinance or floodplain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to Section 912.1 of the Pennsylvania Municipalities Planning Code, Act 247, as amended.
  7. 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 Ordinance.
  8. Appeals from the Zoning Officer's determination under Section 916.2 of the Pennsylvania Municipalities Planning Code.
  9. Appeals from the determination of the Zoning Officer or the 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 involved Article V or VII applications of the Pennsylvania Municipalities Planning Code, Act 247, as amended.
- B. The Township Board of Commissioners shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
1. All applications for approvals of Planned Residential Developments under Article VII of the Pennsylvania Municipalities Planning Code, Act 247, as amended, and pursuant to the provisions of Section 702.
  2. All applications pursuant to Section 508 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, for approval of subdivisions or land developments under Article V. Any provision in a subdivision and land development ordinance requiring that final action concerning subdivision and land development applications be taken by the Planning Commission rather than the Board of Commissioners shall vest exclusive jurisdiction in the Planning Commission in lieu of the Board of Commissioners for purposes of the provisions of this Section.

3. Applications for conditional use under the express provisions of this Ordinance pursuant to Section 603(c)(2) of the Pennsylvania Municipalities Planning Code, Act 247, as amended.
4. Applications for curative amendment to this Ordinance pursuant to Sections 609.1 and 916.1(a)(2) of the Pennsylvania Municipalities Planning Code.
5. All petitions for amendments to land use ordinances, pursuant to the procedures set forth in Section 609 of the Pennsylvania Municipalities Planning Code, Act 247, as amended. 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.
6. 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 Pennsylvania Municipalities Planning Code, Act 247, as amended. 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 this Section. Where the applicable land use ordinance vests jurisdiction for final administration of subdivision and land development applications in the Planning Commission, all appeals from determinations under this Subsection shall be to the Planning Commission and all appeals from the decision of the Planning Commission shall be to court.
7. Applications for a special encroachment permit pursuant to Section 405 and applications for a permit pursuant to Section 406 of the Pennsylvania Municipalities Planning Code, Act 247, as amended.

## **SECTION 2506 PROCEDURES**

- A. Public notice shall be given, and written notice shall be given as per the provisions of Section 908 of the Pennsylvania Municipalities Planning Code, Act 247, as amended. The following shall apply to any hearing held, as specified:
  1. The first hearing before the Zoning Hearing Board or hearing officer shall be commenced within sixty (60) days from the date of receipt of a completed application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing shall be held within forty-five (45) days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record.
  2. An applicant shall complete his case in chief within one hundred (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 seven (7) hours of hearings, including the first hearing within the one hundred (100)

days. Persons opposed to the application may upon consent by the applicant and Township be granted additional hearings to complete their opposition provided the applicant is granted an equal number of additional hearings for rebuttal.

3. Hearings shall be conducted by the Board or a board member or an independent attorney may be appointed as a hearing officer. The applicant or appellant may, prior to the decision, waive the decision or findings of the board and accept the decision or findings of the hearing officer as final.
4. The Board or the hearing officer shall render a written decision or make written findings on the application within forty-five (45) days after the last hearing. Conclusions based on any provision of the Pennsylvania Municipalities Planning Code, Act 247, as amended, or 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 founds.
5. A copy of the final decision, or findings shall be delivered to the applicant personally or mailed to him not later than the day following the date of the final decision.

B. Variance:

1. The landowner shall file a written request for a variance with the Zoning Officer along with all maps, plans and text which may be relevant to the request. Said request shall be accompanied by a fee specified by the Board of Commissioners.
2. The Zoning Officer shall transmit the request and any information received therewith, along with his file on said issue forthwith to the Zoning Hearing Board;
3. Upon receipt of a request for variance, the Board shall establish a time and place to hear said request within thirty (30) days;
4. The Board shall render a written decision and inform the applicant of said decision by registered mail within forth-five (45) days of the last hearing date; and
5. Hearing by the Zoning Hearing Board shall be conducted in accordance with Article IX, Section 908, the Pennsylvania Municipalities Planning Code, Act 247, as amended.

C. Appeal of Zoning Officer's Decision: Appeals arising from the Zoning Officer's decision on a specific provision of this Ordinance shall be handled in the same manner as a variance request.

D. Special Exception (See also Section 2301):

1. The landowner shall file a written request for the granting of a Special Exception, along with all maps, plans and text which may be necessary to explain the development proposed and its conformance with the standards and criteria as described herein with the Zoning Officer. Said

request shall be accompanied by a fee specified by the Board of Commissioners.

2. The Zoning Officer shall transmit the request and background data forthwith to the Zoning Hearing Board;
3. The Zoning Hearing Board shall schedule a public hearing with public notice within thirty (30) days of said request;
4. The Board shall render a written decision and inform the applicant of said decision by registered mail within forty-five (45) days of the last hearing date; and
5. In addition to the provisions of Subsection A, hearings by the Zoning Hearing Board shall be conducted in accordance with Article IX, Section 908 of the Pennsylvania Municipalities Planning Code, Act 247, as amended.

E. Conditional Use (See also Section 2303)

1. Where the Board of Commissioners, in this Zoning Ordinance, have stated conditional uses to be granted or denied by the Board of Commissioners pursuant to express standards and criteria, the Board of Commissioners shall hold hearings on and decide requests for such conditional uses in accordance with such standards and criteria. The hearing 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 the 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. In granting a conditional use, the Board of Commissioners may attach such reasonable conditions and safeguards, in addition to those expressed in the ordinance, as it may deem necessary to implement the purposes of the Pennsylvania Municipalities Planning Code, Act 247, as amended, in the Zoning Ordinance.
2. Where the Township Commissioners fails to render the decision within the period required by this Article, or fails to commence, conduct or complete the required hearing as provided in Section 908(1.2) of the Pennsylvania Municipalities Planning Code, Act 247, as amended, within sixty (60) days from the date of acceptance of a completed request for a hearing, or fails to complete the hearing no later than one hundred (100) days after the completion of the applicant's case in chief, unless extended for good cause, 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.
3. Nothing in this Article shall prejudice the right of any party opposing the applicant to appeal the decision to a court of competent jurisdiction. A copy of the final decision, or the findings, shall be delivered to the applicant personally or mailed to him no later than the day following the date of the decision.

## **SECTION 2507 APPEALS**

Any person aggrieved by the rendering of a decision by the Board of Commissioners, Planning Commission, or Zoning Officer shall file an appeal in the manner prescribed for in Article X, Appeals, of the Pennsylvania Municipalities Planning Code, Act 247, as amended.

## ARTICLE XXVI ADMINISTRATION

### SECTION 2600 ZONING OFFICER

- A. The Board of Commissioners shall appoint a Zoning Officer pursuant to the provisions of Article VI, Section 614, of the Pennsylvania Municipalities Planning Code, Act 247, as amended.
- B. The Zoning Officer shall administer this Ordinance in accordance with its literal terms, and shall not have the power to permit any construction any use of change of use which does not conform to the requirements of this Ordinance. Within this power, the Zoning Officer shall have duties as follows:
  1. The Zoning Officer shall receive applications for, and issue zoning, building permits, sign permits, occupancy permits and stop work orders, in accordance with the provisions of this Ordinance;
  2. The Zoning Officer may identify and register nonconforming uses, nonconforming structures and lots and maintain such inventory;
  3. The Zoning Officer may be authorized to institute civil enforcement proceedings as a means of enforcement when acting within the scope of employment;
  4. The Zoning Officer shall make all required inspections or he may, subject to the approval of the Board of Commissioners, engage such expert opinion as he may deem necessary to report upon unusual technical issues that may arise;
  5. At least annually, the Zoning Officer shall submit to the Board of Commissioners a written report of all zoning, building, sign permits and occupancy permits issued and notices and orders issued;
  6. An official record shall be kept on all business and activities of the Office of the Zoning Officer specified by provisions of this Zoning Ordinance, and all such records shall be open to public inspection at all appropriate times;
  7. The Zoning Officer shall meet with the Planning Commission at a minimum once every two (2) months at the Planning Commission's regularly scheduled meeting to keep the Commission abreast of matters concerning subdivision and land development activity in the Township;
  8. The Zoning Officer shall not hold any elective office in the Township.

### SECTION 2601 PERMITS

#### A. Zoning/Building Permits:

1. A zoning/building permit shall be required prior to the beginning of the erection, construction, alteration or addition to any building, or portion thereof, situate in Hopewell Township. The fee schedule for said permit shall be specified by Resolution of the Board of Commissioners;

2. No zoning/building permit shall be issued until the Zoning Officer has reviewed the application for such permit and certified that the proposed building, or alterations comply with all of the provisions of this Ordinance. It shall be the duty of the Zoning Officer to either approve or reject the application within fifteen (15) days from its receipt by the Zoning Officer or Secretary of Hopewell Township. In the event of rejection, the Zoning Officer shall state in writing his reason for such rejection, citing specific sections of this or any other pertinent Ordinance; and
3. No separate fee shall be charged for the review by the Zoning Officer of the application for a zoning/building permit.

B. Occupancy Permits:

1. An occupancy permit shall be required prior to the use or occupancy of a new building, structure or vacant land, or prior to the change in use of a building, structure, or land, or prior to the extension of a nonconforming use.
2. All applications for occupancy permits shall be filed with the Township Zoning Officer or Township Secretary. No occupancy permit shall be issued until the Zoning Officer has inspected the premises for which the permit is sought and has certified that the premises complies:
  - a. With the terms of the application for the zoning/building permit which may have been issued for the premises;
  - b. With all the provisions of this Ordinance and all applicable provisions of the Commonwealth of Pennsylvania; and
  - c. With all the provisions of such other Ordinances of Hopewell Township relating to building use, occupancy, and required sanitary sewer connections; and
3. The fee schedule for said permit shall be specified by Resolution of the Board of Commissioners.

C. Sign Permit:

1. No permanent or temporary sign as described in this Ordinance shall be erected until a permit therefore has been issued by the Zoning Officer;
2. Applications to the Zoning Officer shall be processed within seven (7) working days upon receipt of the written request to erect a sign and payment of a fee as specified by Resolution of the Board of Commissioners, provided the size and nature of the sign is in conformity with the provisions of this Ordinance, and all other effective and applicable Ordinances. Refusal of a sign permit shall include a written statement to the applicant citing specific sections of this Ordinance containing the reasons for denial; and
3. Negligence to apply for a sign permit prior to its erection shall subject the property owner to penalties as prescribed by this Ordinance. Payment of a judgment set by the District Magistrate does not grant approval to erect a sign.

**D. Temporary Permit:**

1. Temporary permits are required where it is intended that a mobile, temporary or seasonal use be located anywhere within the Township for a very short period of time. Temporary permits are limited to a one (1) week period, renewable for a maximum of three (3) additional weeks during any one (1) calendar year unless otherwise specified in this Ordinance.
2. Temporary permits are required for and in accordance with the following:
  - a. Selling of Christmas trees in Commercial Districts or at churches, schools, clubs and lodges;
  - b. Carnival, circus or street fairs;
  - c. Mobile amusements and lighting equipment for promotion, advertisement and grand openings; and
  - d. Temporary parking of camping or recreational equipment in Residential Districts.
3. No temporary permit shall be issued for any temporary use where said use would violate any of the provisions of this Zoning Ordinance except upon approval of the Board of Commissioners; and
4. Written request to the Zoning Officer for a temporary permit shall be processed within seven (7) working days upon receipt of a complete application and payment of a fee as specified by Resolution of the Board of Commissioners.

- E. When the Zoning Officer issues any permit for zoning/building, occupancy, signs or a temporary permit, the applicant must act upon the receipt of said issuance within one (1) year; otherwise, such issuance becomes null and void and another complete application for a permit must be resubmitted.

**SECTION 2602 INSPECTION**

It shall be the duty of the Zoning Officer, or his fully appointed representative, to make the following minimum number of inspections on property for which a permit has been issued:

- A. At the Beginning of Construction: A record shall be made indicating the time and date of the inspection and the finding of the Zoning Officer in regard to conformance of the construction with plans submitted with the application for the building.
  1. If the actual construction does not conform to the application, a written notice of a violation shall be issued by the Zoning Officer, and such violation shall be discontinued. Upon proper correction of the violation and receipt of written notice from the Zoning Officer, construction shall proceed.
- B. At the Completion of Construction: A record shall be made indicating the time and date of the inspection, the findings of the Zoning Officer in regard to

conformance to this Ordinance, and the opinion of the Zoning Officer in regard to the issuance of an occupancy permit.

## **ARTICLE XXVII**

### **AMENDMENTS**

This Zoning Ordinance may be amended from time to time as deemed necessary for the public welfare or convenience, in compliance with the provisions of Article VI, Section 609, 609.1, 609.2 and 610 of the Pennsylvania Municipalities Planning Code, Act 247, as amended.

#### **SECTION 2700 ZONING ORDINANCE AMENDMENTS**

- A. Before voting on the enactment of an amendment, the Township Commissioners 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 municipality at points deemed sufficient by the municipality along the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one (1) week prior to the date of the hearing. In addition, notice of the public hearing shall be mailed at least thirty (30) days prior to the date of the public hearing by first class mail to the addresses to which real estate tax bill are sent for all real property located within the area being rezoned as evidence by tax records. The notice shall include the location, date and time of the public hearing. Individual notification shall not apply in the case of a comprehensive rezoning and a good faith effort and substantial compliance shall satisfy these requirements.
- B. In the case of an amendment to the text or map other than that prepared by the Planning Commission, Township Commissioners shall submit each such amendment to the Planning Commission at least thirty (30) days prior to the hearing on such proposed amendment to provide the Planning Commission an opportunity to submit recommendations. In addition, where a request for consideration of a rezoning application has been filed, all owners of property within three hundred (300) linear feet of all boundaries of the subject property or properties shall be notified by regular mail of the date of the first meeting or scheduled public hearing at which the application will be discussed. The applicant shall provide to the Township staff a list containing the names of the aforementioned property owners.
- C. 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 Township Commissioners shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.
- D. At least thirty (30) days prior to the public hearing on the amendment, the Board of Commissioners shall submit the proposed amendment to the Beaver County Planning Commission for recommendations. The Board of Commissioners shall not approve said Amendment until the County report is

received or until the expiration of thirty (30) days prior to the public hearing date, from the date the Amendment request was received by the County.

E. Requests for Revisions to the Official Zoning Map: Prior to a formal vote on any request to amend the Official Zoning Map, the Planning Commission and Board of Commissioners shall make findings as follows:

1. The change in zoning classification requested is in the Township's best interest;
2. The change requested will not result in a detrimental affect on abutting properties;
3. All property owners within three hundred feet (300') of the lot boundaries of the subject property or properties were notified by regular mail of the date of the initial review; and
4. The change requested will be consistent with the Township's Comprehensive Development Plan.

F. Mediation:

1. Parties to proceedings authorized in this Article may utilize mediation as an aid in completing such proceedings. In proceedings before the Zoning Hearing Board, in no case shall the Zoning Hearing Board initiate mediation or participate as a mediating party. Mediation shall supplement, not replace, those procedures in this Article once they have been formally initiated. Nothing in this section shall be interpreted as expanding or limiting municipal police powers or as modifying any principles of substantive law.
2. Participation in mediation shall be wholly voluntary. The appropriateness of mediation shall be determined by the particulars of each case and the willingness of the parties to negotiate. Any municipality offering the mediation option shall assure that, in each case, the mediating parties, assisted by the mediator as appropriate, develop terms and conditions for:
  - a. Funding mediation.
  - b. Selecting a mediator who, at a minimum, shall have a working knowledge of municipal zoning and subdivision procedures and demonstrated skills in mediation.
  - c. Completing mediation, including time limits for such completion.
  - d. Suspending time limits otherwise authorized in this act, provided there is a written consent by the mediating parties, and by an applicant or municipal decisionmaking body if either is not a party to the mediation.
  - e. Identifying all parties and affording them the opportunity to participate.
  - f. Subject to legal restraints, determining whether some or all of the mediation sessions shall be open or closed to the public.
  - g. Assuring that mediated solutions are in writing and signed by the parties, and become subject to review and approval by the appropriate decisionmaking body pursuant to the authorized procedures set forth in the other sections of this act.

3. No offers or statements made in the mediation sessions, excluding the final written mediated agreement, shall be admissible as evidence in any subsequent judicial or administrative proceedings.
- G. Within thirty (30) days after enactment, a copy of the amendment to the Zoning Ordinance shall be forwarded to the Beaver County Planning Commission.

## **SECTION 2701 PROCEDURE FOR LANDOWNER CURATIVE AMENDMENTS**

A landowner who desires to challenge on substantive grounds the validity of this Ordinance, the Official Zoning Map attached and made a part hereof, or any provision hereof, which prohibits or restricts the use or development of land in which he has an interest may submit a Curative Amendment to the Board of Commissioners with a written request that his challenge and proposed amendments or amendment be heard and decided in the manner prescribed for in Section 609 and Section 916.1 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, and as further defined below:

- A. The landowner shall make a written request to the Board of Commissioners that it hold a hearing on his challenge. The request shall contain a short statement reasonably informing the Board of Commissioners of the matters that are at issue and the grounds for the challenge;
- B. Such request may be submitted at any time but if an application for a permit or approval is denied under this Ordinance, the request shall be made not later than thirty (30) days after notification of such denial. In such case, if the landowner elects to make the request to the Board of Commissioners and the request is timely, the time within which he may seek review of the denial of the permit or approval on other issues shall not begin to run until the request is finally disposed of; and
- C. The request shall be accompanied by plans and other materials describing the use of development proposed by the landowner. Such plans and other material may be general in nature, but should provide a sufficient base for evaluating the challenge.
- D. The Board of Commissioners shall publish the proposed ordinance or amendment once in one (1) newspaper of general circulation in the municipality not more than sixty (60) days nor less than seven (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 municipal 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 municipality at the time the public notice is published.
  2. An attested copy of the proposed ordinance shall be filed in the 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.

- a. In the event substantial amendments are made in the proposed ordinance or amendment, before voting upon enactment, the Board of Commissioners shall, at least ten (10) days prior to enactment, readvertise, in one (1) newspaper of general circulation in the municipality, a brief summary setting forth all the provisions in reasonable detail together with a summary of the amendments.
- b. Zoning ordinances and amendments may be incorporated into official ordinance books by reference with the same force and effect as if duly recorded therein.

E. Public Hearings:

1. Upon petition, the Board of Commissioners shall commence a hearing thereon within sixty (60) days from the date of the application, unless the applicant has agreed in writing to an extension of time;
2. At least thirty (30) days prior to the hearing, the Board of Commissioners shall refer the proposed amendment to the Township Planning Commission and the Beaver County Planning Commission for recommendations;
3. The public notices of the hearing in addition to the requirements for advertisement for any amendment, as per the provisions of Section 610 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, must indicate that the validity of this Ordinance or Zoning Map is in question and shall indicate the place and times when a copy of the landowner's request, including all plans submitted and the proposed amendment(s) may be examined by the public;
4. The public hearing shall be conducted as per the provisions of Section 908 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, and within the following guidelines:
  - a. The Chairman or Acting Chairman of the Board of Commissioners presiding shall have the power to administer oaths and issue subpoena to compel the attendance of witnesses and the production of relevant documents and papers including witnesses and documents requested by the parties.
  - b. The parties 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.
  - c. Formal rules of evidence shall not apply but irrelevant, immaterial or unduly repetitious evidence may be excluded.
  - d. The Board of Commissioners shall keep a stenographic record of the proceedings and a transcript of the proceedings as well as copies of graphic or written material received in evidence shall be made available to any party at cost.

- e. The Board of Commissioners 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 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 representatives unless all parties are given an opportunity to be present; and
- 5. The hearing may be postponed or continued at the request of the landowner or by mutual consent of the parties.
- F. Where the Hopewell Township Board of Commissioners has determined that a validity challenge has merit they may accept a landowners curative amendment, with or without revision, or they may adopt an alternative amendment which will cure the challenged defects. The Board of Commissioners shall consider the curative amendments, plans and explanatory material submitted by the landowner and shall also consider:
  - 1. the impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;
  - 2. if the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the ordinance or map;
  - 3. the suitability of the site for the intensity of use proposed by the sites soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features;
  - 4. the impact of the proposed use on the sites soils, slopes, woodlands, wetlands, flood plains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts; and
  - 5. the impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.
- G. Procedure for Rendering Formal Action: Upon completion of the hearing, a decision and communication by registered mail of said decision to all parties shall be made within forty-five (45) days of the date of the last hearing.
  - 1. Approval of the Amendment shall be granted by formal affirmative vote at a regular or special meeting of the Board of Commissioners.
  - 2. The landowner's request shall be considered denied when:
    - a. The Board of Commissioners notifies the landowner that it will not adopt the amendment;

- b. The Board of Commissioners adopts another amendment which is unacceptable to the landowner; or
  - c. The Board of Commissioners fails to act on the landowner's request within forty-five (45) days of the close of the last hearing, unless the time is extended by mutual consent to the landowner and the Board of Commissioners.
- H. Appeal: Any action taken or decision rendered under this Article may be appealed by any parties aggrieved by said action or decision under the provisions and procedures of Article X-A, Appeals to Court, of the Pennsylvania Municipalities Planning Code, Act 247, as amended.

## **SECTION 2702 PROCEDURE FOR MUNICIPAL CURATIVE AMENDMENTS**

If Hopewell Township determines that its Zoning Ordinance or any portion thereof is substantially invalid, it shall take the following actions:

- A. Hopewell Township shall declare by formal action, its Zoning Ordinance or portions thereof substantively invalid and propose to prepare a curative amendment to overcome such invalidity. Within thirty (30) days following such declaration and proposal, Township council shall:
  - 1. By resolution make specific findings setting forth the declared invalidity of the Zoning Ordinance which may include:
    - a. Reference to specific uses which are either not permitted or not permitted in sufficient quantity;
    - b. Reference to a class of use or uses which require revision; or
    - c. Reference to the entire Ordinance which requires revisions.
  - 2. Begin to prepare and consider a curative amendment to the Zoning Ordinance to correct the declared invalidity.
- B. Within one hundred and eighty (180) days from the date of the declaration and proposal, Hopewell Township shall enact a curative amendment to validate, or reaffirm the validity of, its Zoning Ordinance pursuant to the provisions required by Section 609 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, in order to cure the declared invalidity of the Zoning Ordinance.
- C. Upon the initiation of the procedures, as set forth in this Section, Township Commissioners shall not be required to entertain or consider any landowner's curative amendment filed under Section 609.1 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, nor shall the Zoning Hearing Board be required to give a report requested under Section 909.1 or 916.1 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, subsequent to the declaration and proposal based upon the grounds identical to or substantially similar to those specified in the resolution required by this Section. Upon completion of the procedures as set forth in this Section, no rights to a cure pursuant to the provisions of Sections 609.1 and 916.1 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall, from the date of the declaration and proposal, accrue to any landowner on the basis

of the substantive invalidity of the unamended Zoning Ordinance for which there has been a curative amendment pursuant to this Section.

- D. Hopewell Township, having utilized the procedures as set forth in this Section, may not again utilize said procedure for a thirty-six (36) month period following the date of the enactment of a curative amendment, or reaffirmation of the validity of its Zoning Ordinance, pursuant to this Section; provided, however, if after the date of the declaration and proposal there is a substantially new duty or obligation imposed upon Hopewell Township by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, Hopewell Township may utilize the provisions of this Section to prepare a curative amendment to its Ordinance to fulfill said duty or obligation.

## **ARTICLE XXVIII**

### **INTERPRETATION, PURPOSE AND CONFLICT**

#### **SECTION 2800 STRICT INTERPRETATION**

Interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements of health, safety, morals, and the general welfare of Hopewell Township and its citizens. It is not intended by this Ordinance to interfere with or abrogate or annul any rules or regulations previously adopted or permits previously issued by the Township which are not in conflict with any provisions of this Ordinance, nor is it intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, building restrictions, or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of the buildings or premises or upon the height of the building, or requires a larger open space than is imposed or required by such ordinance, rules, regulations or permits, or by easements, covenants, building restrictions or agreements, the provisions of this Ordinance shall control.

#### **SECTION 2801 EXEMPTIONS**

This Article 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. It shall be the responsibility of the Pennsylvania Public Utility Commission to ensure that both the corporation and the municipality in which the building or proposed building is located have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties and otherwise exercise the rights of a party to the proceedings.

## **ARTICLE XXIX**

### **ENFORCEMENT REMEDIES**

#### **SECTION 2900 PENALTIES**

Any person, partnership or corporation who or which as 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 therefor in a civil enforcement proceeding commenced by a municipality, pay a judgment of not more than five hundred dollars (\$500.00) 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 district justice. 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 district justice 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 (1) such violation until the fifth (5th) day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation. 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.

- A. Each day that a violation continues shall constitute a separate violation.
- B. 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.
- C. 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.

#### **SECTION 2901 ENFORCEMENT NOTICE**

If the Zoning Officer finds that a provision or provisions of this Ordinance are being violated, he/she shall notify the owner of the property upon which such alleged violation is in occurrence, in writing, by certified mail, indicating the nature of the violation and the action necessary to correct it. Said notice of violation shall contain the following information:

- A. The name(s) of the owner of record and any other person against whom the Township intends to take action;
- B. The location of the property in violation;

- C. The specific violation, with a description of the requirements which have not been met, citing in each instance, the applicable provisions of this Ordinance;
- D. The date before which the steps for compliance must be commenced and the date before which the steps must be completed;
- E. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time, in accordance with procedures set forth in Article XXV;
- F. That failure to comply with the notice in the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible penalties resulting.

## **SECTION 2902 REMEDIES**

- A. Causes of Action: In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, repaired, converted, maintained or used in violation of any ordinance enacted under this act or prior enabling laws, the Township Commissioners or, an officer of the municipality who has been given the approval of the Township Commissioners, 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 of that action shall be served upon Hopewell Township at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the Hopewell Township Board of Commissioners. No such action may be maintained until such notice has been given.
- B. Jurisdiction: District justices shall have initial jurisdiction over proceedings brought under Section 617.2 of the Pennsylvania Municipalities Planning Code, Act 247, as amended.

## ARTICLE XXX

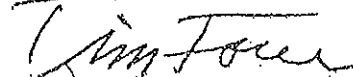
### REPEALER

This Ordinance hereby amends and replaces Ordinance No. 95-2, adopted May 23, 1995.

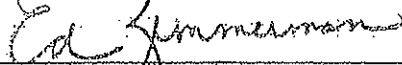
## ARTICLE XXXI

### ENACTMENT

THE BOARD OF COMMISSIONERS  
OF THE TOWNSHIP OF HOPEWELL,  
BEAVER COUNTY, PENNSYLVANIA

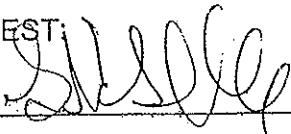


Chairman



Vice Chairman

ATTEST:



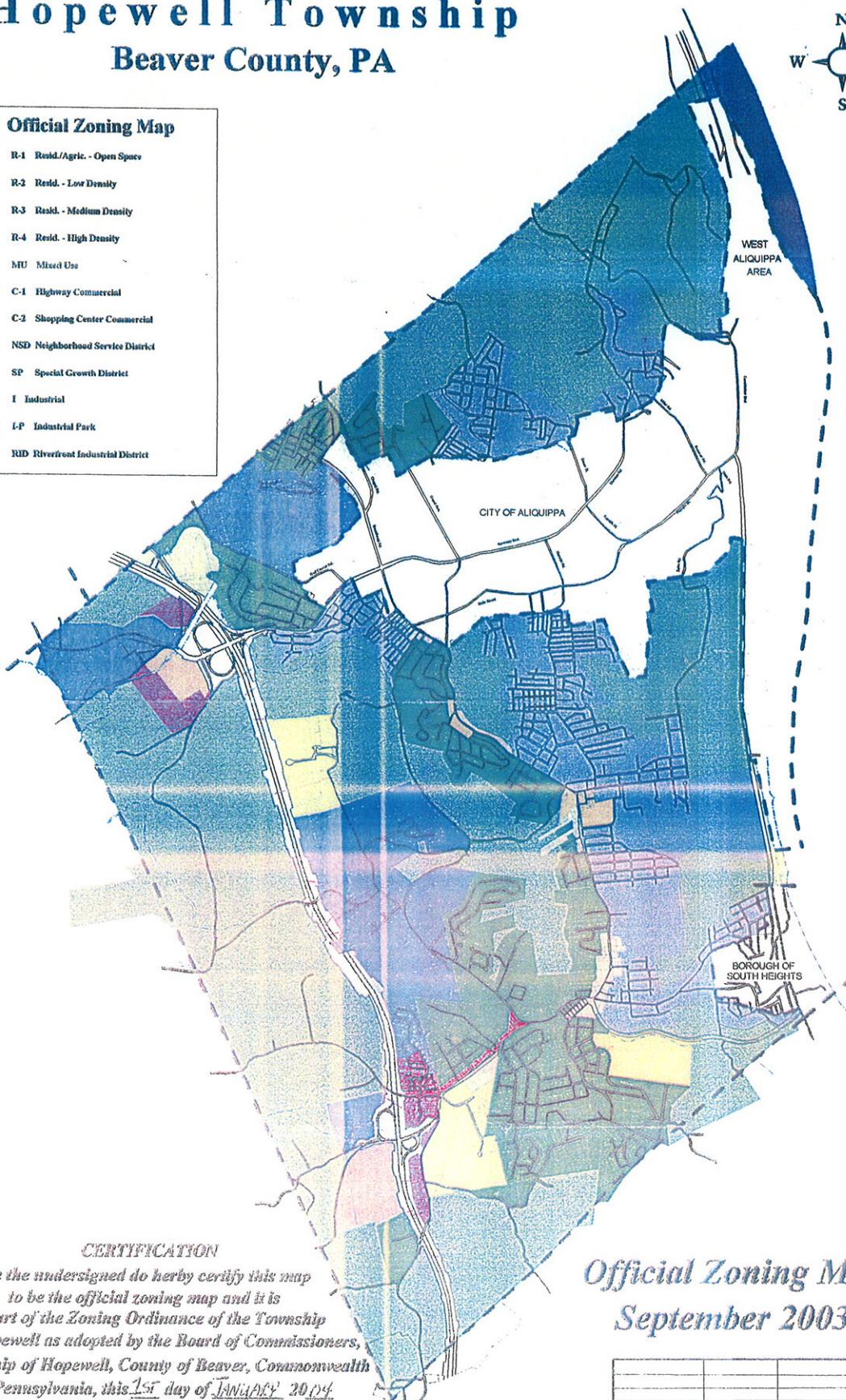
Secretary

Commissioner

Commissioner

Commissioner

	R-1	Resid./Agric. - Open Space
	R-2	Resid. - Low Density
	R-3	Resid. - Medium Density
	R-4	Resid. - High Density
	MU	Mixed Use
	C-1	Highway Commercial
	C-2	Shopping Center Commercial
	NSD	Neighborhood Service District
	SP	Special Growth District
	I	Industrial
	I-P	Industrial Park
	RID	Riverfront Industrial District



*We the undersigned do hereby certify this map  
to be the official zoning map and it is  
a part of the Zoning Ordinance of the Township  
of Hopewell as adopted by the Board of Commissioners,  
Township of Hopewell, County of Beaver, Commonwealth  
of Pennsylvania, this 1st day of JANUARY 2014.*

CHAIRMAN OF THE BOARD OF COMMISSIONERS

ATTESTED: *[Signature]* SECRETARY

*Official Zoning Map  
September 2003*

Scale in Miles

[illegible]