

Chapter 27

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Part 1**Purpose, Community Development Objectives****§27-101. Title.**

This Chapter shall be known and may be cited as the “Dauphin Borough Zoning Ordinance.”

(Ord. 77-5, 2/28/1977, §100)

§27-102. Purpose.

The purpose of this Chapter is:

A. To promote, protect and facilitate the public health, safety, and general welfare, coordinated and practical community development, proper density of population, the provision of adequate light and air, vehicle parking and loading space, transportation, water, sewage, schools, public grounds and other requirements.

B. To prevent the overcrowding of land, blight, danger and congestion in travel and transportation, and loss of health, life, or property from fire, flood, panic, or other dangers.

C. To promote and to foster the community development goals and objectives as contained in the Dauphin Borough Comprehensive Plan, as adopted.

(Ord. 77-5, 2/28/1977, §101)

§27-103. Miscellaneous Legal Provisions.

1. *Application.* The provisions of this Chapter shall apply to all buildings, structures, uses, land, and all accessory buildings, structures, and uses. Nothing in this Chapter shall require any change in plans or construction of a use for which a building permit has been heretofore issued prior to the effective date of this Chapter.

2. *Interpretation.* The provisions of this Chapter shall be held to be the minimum requirements for the promotion of the health, safety and general welfare of the Borough. It is not intended to interfere with, abrogate, annul or cancel other rules, regulations, ordinances, covenants or restrictions except where this Chapter imposes greater restrictions, in which case, the provisions of this Chapter shall apply.

3. *Severability.* Should any Section or provision of this Chapter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Chapter as a whole, or of any part thereof.

4. *Amendment.*

A. Borough Council may amend or repeal this Chapter at any time in accordance with the provisions of the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*

B. Before voting on the enactment of any proposed amendment, or before repealing any Section or provision of this Chapter, Borough Council shall hold a public hearing thereon pursuant to public notice. In the case of any proposed amendment other than that prepared by the Borough Planning Committee, Council

shall submit each such amendment to the Borough Planning Committee at least 30 days prior to the public hearing on such amendment, to provide the Borough Planning Committee an opportunity to submit recommendations.

C. In addition, any proposed amendment shall also be submitted to the County Planning Commission for recommendations at least 30 days prior to the public hearing on the proposed amendment.

D. If, after any public hearing held upon a proposed amendment, such amendment is revised, Council shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.

5. *All Other Uses.* Any use not specifically allowed elsewhere in this Chapter shall be allowed by special exception in the District or Districts where, and to the extent that, similar uses are permitted or allowed by special exception; provided, that said use meets the requirements for special exception and does not constitute a public or private nuisance. [Ord. 2012-03]

6. *Uses with Nuisance Effect.* In no case is a use permitted which by reason of noise, dust, odor, appearance, or other objectionable factor creates a nuisance, hazard, or other substantial adverse effect upon the reasonable enjoyment of the surrounding property. [Ord. 2012-03]

7. *Enactment.* This Chapter shall become effective on February 28, 1977, and shall remain in force until modified, amended, or rescinded by the Council of the Borough of Dauphin, Dauphin County, Pennsylvania.

(Ord. 77-5, 2/28/1977, §102; as amended by Ord. 2012-03, 12/4/2012)

Part 2

Definitions

§27-201. Definitions.

For the purpose of this Chapter, the following words and phrases shall have the meaning as given in this Part.

- A. Words in the present tense include the future.
- B. The singular includes the plural.
- C. The word “shall” is mandatory, the word “may” is optional.
- D. The word “person” means an individual, corporation, partnership, firm, association, company, or any other similar entity.
- E. The word “lot” means plat or parcel.

(Ord. 77-5, 2/28/1977, Art. II)

§27-202. Specific Terms.

Accessory building—a building detached from and subordinate to the main building on the same lot and used for purposes customarily incidental to the main building.

Accessory use—a use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

Alley—a minor right-of-way privately or publicly owned primarily for service access to the back or side of properties.

Alteration—as applied to any building, structure or sign, means a change, rearrangement, renovation, relocation or enlargement in the structural parts or exterior or which would change its use classification.

Apartment—a building designed and used exclusively as a residence for three or more families living independently of each other.

Area—the extent of surface contained within the boundaries or extremities of land or buildings.

Average gross residential density—the number of dwelling units per acre computed by dividing the number of proposed dwelling units by the number of acres which are planned to be developed for residential and open space use.

Borough—Dauphin Borough, Dauphin County, Pennsylvania.

Building—any structure enclosed within a roof and exterior walls or fire walls built, erected, and framed of component structural parts, designed for the housing, shelter, enclosure or support of individuals, animals or property of any kind, and occupying more than 10 square feet of area.

- A. *Detached*—a building which has no party wall.
- B. *Semi-detached*—a building which has only one party wall.
- C. *Attached*—a building which has two or more party walls in common (including, but not limited to, row houses).

Building, principal—a building in which is conducted the principal use of the lot on

which it is situated.

Building height—the vertical distance measured from the average elevation of the ground level at the two front corners of the building to the highest point of the roof, excluding chimneys, spires, and other similar projections.

Building setback line—a line parallel to and set back from the front lot line a distance equal to the depth of the front yard requirement for the district in which the lot is located.

Cartway—the surface of a road or street available for vehicular traffic.

Change of use—an alteration of a theretofore existing building, structure or land by change of use to a new group which imposes other special provisions of law governing building construction, equipment, exits, or zoning regulations.

Common open space—a parcel or parcels of land or an area of water or a combination of land and water designed and intended for the use or enjoyment of residents of the community, not including streets, off-street parking areas, and areas set aside for public facilities.

Comprehensive Plan—the Comprehensive Plan for Dauphin Borough.

Conditional use—conditional uses shall be allowed or denied by the governing body, pursuant to express standards and criteria set forth in this Chapter. [Ord. 02-05]

Conversion apartment—a multi-family dwelling created by converting an existing single-family dwelling into apartments for two or more families (see also “dwelling unit”).

Corner lot—a lot having frontage along two public streets and having, for the purposes of this Chapter, two front yards, one side yard and one rear yard, all of which shall comply to the dimensional requirements attached to such yard designations and which shall have the required building setback line dimensions applied to both front yards.

Driveway—a surface other than a street or road which provides vehicular access from a land use to a street or road.

Dwelling—a building or portion thereof designed for and used exclusively for residential occupancy.

A. *Single-family, detached dwelling*—a building containing only one dwelling unit and two side yards.

B. *Single-family, semi-detached dwelling*—a building containing two dwelling units which are separated by one common wall, and which has two side yards.

C. *Single-family, attached dwelling*—a building containing three or more dwelling units which are separated from each other by two common walls, except for the two end units (see §27-1120).

D. *Two-family, detached dwelling*—a building containing two dwelling units arranged one over the other on separate floors, and which has two side yards.

E. *Multi-family dwelling*—a building other than a single-family attached dwelling containing three or more dwelling units.

Dwelling unit—one or more rooms designed and used for residential occupancy, having cooking and sanitary facilities and access directly from the outdoors through a

common entrance hall.

Family—any number of persons living and cooking together in a single housekeeping unit.

Fences—any freestanding and uninhabitable structure constructed of wood, glass, metal, plastic materials, wire, wire mesh or masonry, singly or in combination, erected for the purpose of screening or dividing one property from another to assure privacy or to protect the property so screened or divided or to define and mark the property line when such structure is erected on or within 2 feet of any front side or rear line; for the purpose of this Chapter, a freestanding masonry wall when so located is considered to be a fence; also for the purpose of this Chapter, when the term “lot line” is used in relation to fences, it shall be synonymous with “rear yard lot lines,” “side yard lot lines,” and “front yard lot lines.” [Ord. 04-02]

Flood—a temporary inundation of normally dry land areas.

Flood fringe—that portion of the floodplain outside of the floodway.

Floodplain—a relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation and/or any area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

Floodway—the designated area of a floodplain required to carry and discharge floodwaters of a given magnitude. For the purposes of this Chapter, the floodway shall be capable of accommodating a flood of the 100-year magnitude (see “100-year flood”).

Floor area, habitable—the sum of the horizontal areas of all rooms used for habitation, such as living room, dining room, kitchen, bedroom, etc., but not including hallways, stairways, cellars or basements, attics, utility rooms, bathrooms and closets.

Garage (private)—an accessory building for the storage of motor vehicles owned and operated by the owner or occupants of the premises, provided that space for the storage of not more than two vehicles may be leased to nonresidents.

Home occupation—a use which is incidental or subordinate to the residential use of a dwelling and which is conducted entirely within the dwelling by one of the residents (see §27-1104).

Line, front lot—the line separating a lot from any street or other public way.

Line, property—a recorded boundary of a plat. Any property line which abuts a street or other public way shall be measured from the right-of-way.

Lot—a plot or parcel of land which is or in the future may be, offered for sale, conveyance, transfer or improvement.

Lot coverage—the percentage of a lot covered by buildings and paved areas.

Mobile home—a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term includes park trailers, travel trailers, recreational, and other similar vehicles placed on a site for more than 180 consecutive days. [Ord. 93-7]

Nonconforming structure—a building or structure or part thereof which was not designed and constructed to comply with the applicable use provisions of this Chapter, but which lawfully existed prior to its enactment, including nonconforming signs.

Nonconforming use—a use of land or a building or structure of part thereof which

does not comply with the applicable use provisions of this Chapter, but which lawfully existed prior to its enactment.

One hundred-year flood—a flood that, on the average, is likely to occur once every 100 years (i.e., that has a 1 percent chance of occurring each year, although the flood may occur in any year), for purposes of this Chapter, the regulatory flood.

Planning Committee—a committee appointed by the Borough Council from its own membership responsible for land use and other functions as delegated by this and other applicable laws and ordinances.

Public notice—notice published once each week for 2 successive weeks in a newspaper of general circulation in the Borough. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall be not more than 30 days or less than 14 days from the date of the hearing.

Regulatory flood—the flood which has been selected to serve as the basis upon which floodplain management provisions of this and other ordinances have been prepared; for purposes of this Chapter, the 100-year flood.

Regulatory flood elevation—the 100-year flood elevation.

Resubdivision—any replotting or resubdivision of land limited to change in lot lines on an approved final plan or recorded plan.

Sign—a lettered board, structure or other surface, or any other device used to usually announce, advertise or convey information to the public for any purpose.

A. *Business sign*—a sign which announces or directs attention to a business, product, service or activity sold or conducted on the premises where such sign is located.

B. *Identification sign*—a sign which identifies only the occupant of the premises, the profession or occupation of the occupant, and/or the name of the building upon which the sign is placed.

C. *Advertising sign*—a sign which directs attention to a business, product, service or activity, sold or conducted at a location other than upon the premises where the sign is located.

Street—a right-of-way or portion thereof dedicated or intended for general public, vehicular and/or pedestrian use.

Structure—anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground including, but not limited to, buildings, factories, sheds, cabins, mobile homes and other similar items.

Yard—an unoccupied space on the same lot with a building or structure.

A. *Front yard*—a yard extending the full width of the lot and located between the street right-of-way line and the front building line of the main building.

B. *Side yard*—a yard located between a side lot line and the nearest side wall of a building or structure extending from the front yard to the rear yard.

C. *Rear yard*—a yard located between a rear lot line and the rear wall of a building or structure and extending the full width of the lot.

Yard, required—a required open space on the same lot with a building or buildings that is measured inward a uniform minimum distance from a lot line for the entire

length of such lot line. This space shall contain no structure or use unless specifically authorized by this Chapter, and can encompass all or part of a yard.

(*Ord. 77-5, 2/28/1977, Art. II; as amended by Ord. 93-7, 8/3/1993, §1; by Ord. 02-05, 9/3/2002, §1; and by Ord. 04-02, 9/7/2004*)

Part 3**Establishment of Zoning Districts****§27-301. Types of Districts.**

For the purposes of this Chapter, the following districts are hereby designated within the Borough of Dauphin:

- A. R-1 Residential District.
- B. R-2 Residential District.
- C. R-3 Residential District.
- D. NC Neighborhood Commercial District.
- E. C-I Commercial Industrial District.
- F. CON Conservation District.
- G. FP Floodplain District.

(Ord. 77-5, 2/28/1977, §300)

§27-302. Zoning Map.

The boundaries of each district are established as shown on the official Zoning Map of the Borough which is declared to be a part of this Chapter and which shall be kept on file at the Borough office.

(Ord. 77-5, 2/28/1977, §301)

§27-303. District Boundaries.

District boundary lines are intended to coincide with lot lines, centerlines of streets, alleys, highways, and the corporate boundary of the Borough, wherever possible. Where any question or disagreement may develop concerning the exact location of any district boundary line, the matter shall be decided by the Zoning Hearing Board.

(Ord. 77-5, 2/28/1977, §302)

Part 4**R-1 Residential District****§27-401. Purpose.**

The purpose of this Part is to provide for certain areas of the Borough to be maintained as residential areas primarily for single-family detached housing.

(Ord. 77-5, 2/28/1977, §400)

§27-402. Uses Permitted by Right.

Land and buildings in an R-1 District shall be used for the following purposes only:

- A. Single-family detached dwellings.
- B. Public park, playground, or recreation areas.
- C. Accessory buildings and accessory uses customarily incidental to the above when located on the same lot.

(Ord. 77-5, 2/28/1977, §401)

§27-403. Uses Permitted by Special Exception.

The following uses may be permitted as a special exception when authorized by the Zoning Hearing Board:

- A. Single-family semi-detached dwellings.
- B. Home occupations.
- C. Churches.
- D. Public or private primary and secondary schools.
- E. Uses which, in the opinion of the Zoning Hearing Board, are of the same general character as the above uses and which will not be detrimental to the intended purposes of this Chapter.

(Ord. 77-5, 2/28/1977, §402)

§27-404. Lot Requirements.

1. Area—10,000 square feet minimum per dwelling unit; 20,000 square feet minimum per dwelling unit in areas not served by public sanitary sewer.
2. Width—75 feet minimum at the building setback line.
3. Building Setback Line—35 feet minimum (see §27-1118).
4. Side Yards—
 - A. Single-family detached dwellings—two side yards, each having a minimum width of 10 feet.
 - B. Semi-detached dwellings—one side yard having a minimum width of 10 feet.
5. Rear Yard—30 feet minimum.
6. Maximum Lot Coverage—30 percent.

(*Ord. 77-5, 2/28/1977, §403*)

§27-405. Building Height.

No building shall be more than 35 feet nor more than two and one-half stories in height.

(*Ord. 77-5, 2/28/1977, §404*)

Part 5**R-2 Residential District****§27-501. Purpose.**

The purpose of this Part is to provide for the development of certain areas of the Borough into residential neighborhoods permitting a variety of housing types.

(Ord. 77-5, 2/28/1977, §500)

§27-502. Uses Permitted by Right.

Land and buildings in an R-2 District shall be used for the following purposes only:

- A. Single-family detached dwellings.
- B. Single-family semi-detached dwellings.
- C. Two-family dwellings.
- D. Single-family attached dwellings.
- E. Apartments.
- F. Churches.
- G. Public or private primary and secondary schools.
- H. Public or private non-profit park, playground or recreation area.
- I. Accessory buildings and accessory uses customarily incidental to the above when located on the same lot.

(Ord. 77-5, 2/28/1977, §501)

§27-503. Uses Permitted by Special Exception.

The following uses may be permitted as a special exception when authorized by the Zoning Hearing Board:

- A. Conversion apartments (see §27-1102).
- B. Home occupations subject to the regulations of Part 11.
- C. Borough or governmental buildings and uses.
- D. Uses which, in the opinion of the Zoning Hearing Board, are of the same general character as the above uses and which will not be detrimental to the intended purposes of this Chapter.

(Ord. 77-5, 2/28/1977, §502; as amended by Ord. 88-1, 2/2/1988, §1)

§27-504. Lot Requirements.

1. *Minimum Area.*
 - A. Single-family detached dwelling—5,000 square feet per DU.
 - B. Single-family semi-detached dwellings—2,500 square feet per DU.
 - C. Two-family dwellings—2,500 square feet per DU.
 - D. Single-family attached—2,500 square feet per DU.

E. Apartments—10,000 square feet for the first DU plus 2,500 square feet per DU for each additional unit.

[Ord. 08-02]

2. *Minimum Width at Building Setback Line.*
 - A. Single-family detached dwelling—50 feet.
 - B. Single-family semi-detached dwellings—28 feet.
 - C. Two-family dwellings—50 feet.
 - D. Single-family attached dwellings—20 feet per DU.
 - E. Apartments—100 feet.

[Ord. 08-02]

3. *Building Setback Line.* 30 feet (see §27-1118).
4. *Side Yards.*
 - A. Single-family detached dwellings—two side yards, each having a minimum width of 10 feet.
 - B. Single-family semi-detached dwellings—one side yard having a minimum width of 10 feet.
 - C. Single-family attached dwellings—10 feet (where applicable).
 - D. Two-family dwellings—two side yards, each having a minimum width of 10 feet.
 - E. Apartments—two side yards, each having a minimum width of 10 feet.
5. *Rear yard.* 20 feet minimum.
6. *Maximum Lot Coverage.*
 - A. Single-family detached dwellings—35 percent.
 - B. Single-family semi-detached dwellings—35 percent.
 - C. Single-family attached dwellings—50 percent.
 - D. Two-family dwellings—50 percent.
 - E. Apartments—50 percent.

(Ord. 77-5, 2/28/1977, §502; as amended by Ord. 06-05, 10/3/2006; and by Ord. 08-02, 4/8/2008)

§27-505. Building Height.

No building shall be more than 40 feet nor more than three stories in height.

(Ord. 77-5, 2/28/1977, §503)

Part 6**R-3 Residential District****§27-601. Purpose.**

The purpose of this Part is to provide for the residential development of a certain area of the Borough in such a manner as to:

- A. Encourage a more efficient use of land and public services.
- B. Encourage more flexible land development.
- C. Encourage innovations in residential development so as to conserve and to promote the efficient use of open space.
- D. Encourage various forms of single-family and multi-family residential development.

(Ord. 77-5, 2/28/1977, §600)

§27-602. Uses Permitted by Right.

Land and buildings in the R-3 District shall be used for the following purposes only:

- A. Single-family detached dwellings.
- B. Single-family semi-detached dwellings.
- C. Single-family attached dwellings.
- D. Two-family dwellings.
- E. Apartments.
- F. Public park, playground, or recreation area.
- G. Churches.
- H. Accessory buildings and accessory uses customarily incidental to the above when located on the same lot.

(Ord. 77-5, 2/28/1977, §601)

§27-603. Uses Permitted by Special Exception.

The following uses may be permitted as a special exception when authorized by the Zoning Hearing Board:

- A. Hospitals or nursing homes.
- B. Professional offices.
- C. Home occupations subject to the regulations of Part 11.
- D. Uses which, in the opinion of the Zoning Hearing Board, are of the same general character as the above uses and which will not be detrimental to the intended purposes of this Chapter.

(Ord. 77-5, 2/28/1977, §602)

§27-604. Lot Requirements.

1. *Minimum Area.* All residential structures shall be constructed at an average

gross residential density not to exceed three dwelling units per acre; provided, however, that the average gross residential density may be increased by one dwelling unit per acre for each 5 percent of land devoted to common open space according to the density bonus provisions contained in §27-606.

- 2. *Minimum Width at the Building Setback Line*—75 feet.
- 3. *Building Setback Line*. 35 feet (see §27-1118).
- 4. *Side Yards*.
 - A. Single-family detached dwellings—two side yards, each having a minimum width of 10 feet.
 - B. Single-family semi-detached dwellings—one side yard having a minimum width of 10 feet.
 - C. Single-family attached dwelling—10 feet where applicable.
 - D. Two-family dwellings—two side yards each having a minimum width of 10 feet.
 - E. Apartments—two side yards, each having a minimum width of 10 feet.
- 5. *Rear Yard*. 30 feet.
- 6. *Maximum Lot Coverage*. 30 percent.

(Ord. 77-5, 2/28/1977, §603)

§27-605. Building Height.

No building shall be more than 40 feet nor more than three stories in height.

(Ord. 77-5, 2/28/1977, §604)

§27-606. Density Bonus Provisions.

1. *Eligibility*. The area for proposed development must consist of a contiguous parcel of at least 2 acres.

2. *Density Bonus*.

A. The average gross residential density in an R-3 District may be increased by one dwelling unit per acre for each 5 percent of the total land area designated as and devoted to common open space, according to the minimums and maximums established in the bonus schedule:

	Bonus Schedule				
	Minimum			Maximum	
Common open space	20%	25%	30%	35%	40%
Average gross residential density	5	6	7	8	9
Approximate net density	6.25	8.0	10.0	12.3	15.0

B. The minimum average gross residential density shall be five units per acre with 20 percent common open space.

C. The maximum average gross residential density shall be nine units per acre with 40 percent common open space.

3. *Design and Location Standards.*

A. *Site Design.*

(1) All housing shall be designed with regard to the topography and natural feature of the site.

(2) All housing shall be sited so as to enhance privacy and insure natural light for all principal rooms.

(3) Variations in setbacks shall be provided where necessary to create a more pleasing layout.

(4) Housing at the periphery of the development shall be designed so as to be harmonious with neighboring areas.

(5) No structure shall be within 20 feet of the right-of-way of access roads or of parking areas.

(6) No structure shall be less than 50 feet from the property lines of the development, and a planting strip of at least 20 feet in width shall be provided along all property lines at the periphery of the development where necessary to protect the privacy of neighboring residents.

B. *Tree Conservation and Erosion Controls.*

(1) Existing trees shall be preserved wherever possible. The protection of trees of 4-inch caliper or over shall be a factor in determining the location of open space, buildings, underground services, walks, paved areas, playgrounds, parking areas and finished grade levels.

(2) The development shall be designed and programmed so as to minimize earthmoving, erosion, and the destruction of natural amenities.

(3) Seeding, sodding, and other planting shall be applied to stabilize topsoil on steep slopes.

(4) Erosion control measures such as minimizing the area of exposed soil, mulching, building silt catchment basins, and planting temporary ground cover shall be instituted as necessary and as required to comply with the Stormwater Management Act, 32 P.S. §680.1 *et seq.* [Ord. 2012-03]

C. *Landscaping.*

(1) All parking areas shall be landscaped. The interior of each parking lot shall have one 4-inch caliper shade tree for every eight cars.

(2) Shade trees shall be provided along all streets. No less than 2-inch caliper trees shall be planted for each 50-foot section of collector streets.

4. *Standards for Location and Management of Common Open Space.*

A. *Dimension.* The area for each parcel of common open space to be used for active recreational use shall not be less than 6,000 square feet in area not less than 30 feet in its smallest dimension. Not less than 20 percent of the total area to be developed using the density bonus provisions shall be designated as and used exclusively for common open space.

B. *Ownership.* Any of the following methods may be used, either individually or together, to preserve, own, and maintain open space: condominium, homeowners association, dedication in fee simple and easements. Such land shall not be eligible

for transfer to another party except for transfer to another method of ownership permitted under this Section, and then only where there is no change in the open space ratio. The following are specific requirements associated with each of the various methods:

(1) *Condominium*. The common open space may be controlled through the use of condominium agreements. Such agreements shall be in conformance with the Uniform Condominium Act, 68 Pa.C.S.A. §6101 *et seq.* All open space land shall be held as “common element.” [Ord. 2012-03]

(2) *Homeowners Association*. The common open space may be held in ownership by a homeowners association.

(3) *Fee Simple Dedication*. The Borough may, but shall not be required to, accept any portion or portions of the common open space provided:

(a) Such land is accessible to the residents of the Borough.

(b) There is no cost of acquisition.

(c) The Borough has access to and agrees to maintain such land.

(4) *Easements*. The Borough may, but shall not be required to, accept easements for public use of any portion or portions of common open space, title of which is to remain in ownership by condominium or homeowners association, provided:

(a) Such land is accessible to the residents of the Borough.

(b) There is no cost of acquisition.

(c) A satisfactory maintenance agreement is reached between the developer and the Borough.

C. *Development Rights and Plan Recording*. The development rights for any land designated as and used for common open space shall be transferred to the Borough. Any such area or areas shall be properly delineated on the development plan as filed with the County Recorder of Deeds.

D. *Specific Requirements for Homeowners Associations*. If a homeowners association is formed, it shall be governed according to the following regulations:

(1) The developers shall provide the Borough with a description of the organization, including its by-laws and methods for maintaining the open space.

(2) The organization shall be established by the developers and shall be operating before the sale of any lots within the development.

(3) Membership in the organization is mandatory for all purchasers of homes therein and their successors.

(4) The organization shall be responsible for maintenance of and insurance and taxes on all common open space.

(5) The members of the organization shall share equitably the costs of maintaining and developing common open space, in accordance with the procedures established by them.

(6) In the event of any proposed transfer of common open space land by the homeowners association within the methods here permitted, or of the

assumption of maintenance of common open space land by the Borough, notice of such action shall be given to all property owners by the homeowners association within the development.

(7) The organization shall have or hire adequate staff to administer common facilities and maintain the common open space.

(8) The homeowners association may lease back open space lands to any qualified person for the operation and maintenance of open space lands, but such a lease agreement shall provide:

(a) That the residents of the development shall at all times have access to the common open space contained therein.

(b) That the common open space to be leased shall be maintained for the purposes set forth in this Chapter.

(c) That the operation of open space facilities must be for the benefit of the residents or for the benefit of all Borough residents.

Such lease shall be subject to the approval of the Borough Council and any transfer or assignment of the lease shall be further subject to the approval of the Borough Council. Lease agreements so entered upon shall be recorded with the Recorder of Deeds of Dauphin County within 30 days of their execution and a copy of the recorded lease shall be filed with the Secretary of the Borough.

E. *Location, Design and Layout.*

(1) Common open space shall be designed and located as areas easily accessible to residents. Natural features shall be preserved to the greater extent possible.

(2) The use, type of maintenance to be provided, and planting plan or schedule for the common open space shall be specified in all development plans as required by the Dauphin Borough Subdivision and Land Development Ordinance [Chapter 22]. In designating use and maintenance, the following classes may be used:

(a) *Lawn.* A grass area with or without trees which may be used by the residents for a variety of purposes and which shall be mowed regularly to insure a neat and tidy appearance.

(b) *Natural Area.* An area of natural and undisturbed vegetation. Meadows shall be maintained as such. The proliferation of weeds, undesirable plants, litter, dead trees and brush shall not be permitted.

(c) Designated planting and recreation facilities within the open space areas shall be provided by the developer. A performance bond may be required to cover the costs of installation in accordance with this Chapter.

F. *Maintenance.*

(1) In the event that the organization established to own and maintain a common open space, or any successor organization, shall at any time after establishment of the development fail to maintain the common open space in reasonable order and condition, the Borough may serve written notice upon such organization or, if no such organization exists then upon the residents

and owners of the development, setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be cured within 30 days thereof, and shall state the date and place of a hearing thereon which shall be held within 14 days of the notice. At such hearing the Borough may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be corrected. If the deficiencies set forth in the original notice or in the modifications thereof shall not be corrected within said 30 days or any granted extension thereof, the Borough, in order to prevent the common open space from becoming a public nuisance, may enter upon said common open space and maintain the same for a period of 1 year. Said entry and maintenance shall not constitute a taking of said common open space, and shall not vest in the public any rights to use the common open space except when the same is voluntarily dedicated to the public by the residents and owners and such dedication is accepted by the Borough. Before the expiration of said year, the Borough shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common open space, call a public hearing upon notice to such organization, or to the residents and owners of the development, to be held by the Borough, at which hearing such organization or the residents and owners of the development shall show cause why such maintenance by the Borough shall not, at the election of the Borough, continue for a succeeding year. If the Borough shall determine that such organization is ready and able to maintain said common open space in reasonable condition, the Borough shall cease to maintain said common open space at the end of said year. If the Borough determines that such organization is not ready and able to maintain said open space in a reasonable condition, the Borough may at its option, continue to maintain said common open space during the next succeeding year and subject to a similar hearing and determination in each year thereafter. The decision of the Borough in any case shall constitute a final administrative decision subject to judicial review. In the event that the Borough enters said common open space for maintenance purposes, the homeowners association shall assume all liabilities incurred in the performance of any such maintenance.

(2) The cost of such maintenance and enforcement proceedings by the Borough shall be assessed ratably against the properties within the development and shall become a lien on said properties. Said assessments of charges shall be subordinate in lien to the lien of any prior mortgage or mortgages on the property which is subject to such assessments or charges. The Borough, at the time of entering upon said common open space for the purpose of maintenance, shall file a notice of such lien, in the office of the Prothonotary of the County, upon the properties affected by such lien within the development.

G. Coordination with Subdivision and Land Development Ordinance.

(1) It is the intent of this subsection that subdivision review under the Subdivision and Land Development Ordinance [Chapter 22] be carried out simultaneously with the review of a development using the density bonus

provisions authorized under Part 6 of this Chapter.

(2) Development plans must be submitted in a form which will satisfy the requirements of the Subdivision and Land Development Ordinance [Chapter 22] for preliminary and final plans.

(3) The requirements for both this subsection of this Chapter and those of the Dauphin Borough Subdivision and Land Development Ordinance [Chapter 22] shall apply to all developments using the density bonus provisions.

(Ord. 77-5, 2/28/1977, §605; as amended by Ord. 2012-03, 12/4/2012)

Part 7**Neighborhood Commercial District (NC)****§27-701. Purpose.**

The purpose of this district is to provide convenient, compact locations for the needs of local retail business establishments which primarily serve the needs of the community.

(*Ord. 77-5, 2/28/1977, §700*)

§27-702. Uses Permitted by Right.

Land and buildings in a Neighborhood Commercial District shall be used for the following purposes only:

- A. Retail store and businesses serving the everyday needs of the community.
- B. Restaurants.
- C. Professional offices, business offices, hospitals, and nursing homes. [*Ord. 88-1*]
- D. Personal service shops (barber, tailor, shoe repair, laundry, etc.).
- E. Financial Institutions (banks, savings and loan associations, etc.).
- F. General service and repair shops (radio, TV and appliance repairs, etc.).
- G. Borough or governmental buildings and facilities.
- H. Accessory buildings and accessory uses customarily incidental to the above, when located on the same lot.
- I. Residential dwellings located on the second floor of any use permitted in the Neighborhood Commercial (NC) District.
- J. Any other use or activity which is of the same general character as any of the above.

(*Ord. 77-5, 2/28/1977, §701; as amended by Ord. 88-1, 2/2/1988, §2; and by Ord. 95-4, 7/5/1995, §2*)

§27-703. Uses Permitted by Special Exception.

The following uses and activities may be permitted as a special exception when authorized by the Zoning Hearing Board:

- A. Residence as an accessory use.
- B. Apartments.
- C. Club, lodge or fraternal organization.
- D. Rooming or boarding houses. [*Ord. 95-4*]
- E. Uses which, in the opinion of the Zoning Hearing Board, are of the same general character as the above uses and which will not be detrimental to the intended purposes of this Chapter.

(*Ord. 77-5, 2/28/1977, §702; as amended by Ord. 95-4, 7/5/1995, §2*)

§27-704. Lot Requirement.

1. Area—5,000 square feet minimum.
2. Width—50 feet at the building setback line.
3. Building Setback Line—30 feet (see §27-1118).
4. Minimum Side Yard Requirements—10 feet except where the property is adjacent to any residential district, a 15-foot side yard shall be required.
5. Rear Yard—30 feet minimum.
6. Maximum Lot Coverage—50 percent.

(Ord. 77-5, 2/28/1977, §703)

§27-705. Lot Requirements for Apartments.

1. Area—10,000 square feet for the first dwelling unit, plus 2,500 square feet for each additional unit.
2. Width—100 feet.
3. Building Setback Line—30 feet.
4. Side Yards—two at 10 feet.
5. Rear Yard—20 feet.
6. Maximum Lot Coverage—50 percent.

(Ord. 77-5, 2/28/1977, §704)

§27-706. Building Height.

No building shall be more than 40 feet nor more than three stories in height.

(Ord. 77-5, 2/28/1977, §705)

Part 8**Commercial-Industrial District (C-I)****§27-801. Purpose.**

The purpose of this district is to provide for the location of certain commercial and industrial uses and activities in areas that will be both suitable for the proposed use and compatible with the community.

(Ord. 77-5, 2/28/1977, §800)

§27-802. Uses Permitted by Right.

Land and buildings in the Commercial-Industrial District (C-I) shall be used for the following purposes only:

- A. Office buildings.
- B. Offices or shops for contractors or craftsmen (plumber, carpenter, electrician, printer, etc.).
- C. Nursery, greenhouse, garden shop.
- D. Medical and dental offices and clinics.
- E. Funeral parlors.
- F. Printing, publishing, or bookbinding establishments.
- G. Warehouse or indoor storage.
- H. Municipal buildings and facilities.
- I. Accessory buildings and accessory uses customarily incidental to the above, when located on the same lot.
- J. Any other use or activity which is of the same general character as any of the above.

(Ord. 77-5, 2/28/1977, §801)

§27-803. Uses Permitted by Special Exception.

The following uses and activities may be permitted as a special exception when authorized by the Zoning Hearing Board:

- A. Indoor amusements, recreation or entertainment.
- B. Clubs, lodges or fraternal organizations.
- C. Laboratory for research, testing and development (indoor).
- D. Wholesale or distribution businesses.
- E. Cleaning and laundry establishments.
- F. Assembly, fabrication or compounding of products from materials previously manufactured or processed.
- G. Packaging or bottling works.
- H. Processing or manufacture of food products.
- I. Manufacture of small items such as precision instruments, optical goods,

textiles, electrical appliances and components, etc.

J. Uses which, in the opinion of the Zoning Hearing Board, are of the same general character as the above uses, and which will not be detrimental to the intended purposes of this Chapter.

(Ord. 77-5, 2/28/1977, §802)

§27-804. Lot Requirements.

1. Area—10,000 square feet minimum.
2. Width—75 feet at the building setback line.
3. Building setback line—30 feet (See §27-1118).
4. Minimum side yard requirements—10 feet except where the property is adjacent to any residential district, a 20-foot side yard shall be required.
5. Rear yard—35 feet minimum.
6. Maximum lot coverage—50 percent.

(Ord. 77-5, 2/28/1977, §803)

§27-805. Building Height.

No building shall be more than 40 feet nor more than three stories in height.

(Ord. 77-5, 2/28/1977, §804)

§27-806. Special Procedural Option for Unified Commercial-Industrial Development.

1. More than one structure housing a permitted or permissible principal use may be erected on a single lot provided that yard and other requirements of this Chapter shall be met for each structure as though it were on an individual lot. More than one principal use may be located within a single building.

2. When more than one structure housing a principal use is to be erected on a single lot or more than one principal use is to be located within a single building, a plan of the development must be submitted to the Planning Committee and Borough Council for review and approval. This plan shall include, but is not limited to:

A. The location, boundaries, dimensions, and ownership of the land to be included within the development.

B. The location, dimensions, arrangement and proposed use of all buildings, open spaces, yards, accessways, entrances, exits, off-street parking facilities, loading and unloading facilities, buffer areas and screening devices.

C. A description of the provisions to be made for sewage and waste disposal, water supply and stormwater drainage.

D. Sufficient data to enable the Borough to judge the effectiveness of the design and the character of the proposed use, its compliance with the requirements of this Chapter and the land development provisions of the Dauphin Borough Subdivision and Land Development Ordinance [Chapter 22], and to consider properly such factors as its relationship to surrounding areas, anticipated traffic, and the public health, safety, and welfare.

3. If there is more than one principal building constructed on a lot, the proposed development shall be designed as part of a single architectural and landscaping scheme. (*Ord. 77-5, 2/28/1977, §805*)

Part 9**Conservation District (CON)****§27-901. Purpose.**

The purpose of this district is to protect certain areas of the Borough because of problems or difficulties that either exist or could be created if improper development were to occur.

(*Ord. 77-5, 2/28/1977, §900*)

§27-902. Uses Permitted by Right.

Land and buildings in the Conservation District shall be used for the following purposes only:

- A. Woodland, game preserve, wildlife sanctuary, or other conservation activity.
- B. Public parks and recreation areas.
- C. Outdoor plant nursery.
- D. Single-family detached dwellings.
- E. Accessory buildings and accessory uses customarily incidental to the above, when located on the same lot.

(*Ord. 77-5, 2/28/1977, §901*)

§27-903. Uses Permitted by Special Exception.

The following uses and activities may be permitted as a special exception when authorized by the Zoning Hearing Board:

- A. Private or semi-private recreation areas.
- B. Home occupations.
- C. Uses which, in the opinion of the Zoning Hearing Board, are of the same general character as the above uses, and which will not be detrimental to the intended purposes of this Chapter.

(*Ord. 77-5, 2/28/1977, §902*)

§27-904. Lot Requirements.

1. Area—20,000 square feet minimum per dwelling unit. [*Ord. 2012-03*]
2. Width—75 feet at the building setback line.
3. Building setback line—30 feet minimum (see §27-1118).
4. Side yards—two each having a minimum width of 10 feet.
5. Rear yard—30 feet minimum.
6. Maximum lot coverage—30 percent.

(*Ord. 77-5, 2/28/1977, §903; as amended by Ord. 2012-03, 12/4/2012*)

§27-905. Building Height.

No building shall be more than 35 feet nor more than two and one-half stories in height.

(*Ord. 77-5, 2/28/1977, §904*)

§27-906. Conditional Uses.

(*Ord. 77-5, 2/28/1977; as added by Ord. 02-05, 9/3/2002, §3*)

Part 10**Floodplain Management****§27-1001. Statutory Authorization.**

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978, 32 P.S. §679.101 *et seq.*, delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry. Therefore, the Borough Council of the Borough of Dauphin does hereby order as follows. (*Ord. 77-5, 2/28/1977*; as amended by *Ord. 2012-01, 7/30/2012*; and as added by *Ord. 2012-03, 12/4/2012*)

§27-1002. General Provisions.

1. *Intent.* The intent of this Part is to:
 - A. Promote the general health, welfare, and safety of the community.
 - B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
 - C. Minimize danger to public health by protecting water supply and natural drainage.
 - D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.
 - E. Comply with Federal and State floodplain management requirements.
2. *Applicability.*
 - A. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Borough of Dauphin unless a permit has been obtained from the Floodplain Administrator.
 - B. A permit shall not be required for minor repairs to existing buildings or structures.
3. *Abrogation and Greater Restrictions.* This Part supersedes any other conflicting provisions which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this Part, the more restrictive shall apply.
4. *Warning and Disclaimer of Liability.*
 - A. The degree of flood protection sought by the provisions of this Part is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Part does not imply that areas outside any identified floodplain areas or that land uses permitted within such areas will be free from

flooding or flood damages.

B. This Part shall not create liability on the part of the Borough of Dauphin or any officer or employee thereof for any flood damages that result from reliance on this Part or any administrative decision lawfully made there under.

(Ord. 77-5, 2/28/1977; as amended by Ord. 2012-01, 7/30/2012; and as added by Ord. 2012-03, 12/4/2012)

§27-1003. Administration.

1. *Designation of the Floodplain Administrator.* The Zoning Officer is hereby appointed to administer and enforce this Part and is referred to herein as the "Floodplain Administrator."

2. *Permits Required.* A permit shall be required before any construction or development is undertaken within any area of the Borough of Dauphin.

3. *Duties and Responsibilities of the Floodplain Administrator.*

A. The Floodplain Administrator shall issue a permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.

B. Prior to the issuance of any permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by State and Federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act, 35 P.S. §750.1 *et seq.*, as amended; the Pennsylvania Dam Safety and Encroachments Act, 32 P.S. §693.1 *et seq.*, as amended; the Pennsylvania Clean Streams Act, 35 P.S. §691.1 *et seq.*, as amended; and the U.S. Clean Water Act, §404, 33 U.S.C. §1344. No permit shall be issued until this determination has been made.

C. In the case of existing structures, prior to the issuance of any development/permit, the Floodplain Administrator shall review the history of repairs to the subject building, so that any repetitive loss issues can be addressed before the permit is issued.

D. During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He/she shall make as many inspections during and upon completion of the work as are necessary.

E. In the discharge of his/her duties, the Floodplain Administrator shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this Part.

F. In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the permit and report such fact to the Borough Council for whatever action it considers necessary.

G. The Floodplain Administrator shall maintain all records associated with the requirements of this Part including, but not limited to, permitting, inspection

and enforcement.

H. The Floodplain Administrator shall consider the requirements of the 34 Pa.Code and the 2009 IBC and the 2009 IRC or latest revisions thereof.

4. *Application Procedures and Requirements.*

A. Application for such a permit shall be made, in writing, to the Floodplain Administrator on forms supplied by the Borough of Dauphin. Such application shall contain the following:

- (1) Name and address of applicant.
- (2) Name and address of owner of land on which proposed construction is to occur.
- (3) Name and address of contractor.
- (4) Site location including address.
- (5) Listing of other permits required.
- (6) Brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before the flood damage occurred where appropriate.
- (7) A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.

B. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for permits shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:

- (1) All such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances.
- (2) All utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage.
- (3) Adequate drainage is provided so as to reduce exposure to flood hazards.
- (4) Structures including manufactured homes will be anchored to prevent floatation, collapse, or lateral movement.
- (5) Building materials are flood-resistant.
- (6) Appropriate practices that minimize flood damage have been used.
- (7) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and/or located to prevent water entry or accumulation.

C. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Floodplain Administrator to make the above determination:

- (1) A completed permit application form.
- (2) A plan of the entire site, clearly and legibly drawn at a scale of 1 inch being equal to 100 feet or less, showing the following:

- (a) North arrow, scale, and date.
 - (b) Topographic contour lines, if available.
 - (c) The location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development.
 - (d) The location of all existing streets, drives, and other access ways.
 - (e) The location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water, including direction and velocities.
- (3) Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
- (a) The proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988.
 - (b) The elevation of the base flood.
 - (c) Supplemental information as may be necessary under 34 Pa.Code, the 2009 IBC or the 2009 IRC.
- (4) The following data and documentation:
- (a) If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood elevation.
 - (b) Detailed information concerning any proposed floodproofing measures and corresponding elevations.
 - (c) Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within a special floodplain area (see §27-1004.2.B) when combined with all other existing and anticipated development, will not increase the base flood elevation more than 1 foot at any point.
 - (d) A document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood elevation.
- Such statement shall include a description of the type and extent of floodproofing measures which have been incorporated into the design of the structure and/or the development.
- (e) Detailed information needed to determine compliance with §27-1005.3.F, “Storage,” and §27-1005.4, “Development Which May Endanger Human Life,” including:
 - 1) The amount, location and purpose of any materials or substances referred to in §§27-1005.3.F and 27-1005.4 which are intended to be used, produced, stored or otherwise maintained on site.
 - 2) A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in §27-1005.4 during a base flood.

(f) The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."

(g) Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.

(5) Applications for permits shall be accompanied by a fee, payable to Dauphin Borough based upon the estimated cost of the proposed construction as determined by the Floodplain Administrator.

5. *Review by County Conservation District.* A copy of all applications and plans for any proposed construction or development in any identified floodplain area to be considered for approval shall be submitted by the Floodplain Administrator to the County Conservation District for review and comment prior to the issuance of a permit. The recommendations of the Conservation District shall be considered by the Floodplain Administrator for possible incorporation into the proposed plan.

6. *Review of Application by Others.* A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Floodplain Administrator to any other appropriate agencies and/or individuals (e.g., Planning Commission, Borough Engineer, etc.) for review and comment.

7. *Changes.* After the issuance of a permit by the Floodplain Administrator, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Floodplain Administrator. Requests for any such change shall be in writing, and shall be submitted by the applicant to the Floodplain Administrator for consideration.

8. *Placards.* In addition to the permit, the Floodplain Administrator shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the permit the date of its issuance and be signed by the Floodplain Administrator.

9. *Start of Construction.*

A. Work on the proposed construction or development shall begin within 180 days after the date of issuance and shall be completed within 12 months after the date of issuance of the permit or the permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator. The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

B. Time extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Floodplain Administrator to approve such a request.

10. *Enforcement.*

A. *Notices.* Whenever the Floodplain Administrator or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Part, or of any regulations adopted pursuant thereto, the Floodplain Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:

- (1) Be in writing.
- (2) Include the specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the ordinance.
- (3) Allow a reasonable time not to exceed a period of 30 days for the performance of any act it requires.
- (4) Be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this State.
- (5) Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Part.
- (6) Include the name of the owner of record and any other person against whom the municipality intends to take action.
- (7) Include the location of the violation.
- (8) Include the date before which the steps for compliance must be commenced and the date before which the steps must be completed.
- (9) Include that the recipient of the notice has the right to appeal to the municipal Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in the ordinance and in compliance with the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*
- (10) Include that the failure to comply with the notice within the time specified, unless extended by an appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

B. *Penalties.* Any person who fails to comply with any or all of the requirements or provisions of this Part or who fails or refuses to comply with any notice, order or direction of the Floodplain Administrator or any other authorized employee of the Borough of Dauphin shall be guilty of a misdemeanor and upon conviction shall pay a fine to Borough of Dauphin, of not less than \$25 nor more than \$500 plus costs of prosecution. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Part. The imposition of a fine or penalty for any violation of, or noncompliance with, this Part shall not excuse the violation or noncompliance or permit it to continue and all such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time. Any development initiated or any

structure or building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this Part may be declared by the Borough Council to be a public nuisance and abatable as such.

11. *Appeals.*

A. Any person aggrieved by any action or decision of the Floodplain Administrator concerning the administration of the provisions of this Part, may appeal to the Zoning Hearing Board in accordance with the requirements of Part 16 hereof. Such appeal must be filed, in writing, within 30 days after the decision, determination or action of the Floodplain Administrator.

B. Upon receipt of such appeal the Zoning Hearing Board shall set a time and place, within not less than 10 or not more than 30 days, for the purpose of considering the appeal and meet the requirements of Part 16 hereof. Notice of the time and place at which the appeal will be considered shall be given to all parties.

C. Any person aggrieved by any decision of the Zoning Hearing Board may seek relief there from by appeal to court, as provided by the laws of this State including the Pennsylvania Flood Plain Management Act, 32 P.S. §679.101 *et seq.*, and Part 16 hereof.

(*Ord. 77-5, 2/28/1977; as amended by Ord. 2012-01, 7/30/2012; and as added by Ord. 2012-03, 12/4/2012*)

§27-1004. Identification of Floodplain Areas.

1. *Identification.*

A. The identified floodplain area shall be any areas of Borough of Dauphin, classified as special flood hazard areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated August 2, 2012, and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study.

B. The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by Borough of Dauphin and declared to be a part of this Part.

C. The floodway or floodplain areas shall be overlays to the existing underlying districts as shown on the Official Zoning Map of the Borough of Dauphin, and as such, the provisions the floodway or floodplain ordinance shall serve as a supplement to the underlying district provisions.

D. Where there happens to be any conflict between the provisions or requirements of either the floodway or floodplain ordinance and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodway or floodplain ordinance shall apply.

2. *Description and Special Requirements of Identified Floodplain Areas.* The identified floodplain area shall consist of the following specific areas:

A. The Floodway Area/District identified as floodway in the FIS which represents the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation by more than 1 foot at any point. This term shall also

include floodway areas which have been identified in other available studies or sources of information for those special flood hazard areas where no floodway has been identified in the FIS.

(1) Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall not be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

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

B. The AE Area/District without floodway shall be those areas identified as an AE zone on the FIRM included in the FIS prepared by FEMA and for which base flood elevations have been provided in the FIS but no floodway has been delineated.

(1) No permit shall be granted for any construction, development, use, or activity within any AE Area/District without floodway unless it is demonstrated that the cumulative effect of the proposed development would not, together with all other existing and anticipated development, increase the BFE more than 1 foot at any point.

(2) No new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse, unless a permit is obtained from the Department of Environmental Protection Regional Office.

C. The A Area/District shall be those areas identified as an A zone on the FIRM included in the FIS prepared by FEMA and for which no 1 percent annual chance flood elevations have been provided. For these areas, elevation and floodway information from other Federal, State, or other acceptable sources shall be used when available. Where other acceptable information is not available, the base flood elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site.

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

D. The Shallow Flooding Area/District shall be those areas identified as zones AO and AH on the FIRM and in the FIS. These areas are subject to inundation by 1 percent annual chance shallow flooding where average depths are between 1 and 3 feet. In zones AO and AH, drainage paths shall be established to guide floodwaters around and away from structures on slopes.

3. *Changes in Identification of Area.* The identified floodplain area may be revised or modified by the Borough Council where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the FEMA. Additionally, as soon as

practicable, but not later than 6 months after the date such information becomes available; a community shall notify the FEMA of the changes by submitting technical or scientific data.

4. *Boundary Disputes.* Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Floodplain Administrator and any party aggrieved by this decision or determination may appeal to the Zoning Hearing Board. The burden of proof shall be on the appellant.

(Ord. 77-5, 2/28/1977; as amended by Ord. 2012-01, 7/30/2012; and as added by Ord. 2012-03, 12/4/2012)

§27-1005. Technical Provisions.

1. *General.*

A. *Alteration or Relocation of Watercourse.*

(1) No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality, and until all required permits or approvals have been first obtained from the Department of Environmental Protection Regional Office.

(2) No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood carrying capacity of the watercourse in any way.

(3) In addition, the FEMA and Pennsylvania Department of Community and Economic Development, shall be notified prior to any alteration or relocation of any watercourse.

B. Technical or scientific data shall be submitted by the applicant to FEMA for a letter of map revision (LOMR) as soon as practicable but within 6 months of any new construction, development, or other activity resulting in changes in the BFE. The situations when a LOMR or a conditional letter of map revision (CLOMR) are required are:

(1) Any development that causes a rise in the base flood elevations within the floodway.

(2) Any development occurring in zones A1-30 and zone AE without a designated floodway, which will cause a rise of more than 1 foot in the base flood elevation.

(3) Alteration or relocation of a stream (including, but not limited to, installing culverts and bridges).

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

2. *Elevation and Floodproofing Requirements.*

A. *Residential Structures.*

(1) In AE, A1-30, and AH zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to,

or above, the regulatory flood elevation.

(2) In A zones, where no base flood elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation in accordance with §27-1004.2.C of this Part.

(3) In AO zones, any new construction or substantial improvement shall have the lowest floor (including basement) at or above the highest adjacent grade at least as high as the depth number specified on the FIRM.

(4) The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and 34 Pa.Code, Chapters 401–405, as amended, shall be utilized.

B. Nonresidential Structures.

(1) In AE, A1-30 and AH zones, any new construction or substantial improvement of a nonresidential structure shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation, or be designed and constructed so that the space enclosed below the regulatory flood elevation:

(a) Is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water.

(b) Has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(2) In A zones, where no base flood elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated or completely floodproofed up to, or above, the regulatory flood elevation in accordance with §27-1004.2.C of this Part.

(3) In AO zones, any new construction or substantial improvement shall have their lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number specified on the FIRM.

(4) Any nonresidential structure, or part thereof, made watertight below the regulatory flood elevation shall be floodproofed in accordance with the W1 or W2 space classification standards contained in the publication entitled “Flood-Proofing Regulations” published by the U. S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards.

(5) The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and 34 Pa.Code, Chapters 401–405, as amended, shall be utilized.

C. Space below the Lowest Floor.

(1) Fully enclosed space below the lowest floor (excluding basements) which will be used solely for the parking of a vehicle, building access, or

incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of flood waters for the purpose of equalizing hydrostatic forces on exterior walls. The term “fully enclosed space” also includes crawl spaces.

(2) Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:

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

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

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

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

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

(2) Floor area shall not exceed 100 square feet.

(3) The structure will have a low damage potential.

(4) The structure will be located on the site so as to cause the least obstruction to the flow of flood waters.

(5) Power lines, wiring, and outlets will be elevated to the regulatory flood elevation.

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

(7) Sanitary facilities are prohibited.

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

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

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

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

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

area:

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

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

(2) Consist of soil or small rock materials only. Sanitary Landfills shall not be permitted.

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

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

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

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

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

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

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

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

(4) The design and construction provisions of the UCC and FEMA #348, "Protecting Building Utilities from Flood Damages," and the International Private Sewage Disposal Code shall be utilized.

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

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

F. *Storage*. All materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life, and not listed in subsection .4, "Development Which May Endanger Human Life," shall be stored at or above the regulatory flood elevation and/or floodproofed to the maximum extent possible.

G. *Placement of Buildings and Structures*. All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the

flow of water and shall be designed to have a minimum effect upon the flow and height of flood water.

H. *Anchoring.*

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

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

I. *Floors, Walls and Ceilings.*

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

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

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

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

J. *Paints and Adhesives.*

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

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

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

K. *Electrical Components.*

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

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

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

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

N. *Uniform Construction Code Coordination.* The standards and specifications contained 34 Pa.Code, Chapters 401–405, as amended, and not limited to the following provisions shall apply to the above and other sections and subsections of this Part, to the extent that they are more restrictive and/or supplement the

requirements of this Part.

(1) International Building Code (IBC) 2009 or the latest edition thereof: §§801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

(2) International Residential Code (IRC) 2009 or the latest edition thereof: §§R104, R105, R109, R322, Appendix E-Section AE101, Appendix E and Appendix J.

4. *Development Which May Endanger Human Life.*

A. In accordance with the Pennsylvania Flood Plain Management Act, 32 P.S. §679.101 *et seq.*, and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure which:

(1) Will be used for the production or storage of any of the following dangerous materials or substances.

(2) Will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises.

(3) Will involve the production, storage, or use of any amount of radioactive substances.

Shall be subject to the provisions of this Section, in addition to all other applicable provisions. The following list of materials and substances are considered dangerous to human life:

- (a) Acetone.
- (b) Ammonia.
- (c) Benzene.
- (d) Calcium carbide.
- (e) Carbon disulfide.
- (f) Celluloid.
- (g) Chlorine.
- (h) Hydrochloric acid.
- (i) Hydrocyanic acid.
- (j) Magnesium.
- (k) Nitric acid and oxides of nitrogen.
- (l) Petroleum products (gasoline, fuel oil, etc.).
- (m) Phosphorus.
- (n) Potassium.
- (o) Sodium.
- (p) Sulphur and sulphur products.
- (q) Pesticides (including insecticides, fungicides, and rodenticides).
- (r) Radioactive substances, insofar as such substances are not otherwise regulated.

B. Within any floodway area, any structure of the kind described in

paragraph .A, above, shall be prohibited.

C. Where permitted within any identified floodplain area, any new or substantially improved structure of the kind described in paragraph .A, above, shall be:

(1) Elevated or designed and constructed to remain completely dry up to at least 1½ feet above base flood elevation.

(2) Designed to prevent pollution from the structure or activity during the course of a base flood elevation.

Any such structure, or part thereof, that will be built below the regulatory flood elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication “Flood-Proofing Regulations (U.S. Army Corps of Engineers, June 1972 as amended March 1992), or with some other equivalent watertight standard.

D. Within any identified floodplain area, any new or substantially improved structure of the kind described in paragraph .A, above, shall be prohibited within the area measured 50 feet landward from the top-of-bank of any watercourse.

5. *Special Requirements for Subdivisions.* All subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, in flood hazard areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a conditional letter of map revision or letter of map revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

6. *Special Requirements for Manufactured Homes.*

A. Within any FW (Floodway Area/District), manufactured homes shall be prohibited.

B. Within any identified floodplain area, manufactured homes shall be prohibited within the area measured 50 feet landward from the top-of-bank of any watercourse.

C. Where permitted within any identified floodplain area, all manufactured homes, and any improvements thereto, shall be:

(1) Placed on a permanent foundation.

(2) Elevated so that the lowest floor of the manufactured home is at least 1½ feet above base flood elevation.

(3) Anchored to resist flotation, collapse, or lateral movement.

D. Installation of manufactured homes shall be done in accordance with the manufacturers’ installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2009 International Residential Code or the U. S. Department of Housing and Urban Development’s Permanent Foundations for Manufactured Housing, 1984 Edition, draft or latest revision thereto shall apply and 34 Pa.Code, Chapters 401–405.

E. Consideration shall be given to the installation requirements of the 2009

IBC, and the 2009 IRC or the most recent revisions thereto and 34 Pa.Code, as amended where appropriate and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the unit(s) proposed installation.

7. *Special Requirements for Recreational Vehicles.*

- (1) Recreational vehicles in zones A, A1-30, AH and AE must either:
 - (a) Be on the site for fewer than 180 consecutive days.
 - (b) Be fully licensed and ready for highway use.
 - (c) Meet the permit requirements for manufactured homes in subsection .6.

(Ord. 77-5, 2/28/1977; as amended by Ord. 2012-01, 7/30/2012; and as added by Ord. 2012-03, 12/4/2012)

§27-1006. Activities Requiring Special Exception.

1. *General.* In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act, 32 P.S. §679.101 *et seq.*, the following activities shall be prohibited within any identified floodplain area unless a special exception has been approved by the Zoning Hearing Board:

A. The commencement of any of the following activities; or the construction enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:

- (1) Hospitals.
- (2) Nursing homes.
- (3) Jails or prisons.

B. The commencement of, or any construction of, a new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.

2. *Application Requirements for Special Exception.* Applicants for a special exception shall provide five copies of the following items:

A. A written request including a completed permit application form.

B. A small scale map showing the vicinity in which the proposed site is located.

C. A plan of the entire site, clearly and legibly drawn at a scale of 1 inch being equal to 100 feet or less, showing the following:

- (1) North arrow, scale and date.
- (2) Topography based upon the North American Vertical Datum (NAVD) of 1988, showing existing and proposed contours at intervals of 2 feet.
- (3) All property and lot lines including dimensions, and the size of the site expressed in acres or square feet.
- (4) The location of all existing streets, drives, other access ways, and parking areas, with information concerning widths, pavement types and

construction, and elevations.

(5) The location of any existing bodies of water or watercourses, buildings, structures and other public or private facilities, including railroad tracks and facilities, and any other natural and man-made features affecting, or affected by, the proposed activity or development.

(6) The location of the floodplain boundary line, information and spot elevations concerning the base flood elevations, and information concerning the flow of water including direction and velocities.

(7) The location of all proposed buildings, structures, utilities, and any other improvements.

(8) Any other information which the municipality considers necessary for adequate review of the application.

D. Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale showing the following:

(1) Sufficiently detailed architectural or engineering drawings, including floor plans, sections, and exterior building elevations, as appropriate.

(2) For any proposed building, the elevation of the lowest floor (including basement) and, as required, the elevation of any other floor.

(3) Complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the base flood elevation.

(4) Detailed information concerning any proposed floodproofing measures.

(5) Cross section drawings for all proposed streets, drives, other access ways, and parking areas, showing all rights-of-way and pavement widths.

(6) Profile drawings for all proposed streets, drives, and vehicular access ways including existing and proposed grades.

(7) Plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.

E. The following data and documentation:

(1) Certification from the applicant that the site upon which the activity or development is proposed is an existing separate and single parcel, owned by the applicant or the client he represents.

(2) Certification from a registered professional engineer, architect, or landscape architect that the proposed construction has been adequately designed to protect against damage from the base flood elevation.

(3) A statement, certified by a registered professional engineer, architect, landscape architect, or other qualified person which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a base flood elevation, including a statement concerning the effects such pollution may have on human life.

(4) A statement certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the effects the proposed development will have on base flood elevations and

flows.

(5) A statement, certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the base flood elevation and the effects such materials and debris may have on base flood elevations and flows.

(6) The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."

(7) Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection to implement and maintain erosion and sedimentation control.

(8) Any other applicable permits such as, but not limited to, a permit for any activity regulated by the Department of Environmental Protection under §302 of Act 1978-166, 32 P.S. §679.302.

(9) An evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a base flood.

3. *Application Review Procedures.* Upon receipt of an application for a special exception for the Zoning Hearing Board, the procedures outlined in Part 16 hereof shall apply.

4. *Special Technical Requirements.*

A. In addition to the requirements of §27-1005, "Technical Provisions," of this Part, the following minimum requirements shall also apply to any proposed development requiring a special exception. If there is any conflict between any of the following requirements and those in Part 16 hereof or in any other code, ordinance, or regulation, the more restrictive provision shall apply.

B. No application for a special exception shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:

(1) Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located, and constructed so that:

(a) The structure will survive inundation by waters of the base flood elevation without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the BFE.

(b) The lowest floor (including basement) will be elevated to at least 1½ feet above base flood elevation.

(c) The occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the base flood elevation.

(2) Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.

All hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses,

computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Borough of Dauphin and the Department of Community and Economic Development.

(Ord. 77-5, 2/28/1977; as amended by Ord. 2012-01, 7/30/2012; and as added by Ord. 2012-03, 12/4/2012)

§27-1007. Existing Structures in Identified Floodplain Areas.

1. *Existing Structures.* The provisions of this Part do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of subsection .2 shall apply.

2. *Improvements.*

A. The following provisions shall apply whenever any improvement is made to an existing structure located within any identified floodplain area.

B. No expansion or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the base flood elevation.

C. No expansion or enlargement of an existing structure shall be allowed within any special floodplain area that would, together with all other existing and anticipated development, increase the BFE more than 1 foot at any point.

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

E. The above activity shall also address the requirements of the 34 Pa.Code, as amended, and the 2009 IBC and the 2009 IRC.

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

G. Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of “repetitive loss” shall be undertaken only in full compliance with the provisions of this Part.

(Ord. 77-5, 2/28/1977; as amended by Ord. 2012-01, 7/30/2012; and as added by Ord. 2012-03, 12/4/2012)

§27-1008. Variances.

1. *General.* If compliance with any of the requirements of this Part would result in an exceptional hardship to a prospective builder, developer or landowner, the Zoning Hearing Board may, upon request, grant relief from the strict application of the requirements.

2. *Variance Procedures and Conditions.*

A. Requests for variances shall be considered by the Zoning Hearing Board in accordance with the procedures contained in §27-1003.11 of this Part and Part 16, §27-1605, hereof and the following:

B. No variance shall be granted for any construction, development, use, or activity within any floodway area that would cause any increase in the BFE.

C. No variance shall be granted for any construction, development, use, or activity within any special floodplain area that would, together with all other existing and anticipated development, increase the BFE than 1 foot at any point.

D. Except for a possible modification of the regulatory flood elevation involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by special exception in §27-1006 of this Part.

E. Whenever a variance is granted, the Zoning Hearing Board shall notify the applicant in writing that:

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

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

F. In reviewing any request for a variance, the Zoning Hearing Board shall consider, at a minimum, the following:

(1) That there is good and sufficient cause.

(2) That failure to grant the variance would result in exceptional hardship to the applicant.

(3) That the granting of the variance will:

(a) Neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense.

(b) Nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.

G. A complete record of all variance requests and related actions shall be maintained by the Borough of Dauphin. In addition, a report of all variances granted during the year shall be included in the annual report to the FEMA.

H. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the 1 percent annual chance flood.

(Ord. 77-5, 2/28/1977; as amended by Ord. 2012-01, 7/30/2012; and as added by Ord. 2012-03, 12/4/2012)

§27-1009. Definitions.

1. *General.* Unless specifically defined below, words and phrases used in this Part shall be interpreted so as to give this Part its most reasonable application.

2. *Specific Definitions.*

Accessory use or structure—a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Base flood—a flood which has a 1 percent chance of being equaled or exceeded in any given year (also called the “100-year flood or 1 percent annual chance flood”).

Base flood elevation (BFE)—the elevation shown on the flood insurance rate

map (FIRM) for zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a 1 percent or greater chance of being equaled or exceeded in any given year.

Basement—any area of the building having its floor below ground level on all sides.

Building—a combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.

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

Existing manufactured home park or subdivision—a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision—the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood—a temporary inundation of normally dry land areas.

Flood Insurance Rate Map (FIRM)—the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study (FIS)—the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

Floodplain area—a relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

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

Floodway—the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 1 foot.

Highest adjacent grade—the highest natural elevation of the ground surface

prior to construction next to the proposed walls of a structure.

Historic structures—any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.

(3) Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior.

(4) Individually listed on a local inventory of historic places in communities with historic preservation that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior.

(b) Directly by the Secretary of the Interior in states without approved programs.

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

Manufactured home—a structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.

Manufactured home park or subdivision—a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

New construction—structures for which the start of construction commenced on or after August 2, 2012, and includes any subsequent improvements to such structures. Any construction started after April 15, 1977, and before August 2, 2012, is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.

New manufactured home park or subdivision—a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

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

Recreational vehicle—a vehicle which is:

- (1) Built on a single chassis.
- (2) Not more than 400 square feet, measured at the largest horizontal projections.
- (3) Designed to be self-propelled or permanently towable by a light-duty truck.
- (4) Not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory flood elevation—the base flood elevation (BFE) or estimated flood height as determined using simplified methods plus a freeboard safety factor of 1½ feet.

Repetitive loss—flood related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

Special exception—a special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks and subdivisions and substantial improvements to such existing parks, when such development is located in all, or a designated portion of, a floodplain.

Special flood hazard area (SFHA)—an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on the FIRM as zone A, AO, A130, AE, A99, or, AH.

Start of construction—includes substantial improvement and other proposed new development and means the date the permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days after the date of the permit and shall be completed within 12 months after the date of issuance of the permit unless a time extension is granted, in writing, by the Floodplain Administrator. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or

sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure—a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

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

Substantial damage—damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceeds 50 percent or more of the market value of the structure before the damage occurred.

Substantial improvement—any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage” or “repetitive loss” regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in this Part, must comply with all ordinance requirements that do not preclude the structure’s continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State inventory of historic places must be obtained from the Secretary of the Interior or the State historic preservation officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

Uniform Construction Code (UCC)—the Statewide building code adopted by the Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, the Code adopted the International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the State floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.

Violation—the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other

development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

(Ord. 77-5, 2/28/1977; as amended by Ord. 2012-01, 7/30/2012; and as added by Ord. 2012-03, 12/4/2012)

§27-1010. Enactment.

Adoption. This Part shall be effective on August 2, 2012, and shall remain in force until modified, amended or rescinded by Borough of Dauphin, Dauphin County, Pennsylvania.

(Ord. 77-5, 2/28/1977; as amended by Ord. 2012-01, 7/30/2012; and as added by Ord. 2012-03, 12/4/2012)

Part 11**General and Supplemental Provisions****§27-1101. Intent.**

This Part contains provisions which are concerned with certain additional matters of either a general or a specific applicability and which are not included elsewhere in the Chapter.

(*Ord. 77-5, 2/28/1977, §1100*)

§27-1102. Conversion Apartments.

A dwelling existing at the time this Chapter becomes effective may be converted into no more than three dwelling units provided the following requirements are met:

A. All other district requirements shall be met.

B. No structural alteration of the building exterior shall be made except as may be necessary for health and safety purposes.

C. Any fire escape shall be enclosed and shall not be on any wall facing a street.

D. Minimum apartment size of 700 square feet. [*Ord. 2012-03*]

(*Ord. 77-5, 2/28/1977, §1101; as amended by Ord. 2012-03, 12/4/2012*)

§27-1103. Accessory Buildings and Structures.

1. *Detached Garages.* Detached private garages shall be permitted in any district subject to the following requirements:

A. Maximum capacity—three cars.

B. Maximum height—20 feet.

C. Temporary buildings and structures are not permitted.

D. No garage shall be located within any front yard or any required side yard but may be located within a required rear yard, provided that it is no closer than 5 feet to any rear property line.

2. *Other Accessory Buildings and Structures.*

A. Maximum height—10 feet, including the highest point of any roof.

B. Minimum distance between buildings and/or structures—10 feet. [*Ord. 2012-03*]

C. No accessory building or structure shall be located within any required front or side yard, but may be located within a required rear yard provided that it is no closer than 2 feet to any rear any rear property line. The overhang of any accessory building or structure shall be included in the calculation of the foot distance from the property line.

D. No accessory building or structure shall be located closer than 5 feet from any rear property line when said line borders the paved portion or berm of any private right-of-way or public cartway, including any roads, streets or alleys of

Dauphin Borough or the Commonwealth of Pennsylvania. The overhang of any accessory building or structure shall be included in the calculation of the foot distance from the property line.

E. Accessory buildings and structures shall not occupy more than 25 percent of the rear yard.

F. No more than two accessory structures per lot. [*Ord. 2012-03*]

[*Ord. 04-03*]

(*Ord. 77-5, 2/28/1977, §1102; as amended by Ord. 95-4, 7/5/1995, §1; and by Ord. 04-03, 9/7/2004; and by Ord. 2012-03, 12/4/2012*)

§27-1104. Home Occupations.

Home occupations may be permitted only in single-family dwellings by special exception granted by the Zoning Hearing Board subject to the following requirements:

A. The activity or occupation shall be conducted entirely within the dwelling by a resident of the dwelling.

B. The amount of floor area used for such occupations shall not exceed 25 percent of the total floor area of the dwelling.

C. No more than two nonresidents shall be employed.

D. A sufficient number of off-street parking places shall be provided.

E. There shall be no displays or any change on or to the exterior of the building indicating that the building is being used for anything other than a residence, except that one sign shall be permitted providing that it is not larger than 1 square foot in area.

(*Ord. 77-5, 2/28/1977, §1103*)

§27-1105. Minimum Habitable Floor Areas.

The minimum habitable floor area of a dwelling unit shall be 700 square feet except for apartments which have been designed for occupancy by only one or two persons, in which case the minimum habitable floor area required shall be 400 square feet.

(*Ord. 77-5, 2/28/1977, §1104*)

§27-1106. Inground Swimming Pools.

1. Every inground swimming pool shall be completely enclosed by a fence or wall not less than 4 feet in height which shall be constructed so as not to have any openings, holes or gaps larger than 4 inches in any dimension. A dwelling, accessory building, or other structure may be used as part of such enclosure.

2. All gates and doors opening through such enclosure shall be equipped with a self-closing and self-latching device for keeping such gate or door securely closed and latched at all times when not in use.

3. No pool shall be located in any required front, side, or rear yard area.

4. All pools shall be provided with a filtering system meeting all applicable State requirements.

(*Ord. 77-5, 2/28/1977, §1105*)

§27-1107. Fences and Walls.

1. No fence or wall (except a retainer wall) shall be erected to a height of more than 4 feet in a front yard and more than 6 feet in any other yard with within all zoning districts. A fence or wall in any other portions of a property are limited to 6 feet. No fence or hedge or wall shall block a motorist's view of vehicles entering or exiting the property.

2. A fence in a front yard shall contain openings equal to 75 percent of the area.

3. Fences and walls must not be located within 5 feet from any private right-of-way or public cartway, including any roads, streets or alleys of Dauphin Borough or the Commonwealth of Pennsylvania. This height distance may be further regulated at any site in order to provide for a clear site distance.

4. Fences shall be finished on both sides in the same manner, or if finished only on one side, then said fence shall be erected so that the finished side faces outward away from the lot or parcel of ground where the same is erected.

5. If a fence, as erected on any property, is found by the Dauphin Borough Council, or an agent designated by said Board, to interfere with the location, relocation, maintenance or repair of any public roadway, cartway or public utility lines, then in such instance said fence shall be removed or relocated by the property owner who owns the land upon which the fence is located at the sole expense of said property owner.

6. It shall be unlawful to construct or alter any fence outside of the building line of any lot without having first secured a permit therefor.

7. Application for such permits shall be made to the Dauphin Borough Council or an agent designated by the Council and shall be accompanied by plans and specifications, in duplicate, showing the work to be done; such plans shall be verified by the signature of either the owner of the premises or the contractor in charge of the operation and shall be accompanied by the payment of a fee in an amount as shall be established from time to time by the Council in a duly adopted resolution.

8. Such application with plans shall be referred to the Zoning Officer who shall examine the same to determine whether the proposed construction or alteration will comply with the provisions of this Chapter relative thereto and shall issue or reject the permit, in writing 5 working days from receipt of the application. Upon approval, one set of plans shall be returned to the applicant with a permit and the other shall be retained by the Zoning Officer. No permit shall be issued until after approval of the plans.

9. It shall be unlawful to vary materially from the submitted plans and specifications unless such variations are submitted in an amended application to the Zoning Officer and approved by this official.

10. The Zoning Officer shall make or cause to be made such inspection as is necessary to see the enforcement of the provisions of this Section.

(*Ord. 77-5, 2/28/1977, §1106; as amended by Ord. 93-10, 12/7/1993, §1; and by Ord. 04-02, 9/7/2004*)

§27-1108. On-Lot Storage.

No vehicle, truck, trailer, mobile home, boat, or other similar equipment shall be stored within any required front, side, or rear yard.

(*Ord. 77-5, 2/28/1977, §1107*)

§27-1109. Corner Lots.

On any corner lot the required building setback shall be provided along both streets.

(*Ord. 77-5, 2/28/1977, §1108*)

§27-1110. Height.

The height limitations contained in the district regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually located above the roof of a building or structure.

(*Ord. 77-5, 2/28/1977, §1109*)

§27-1111. Yards.

Space provided to satisfy the yard and area requirements for any building or structure, either existing or proposed, shall not be used to meet the yard and area requirements for any, other building or structure.

(*Ord. 77-5, 2/28/1977, §1110*)

§27-1112. Two or More Principal Structures on Lot.

In any district, more than one building or structure having a permitted principal use may be erected on a single lot, provided that all the applicable requirements of this Chapter shall be met for each building or structure as though it were on an individual lot.

(*Ord. 77-5, 2/28/1977, §1111*)

§27-1113. Prohibited Uses.

In no instance shall any use or activity be permitted which by reason of noise, dust, odor, appearance, smoke, or other objectionable factor creates a nuisance, hazard, or other adverse effect upon the value or reasonable enjoyment of the surrounding properties.

(*Ord. 77-5, 2/28/1977, §1112*)

§27-1114. Visual Obstructions.

No wall, fence or other structure shall be erected or altered, and no hedge, trees, shrubs, etc., shall be maintained which may cause danger to pedestrians or traffic by obstructing the view.

(*Ord. 77-5, 2/28/1977, §1113*)

§27-1115. Access to Structure.

Every building or structure hereafter erected or moved shall be located on a lot that abuts a public street or road or with access to an acceptable private street or road and all buildings and structures shall be located so as to provide safe and convenient access for servicing, fire protection and off-street parking.

(Ord. 77-5, 2/28/1977, §1114)

§27-1116. Building on Alley Lots.

No primary building shall be erected on a lot having access only from an alley.

(Ord. 77-5, 2/28/1977, §1115)

§27-1117. Driveways.

1. No single use or group of attached buildings or uses designed as a single unit shall have more than two driveways.

2. Driveways between the street right-of-way line and cartways shall be paved.

3. Driveways shall be no wider than 30 feet.

4. Driveways may be located in any required yard area.

(Ord. 77-5, 2/28/1977, §1116)

§27-1118. Building Setback Lines.

Where an existing building setback line is established on at least 50 percent of the properties in a block in which the proposed building or structure is to be located, the minimum setbacks may be increased or decreased in order to conform with such established line.

(Ord. 77-5, 2/28/1977, §1117)

§27-1119. Resubdivision.

A resubdivision shall be required when any person utilizes two or more contiguous lots in single and separate ownership in such a way as to encroach upon the required yards on any one lot. Any required resubdivision shall follow the procedures contained within the Dauphin Borough Subdivision and Land Development Ordinance [Chapter 22], and shall be in full compliance with this Chapter and with all other applicable laws and ordinances.

(Ord. 77-5, 2/28/1977, §1118)

§27-1120. Single-Family Attached Dwellings.

A maximum of eight units shall be attached, with a combined total building length not to exceed 200 feet.

(Ord. 77-5, 2/28/1977, §1119)

§27-1121. Performance Standards.

1. Dauphin Borough requires safeguards to assure compliance with the following environmental performance standards.

2. When required, the applicant shall demonstrate that adequate provisions will be made to reduce and minimize any objectionable elements. Nothing in this performance standard shall take precedence over any applicable current State or Federal law governing air management, waste water management, solid waste management or noise.

3. No use or activity shall be permitted that will create any dangerous, injurious,

noxious or other objectionable situation.

4. Upon request of the Borough Zoning Officer or Planning Committee, the owner shall furnish or obtain proof at his own expense that the proposed use will comply with the following standards. A use or activity shall not:

A. Constitute a nuisance or danger to human health and safety, livestock or plants, or any other property as a result of the emission or dissemination of any fumes, smoke, odor or dust beyond the property lot of the premises upon which such use or activity is located.

B. Create any noise or vibration exceeding the average intensity of noise or vibration occurring from other sources at the property line.

C. Endanger any surrounding area by reason of fire or explosion.

D. Produce any objectionable heat or glare beyond the property line.

E. Create any electrical disturbances or adversely affect the operation of equipment located off the premises.

F. Discharge any dangerous or untreated effluent into any stream or other body of water, or otherwise contribute to the pollution of surface or underground water.

G. Create an undesirable or dangerous traffic condition on the street or in a nearby area, or generally a nuisance to any nearby property because of increased traffic.

H. Create any other objectionable condition which will endanger public health or safety or be detrimental to the proper use of the surrounding area.

(Ord. 77-5, 2/28/1977, §1120)

§27-1122. Performance Standard Procedure.

Upon request of the Zoning Officer all building and uses except residences shall be subject to performance standards.

A. When requested, the owner or applicant shall submit to the Planning Committee three copies of plans and specifications furnishing proof that operations will not produce any dangerous or objectionable elements.

B. The Borough may employ qualified experts to review such plans and specifications at the expense of the owner or applicant.

C. No owner or applicant will be required to reveal any secret processes, and any information submitted shall be treated as confidential.

D. Continued compliance with performance standards is required, and the Borough may reevaluate and reinspect to enforce compliance of any use where there are reasonable grounds to suspect violations.

(Ord. 77-5, 2/28/1977, §1121)

§27-1123. Projections into Yards.

The following projections shall be attached to a building, may be permitted in required yards and shall not be considered in determination of yard size.

A. Patios, paved terraces, decks, or open, unroofed porches shall be permitted

in all side and rear yards provided that such structures (1) shall be no closer than 5 feet to any lot line and (2) shall not exceed the maximum lot coverage allowed for the property.

B. Projecting architectural features, bay windows, cornices, eaves, fireplaces, chimneys, window sills, or other architectural features, provided they do not extend more than 5 feet into any required yard nor closer than 3 feet to any adjacent property lines; however, any canopies, porte cochere or other roofs that extend more than 5 feet from the building line as defined in Part 2 of this Chapter shall be subject to the yard requirements applied from the lot line to the edge of the roof.

C. Stairs, landing and decks that are unroofed, provided that they are no closer than 5 feet to any side and rear yard lot line.

D. Open balconies or fire escapes provided such balconies or fire escapes are not supported on the ground and do not project more than 5 feet into any required side or rear yard nor closer than 5 feet to any side or rear adjacent property line.

(Ord. 77-5, 2/28/1977; as added by Ord. 07-03, 3/6/2007)

Part 12**Off-Street Parking and Loading Facilities****§27-1201. General.**

1. No building or structure shall hereafter be constructed, enlarged or modified, and no use or activity shall be conducted or expanded unless provision is made on the same or adjacent premises for off-street parking and loading facilities meeting the requirements of this Chapter.

2. A single parking space shall have a minimum area of 200 square feet with dimensions of at least 9 feet by 20 feet excluding drives and accessways.

3. Parking areas shall have an all-weather, stable surface and shall be adequately drained to provide for safe and convenient access at all times.

4. Parking areas shall not be located in any required setback or yard area except driveways in single- and two-family residences. No part of any public right-of-way shall be used in computing the required area for parking.

5. Parking areas may be designed so that each vehicle may proceed to and from any parking space without requiring the moving of any other vehicle.

6. The required parking space for two or more uses may be provided in a common parking area, provided that the total number of spaces is not less than the sum of the spaces required for each individual use.

7. For any activity or use involving employees or staff, a sufficient number of parking spaces shall be provided for all employees or for all the employees on duty at any one time.

(Ord. 77-5, 2/28/1977, §1200)

§27-1202. Parking Space Requirements.

1. Minimum off-street parking requirements shall be as follows:

A. Single and two-family dwellings—two spaces for each dwelling unit.

B. Apartments and multi-family dwellings—three spaces for each dwelling unit.

C. Church—one space for each five seats.

D. Club, lodge—one space for each two members the facility is designed to accommodate.

E. Mortuary, funeral home—one space for each three visitors the facility is designed to accommodate.

F. Nursing, convalescent home—one space for each four patient beds.

G. Medical or dental clinic—four spaces for each doctor practicing at the clinic.

H. Restaurant, tavern—one space for each four seats.

I. Offices—one space for each employee or occupant plus an additional number of spaces for visitors, clients, customers, etc., or one space for each 200 square feet of office space.

J. Retail stores, general business, commercial and personal service establishments—a sufficient number of spaces shall be provided based upon the estimated number of patrons or customers to be served, or one space for each 200 square feet of area used for sales and the display of merchandise.

2. The Zoning Hearing Board shall determine the parking requirements for any uses, structures, or activities not specifically provided for above.

(*Ord. 77-5, 2/28/1977, §1201*)

§27-1203. Off-Street Loading Requirements.

Minimum off-street loading requirements shall be as follows:

A. At least one loading berth or area shall be provided for each establishment with a gross floor area under 10,000 square feet. For establishments with gross floor areas of more than 10,000 square feet, at least one additional berth or area shall be provided for each additional 10,000 square feet or fraction thereof.

B. The dimensions of each berth or area shall not be less than 10 feet by 25 feet.

C. All such loading facilities shall be located and designed so as not to interfere with the movement of other vehicles and pedestrians.

(*Ord. 77-5, 2/28/1977, §1202*)

Part 13**Signs****§27-1301. Definitions.**

Sign—any structure or device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge, or insignia of any government or governmental agency, or of any civic, charitable, religious, patriotic, fraternal, or similar organization.

Sign, business identification—a sign which directs attention to a use conducted, product or commodities sold or service performed upon the premises.

Sign, nonconforming—any sign lawfully existing on the effective date of this Chapter, or an amendment thereto, which renders such sign nonconforming because it does not conform to all the standards and regulations of the adopted or amended ordinance.

Sign, panel-type (billboards)—signs which advertise products or services other than those which are sold on the premises where the sign is located, and signs which are leased by the owner thereof to others for the purpose of conveying a commercial or noncommercial message.

Sign, projecting—a sign which projects horizontally from and is supported by a wall of a building.

Sign, real estate—a sign relating to the property upon which it is located, offering such property for sale or lease, announcing improvements or changes in connection therewith, warnings, or other similar notices concerning such property.

Sign, roof—any device or structure erected for advertising or identification purposes upon or above the roof of any building or structure or part thereof.

Sign, service—a sign which is incidental to a use lawfully occupying the property upon which the sign is located which sign is necessary to provide information to the public such as direction to parking lots, location of rest rooms; or other such pertinent information.

Sign, temporary—a temporary sign shall be construed to mean any sign, banner, cardboard or other material carrying an advertisement or announcement, which is displayed or intended to be displayed for a period not exceeding 60 days.

Sign, wall—a sign painted on or affixed to and paralleling the outside wall of a building, and having an area of not more than 15 percent of the area of the wall to which it is attached.

Site development plan—a scaled graphical depiction of the proposed development of a lot, parcel or tract of land describing all covenants assigned, as well as, accurately depicting the use, location and bulk of all buildings and structures, intensity of use or density of development, streets, driveways, rights-of-way, easements, parking facilities, open space, public facilities and utilities, setbacks, height of buildings and structures, and other such data necessary for Borough officials to determine compliance with this Chapter and appropriate provisions of other such ordinances, as they may apply.

Solar access—a property owner's right to have the sunlight shine on his/her land.

(Ord. 77-5, 2/28/1977)

§27-1302. Compliance with Regulations.

Signs may be erected and maintained only when in compliance with the provisions of this Part and any and all other ordinances and regulations relating to the erection, alteration, or maintenance of signs and similar devices.

(Ord. 77-5, 2/28/1977, §1300; as amended by Ord. 99-2, 8/3/1999)

§27-1303. Signs in Residential and Conservation Districts.

The following type of signs and no other, shall be permitted in Residential and Conservation Districts:

A. Signs advertising the sale or rental of the premises upon which they are erected by the owner or broker or any other person interested in the sale or rental of such premises, may be erected and maintained, provided:

(1) The size or any such sign is not in excess of 6 square feet.

(2) Not more than one sign is placed upon any property in single and separate ownership, unless such property fronts upon more than one street, in which event two such signs may be erected on each frontage.

(3) Signs will be removed within 30 days of final sale or rental.

B. Signs indicating the location of premises available for or in process of development, and having inscribed thereon the name of the owner, developer, builder, or agent, may be erected and maintained, provided:

(1) The size of any such sign is not in excess of 20 square feet.

(2) Not more than two such signs are erected on each 1,000 linear feet of street frontage.

C. Signs bearing the word "sold" or the word "rented," with the name of the person effecting the sale or rental, provided the conditions in paragraph A hereof, are complied with.

D. Signs of mechanics, painters, and other artisans during the period such persons are performing work on the premises on which such signs are erected, provided:

(1) The size thereof is not in excess of 12 square feet.

(2) Such signs are removed promptly upon completion of work.

E. Signs indicating the private nature of a driveway, or trespassing signs, provided that the size of any such sign shall not exceed 2 square feet.

F. Signs of schools, colleges, churches, hospitals, sanitariums, or other institutions of a similar nature, provided:

(1) The size of any such sign is not in excess of 20 square feet.

(2) Not more than one sign is placed on a property in single and separate ownership, unless such property fronts upon more than one street, in which event two such signs may be erected on each frontage.

G. Temporary signs advocating or opposing a candidate for public office or position on issue to be determined at election, provided such signs removed within

7 days after election.

H. Signs advocating home occupations, which shall be not larger than 2 square feet on the premises in which the occupation is located. No more than one such sign shall be permitted for each home occupation.

I. Signs directing persons unfamiliar with location of businesses to business (See “business direction signs” below).

J. Signs indicating the name of a particular estate or development provided that such signs do not exceed 6 square feet.

K. Public service signs erected by public agencies for regulatory, directions, or informational purposes.

(Ord. 77-5, 2/28/1977, §1301; as amended by Ord. 99-2, 8/3/1999)

§27-1304. Business Identification Signs.

Signs bearing the name of the occupation and products manufactured, processed, sold, or displayed may be erected and maintained on the premises in Neighborhood-Commercial and Commercial-Industrial Districts subject to the following regulations:

A. *Identification Sign.* One such sign for each business or activity, attached to the building or structure in which the business or activity is located provided that the sign area is not more than 2 square feet.

B. *Business Signs.* Two free-standing, wall or projecting signs are permitted for each property with a total aggregate square footage of sign area for both signs not to exceed 1 square foot for each lineal foot of property street frontage, but under no circumstances shall any single sign have a sign area greater than 50 square feet.

(Ord. 77-5, 2/28/1977, §1302; as amended by Ord. 99-2, 8/3/1999)

§27-1305. Panel-Type Signs (Billboards).

Signs which advertise products or services other than those which are sold on the premises where the sign is located are permitted in the Commercial-Industrial District subject to the following conditions, as well as all other applicable requirements. Such signs are not permitted in any other zoning district.

A. Panel type signs shall not exceed 120 square feet in area inclusive of border or trim area. Panel type signs shall not be greater than 15 feet in height. Further, panel type signs shall not be greater than 20 feet in length.

B. No panel type signs shall be erected within 1,000 feet of an adjacent non-commercial-industrial.

C. No panel-type signs shall be located within 1,000 feet of any existing panel-type sign.

D. A panel-type sign structure may contain only one sign per facing and may be placed double faced back to back on one structure.

E. Panel-type signs shall not exceed 35 feet in height measured from the height of the roadway to the top of the panel-type sign. The bottom of the platform or lowest point of the panel-type sign shall not be closer than 8 feet to the roadway.

F. All panel-type signs shall be maintained in safe structural condition. The painted portions of panel-type signs shall be periodically repainted and kept in good

condition.

G. The general vicinity of all panel-type signs on undeveloped property must be kept free and clear of sign materials, debris, trash, and other refuse.

H. No panel-type signs shall be erected closer to a street right-of-way line than 60 feet. No portion of any panel-type sign shall be placed on or extend over the right-of-way line of any street or highway.

I. No panel-type signs shall be erected closer to the side lot line or rear lot line than 30 feet.

J. No panel-type sign is permitted which is not effectively shielded so as to prevent beams or rays of light from being directed at any portion of a traveled street or highway or which is of such intensity or brilliance as to cause glare or to impair the vision of the driver of any vehicle, or which interferes with any driver's operation of a motor vehicle. No sign shall be so illuminated that it interferes with the effectiveness of or obscures an official traffic, sign, device, or signal. Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited.

K. Panel-type signs shall not be permitted upon the roof of any building.

L. A permit shall be required prior to the erection of any panel-type sign. Each applicant for a permit must provide the Borough with a copy of the lease or other document granting the applicant the right to erect the panel-type sign on the real estate premises.

(*Ord. 77-5, 2/28/1977, §1303; as amended by Ord. 99-2, 8/3/1999*)

§27-1306. General Regulations.

The following regulation shall apply to all permitted sign uses:

A. Sign must be constructed of durable materials, maintained in good condition, and not allowed to become dilapidated.

B. Signs shall not be placed in such a position that they will cause danger to traffic on a street by obscuring the view.

C. Signs, other than an official traffic sign, shall not be erected within the lines of any street.

D. * * *

E. All signs projecting or extending over any sidewalk shall be at least 10 feet above the sidewalk grade and shall not extend out more than 4 feet from the building or structure to which it is attached.

F. Signs shall be removed when the circumstances leading to their erection no longer apply.

G. Signs shall not project above the height limited permitted in any district in which they are located.

H. No sign shall be permitted which rotates and/or causes interruption or flashing of light or is mounted on wheeled vehicles.

I. All signs erected within the right-of-way of a State highway shall be in accordance with the regulations of the Pennsylvania Department of Transportation.

J. A permit shall not be required for the erection, alteration or maintenance of any signs permitted in a residential district.

K. A permit shall be required for the erection, alteration or reconstruction of advertising signboards, including poster panels, bulletins and the like.

(*Ord. 77-5, 2/28/1977, §1304; as amended by Ord. 99-2, 8/3/1999*)

§27-1307. Existing Nonconforming Signs.

Existing signs may be continued provided that signs conform to the general regulations as set forth in §27-1306 above.

(*Ord. 77-5, 2/28/1977, §1305; as amended by Ord. 99-2, 8/3/1999*)

Part 14**Nonconformities****§27-1401. Purpose.**

The following provisions shall apply to existing lawful uses, buildings, structures and lots which do not conform to the requirements of this Chapter or any amendments thereto. The purpose of these provisions is to reasonably provide for such existing nonconformities. The conversion or reversion of such nonconformities, however, shall be encouraged wherever possible.

(Ord. 77-5, 2/28/1977, §1400)

§27-1402. Nonconforming Building, Structures, and Uses.

1. *Continuation.* Any building, structure or lawful use existing at the time this Chapter becomes effective may be continued indefinitely.

2. *Extension.*

A. A lot or parcel occupied by a nonconforming use shall not be enlarged for purposes of enlarging or extending the nonconforming use.

B. A nonconforming use which is not entirely enclosed within a building shall not be enlarged or extended.

C. A building occupied by a nonconforming use shall not be enlarged, extended or structurally altered (except as may be required by law to assure the structural safety of the building) and any nonconforming use shall not be enlarged or extended except for the following which may be authorized by the Zoning Hearing Board:

(1) The extension of a nonconforming use of a portion of a building to another portion of the building.

(2) The limited extension of a conforming building occupied by a nonconforming use on a conforming lot provided that such extension is not detrimental to the character of the surrounding area or the interest of the Borough and that such extension shall conform to the area and height regulations of the district in which it is located.

D. A nonconforming building may be rebuilt or altered only:

(1) To eliminate or decrease the building's nonconformity.

(2) For reason as stated in subsection .4 of this Section.

(3) If alteration does not extend or increase the building's nonconformity.

[Ord. 94-1]

3. *Change.* A nonconforming use may be changed to another nonconforming use by grant of special exception only upon determination by the Zoning Hearing Board, after public hearing, that the proposed new use will be no more detrimental to its neighborhood and surroundings than is the use it is to replace.

4. *Restoration.* A nonconforming building, or buildings occupied by a nonconforming use which is wholly or partially destroyed by fire, explosion, flood, or other

phenomenon, or which has been legally condemned, may be reconstructed or repaired and/or used for the same nonconforming use, provided that such building reconstruction shall be commenced within 1 year from the date the building was destroyed or condemned and shall be carried on without interruption.

5. *Abandonment.* If a nonconforming use of a building or land is voluntarily discontinued for a period of 1 continuous year or more, subsequent use of such building or land shall be in conformity with the provisions of this Chapter.

(*Ord. 77-5, 2/28/1977, §1401; as amended by Ord. 94-1, 5/3/1994*)

§27-1403. Nonconforming Buildings, Structures, and Use Within the Floodway and Flood Fringe Districts.

Any building, structure or use within the Floodway and Flood Fringe Districts which existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

A. Expansion or enlargement shall not be permitted unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying stream improvements.

B. Modification, alteration, repair, reconstruction or improvement of any kind to a nonconforming structure or use to an extent or amount of less than 50 percent of its market value shall be elevated and/or floodproofed to the greatest extent possible.

C. Modification, alteration, repair, reconstruction or improvement of any kind to a nonconforming structure or use to an extent or amount of more than 50 percent of its market value shall be completely elevated or floodproofed up to a point 1½ feet above the 100-year flood elevation.

(*Ord. 77-5, 2/28/1977, §1402*)

§27-1404. Nonconforming Lots.

1. *Held in Single and Separate Ownership.* A building may be erected or altered on any lot held at the time this Chapter becomes effective in single and separate ownership which is not of the required minimum area or width or is of such unusual dimensions or shape that the owner would have difficulty in providing the required open spaces for the district in which such lot is located, provided that the plans for the proposed building shall be approved as a variance by the Zoning Hearing Board after review of the plans to assure reasonable compliance with the intent of the regulations for the district.

2. *Included in Approved Plans.* Buildings may be erected on lots which are not held in single and separate ownership at the time this Chapter becomes effective and which are not of the required area or width, if such lots are included in a land subdivision plan which has been approved by the Borough Council within a 3-year period prior to the effective date of this Chapter.

(*Ord. 77-5, 2/28/1977, §1403*)

§27-1405. Registration of Nonconformities.

For administrative purposes, the Zoning Officer shall prepare, immediately

following adoption of this Chapter, a complete list of all nonconforming structures and uses, and shall issue letters certifying this fact to all owners of such nonconformities. (Ord. 77-5, 2/28/1977, §1404)

Part 15**Administration****§27-1501. Enforcement.**

For the administration of this Chapter, a Zoning Officer shall be appointed. The Zoning Officer shall administer and enforce this Chapter in accordance with its literal terms and shall not have the power to permit any construction or any use or any change of use which does not conform to this Chapter.

(Ord. 77-5, 2/28/1977, §1500)

§27-1502. Duties of the Zoning Officer.

The duties of the Zoning Officer shall be as follows:

A. To receive and review all applications for building permits, certificates of occupancy, special permits, variances, and any other requests on matters relative to the administration of this Chapter.

B. To issue building permits and certificates of occupancy for construction and uses that are in accordance with the provisions of this Chapter and any other applicable ordinances and laws of the Commonwealth.

C. To maintain a complete record of all applications and plans for permits and the action taken on each.

D. To make inspections or investigations to determine compliance or noncompliance with the provisions of this Chapter.

E. To notify in writing the appropriate person or persons when any violation of this Chapter has occurred, indicating the nature of the violation through this issue of a stop order. If any such person or persons does not comply with the notice of violation within 5 days, the Zoning Officer shall notify the Borough Council for their action.

F. To keep this Chapter and accompanying Zoning Map of the Borough up to date.

G. To gather and present any facts, records or other information to the Planning Commission or Zoning Hearing Board when requested to do so.

(Ord. 77-5, 2/28/1977, §1501)

§27-1503. Zoning Permits.

Where required for the erection, enlargement, repair, alteration, moving, or demolition of any structure, a zoning permit must be obtained from the Zoning Officer. A zoning permit expires 6 months from the date of issuance unless the work specified in the applications shall have been begun within that time.

A. *Application.* The permit application must be accompanied by a site plan showing, as necessary to demonstrate conformity to this Chapter:

(1) *Lot.* The location and dimensions of the lot.

(2) *Streets.* Names and widths of abutting streets and highways.

(3) *Structures and Yards.* Locations, dimensions, and uses of existing and proposed structures and yards on the lot.

(4) *Improvements.* Proposed off-street parking and location areas, access drives and walks; proposed sewage disposal system.

B. *Final Plans.* All structures requiring stamped State approval must be approved by the Department of Labor and Industry prior to issuance of a zoning permit.

(Ord. 77-5, 2/28/1977, §1502; as amended by Ord. 2012-03, 12/4/2012)

§27-1504. Signs.

1. *Sign Permits.*

A. A permit shall be obtained from the Zoning Officer prior to the erection or alteration (including any change in the location or dimensions) of any permanent sign.

B. Applications for a sign permit shall be made in writing to the Zoning Officer, and shall contain all information necessary for such officer to determine whether the proposed sign, or other proposed alterations, conform to all the requirements of this Chapter.

C. Applications for a sign permit shall be accompanied by a fee, payable to the Borough, in an amount as established from time to time by resolution of Borough Council for each sign to be erected or altered. [Ord. 2012-03]

D. Permits shall be granted or refused within 30 days from date of application.

E. No sign permit shall be issued except in conformity with the regulations of this Chapter, except after written order from the Zoning Hearing Board or the Courts.

F. All applications for sign permits shall be accompanied by plans or diagrams in duplicate and approximately to scale, showing the following:

(1) Exact dimensions of the lot or building upon which the sign is proposed to be erected.

(2) Exact size, dimensions and location of the said sign on the lot or building.

(3) Any other lawful information which may be required of the applicant by the Zoning Officer. One copy of said plan or diagram shall be returned to the applicant, after the Zoning Officer shall have marked such copy either approved or disapproved, and attested to same.

(Ord. 77-5, 2/28/1977; as added by Ord. 93-3, 5/4/1993, §1; and by Ord. 2012-03, 12/4/2012)

§27-1505. Certificate of Occupancy.

It shall be unlawful to use and/or occupy and building, structure, or land in the Borough until a certificate of occupancy has been issued by the Zoning Officer. The Zoning Officer shall not issue such a certificate unless he has inspected the building, structure or land to be used or occupied and determined compliance with this Chapter

and any other applicable ordinances.

A. *Application.* Application for a certificate of occupancy shall be submitted, in such form as the Zoning Officer may prescribe, by the owner or lessee of any building, structure or land or his authorized representative. Said application shall be accompanied by a fee, payable to the Borough, in an amount as established by resolution of the Borough Council. [Ord. 2012-03]

B. *Action on Application.* Upon receipt of the application the Zoning Officer shall inspect the premises to determine compliance with the building permit applications, this Chapter and any other approved ordinance. Within 10 days after receipt of the application the Zoning Officer shall either approve or disapprove the application and notify the applicant accordingly. If the application is disapproved, the Zoning Officer shall provide the applicant, in writing, the reasons for the disapproval.

C. *Issuance of Certificate of Occupancy.* Upon approval of an application the Zoning Officer shall issue a certificate of occupancy to the applicant for the use indicated on the approved application.

D. *Temporary Certificate of Occupancy.*

(1) Upon request, the Zoning Officer may issue a temporary certificate of occupancy for a building, structure or land, or portion thereof before all the work covered by a building permit is completed. Such portion or portions may be used and/or occupied prior to completion of all work provided that there is no danger to any public or individual health, safety, or welfare.

(2) Temporary certificates of occupancy shall also be required for such uses as tents, trailers, and temporary buildings or construction sites. Such temporary certificates shall be valid for a period no longer than 6 months.

E. *Change of Use.* If there is any change in the use of any building, structure or land for which a Certificate of Occupancy has been issued, a new certificate of occupancy shall be required. All requirements applicable to the issuance of the original certificate of occupancy shall also be applicable to the issuance of the new certificate of occupancy. [Ord. 93-3]

(Ord. 77-5, 2/28/1977, §1503; as amended by Ord. 93-3, 5/4/1993, §§2, 3; and by Ord. 2012-03, 12/4/2012)

§27-1506. Enforcement Remedies.

1. Any person, partnership or corporation who or which has violated the provisions of this Chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the magisterial district judge. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the magisterial district judge determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating this Chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one

such violation until the fifth day following the date of the determination of a violation by the magisterial district judge and thereafter each day that a violation continues shall constitute a separate violation.

2. The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgment pending a final adjudication of the violation and judgment.

3. Nothing contained in this Section shall be construed or interpreted to grant to any person or entity other than the Borough the right to commence any action for enforcement pursuant to this Section.

4. Magisterial district judges shall have initial jurisdiction in proceedings brought under this Section.

(*Ord. 77-5, 2/28/1977; as added by Ord. 2012-03, 12/4/2012*)

§27-1507. Preventive Remedies.

1. In addition to other remedies, the Borough may institute and maintain appropriate actions by law or in equity to restrain, correct or abate violations, to prevent unlawful construction, to recover damages and to prevent illegal occupancy of a building, structure or premises. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.

2. The Borough may refuse to issue any permit or grant any approval necessary to further improve or develop any real property which has been developed or which has resulted from a subdivision of real property in violation of this Chapter. This authority to deny such a permit or approval shall apply to any of the following applicants:

A. The owner of record at the time of such violation.

B. The vendee or lessee of the owner of record at the time of such violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.

C. The current owner of record who acquired the property subsequent to the time of violation without regard as to whether such current owner had actual or constructive knowledge of the violation.

D. The vendee or lessee of the current owner of record who acquired the property subsequent to the time of violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.

3. As an additional condition for issuance of a permit or the granting of an approval to any such owner, current owner, vendee or lessee for the development of any such real property, the Borough may require compliance with the conditions that would have been applicable to the property at the time the applicant acquired an interest in such real property.

(*Ord. 77-5, 2/28/1977; as added by Ord. 2012-03, 12/4/2012*)

§27-1508. Conditional Use Regulations.

It is the intent of this Section to provide special controls and regulations for particular uses which may, under certain conditions, be conducted within the various

zoning districts established in Part 3 of this Chapter. Each subsection of this Section has particular controls and/or requirements which must be satisfied before the use by right or by conditional use is permitted. It is the intent of this Part that these particular controls and requirements are in addition to those imposed by the district use regulations and the general regulations contained in Part 11 of this Chapter.

A. *Applicability, Limitations, Compliance.*

(1) *Applicability.* The controls imposed by Parts 4 through 10 are applicable where cited specifically as a conditional use and where cited for permitted uses.

(2) *Limitations.* Conditional uses shall be permitted only where specifically cited in the district use regulations in Parts 4 through 10 of this Chapter.

(3) *Compliance.* Nothing in this Section shall relieve the owner, agent, developer, or applicant for approval of a conditional use from obtaining subdivision and/or land development approval in accordance with the Dauphin Borough Subdivision and Land Development Ordinance [Chapter 22].

B. *Procedure for Conditional Use.*

(1) *Application.* Each application for a conditional use shall be accompanied by a proposed plan showing the size and location of the lot, the location of all buildings and proposed facilities, including access drives, parking areas, and all streets within 200 feet of the lot. The plan shall indicate each adjacent use and land owner. Each application is subject to a fee, as established by resolution, by the Dauphin Borough Council, and is payable to Dauphin Borough.

(2) *Review by Dauphin Borough Council.*

(a) In its review the Council members shall take into consideration the public health, safety, welfare, comfort and convenience of the public in general, and of the residents of the immediate neighborhood in particular, and existing landscape or viewshed. As a result, the Council may recommend appropriate conditions and safeguards as may be required in order that the result of its action may, to the maximum extent possible, further the expressed intent of the Chapter and the accomplishment of the following objectives in particular.

(b) All proposed structures, equipment, or materials shall be readily accessible for fire and police protection.

(c) The proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.

(d) In addition to the above, in the case of any use located in, or directly adjacent to, a residential district.

1) The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both

pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to, or incongruous with, said residential district of conflict with the normal traffic or the local roadways.

2) The location and height of buildings, the location, nature and extent of landscaping on the site shall be such that use will not hinder or discourage the appropriate development and use of adjacent land and buildings.

(3) *Council.*

(a) Within 45 days from receipt of a completed conditional use application and payment of the required fee, the Council shall hold a duly advertised public hearing on the matter of the conditional use application.

(b) Within 30 days from the date of the final public hearing on the conditional use application, the Council will render its decision. Written notice of said hearing shall be conspicuously posted on the affected tract of at least 1 week prior to the hearing.

(c) Each decision shall be accompanied by findings of fact and conclusions. The conclusions shall contain a reference to the provisions relied upon and the reasons why the conclusion is deemed appropriate.

C. *Effect of Conditional Use.* Any use for which a conditional use approved may be granted shall be deemed to be a conforming use in the district in which such use is located, provided that such permit shall be deemed to affect only the lot or portion thereof for which such approval shall have been granted.

(Ord. 77-5, 2/28/1977; as added by Ord. 02-05, 9/3/2002, §2)

Part 16**Zoning Hearing Board****§27-1601. Administration and Procedure.**

1. *Creation of Board.* A Zoning Hearing Board shall be appointed by Borough Council in the manner prescribed by law.

2. *Membership of Board.* The membership of the Board shall consist of three residents of the Borough appointed by Borough Council. Their terms of office shall be 3 years and shall be so fixed that the term of office of one member shall expire each year. The Board shall promptly notify the Borough Council 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 Borough, except that no more than one member of the Board may also be a member of the Planning Commission.

3. *Removal of Members.* Any Board member may be removed for malfeasance, misfeasance, or nonfeasance in office or for other just cause by a majority vote of Borough Council, taken after the member has received 15 days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

4. *Organization of the Board.*

A. The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be required, consisting of not less than a majority of all the members of the Board. The Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board as provided in §27-1602.

B. The Zoning Hearing Board shall adopt rules in accordance with the provisions of this Chapter. Meetings of the Zoning Hearing Board shall be held at the call of the Chairman and at such other times as the Zoning Hearing Board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths, and compel the attendance of witnesses. All meetings of the Zoning Hearing Board shall be open to the public.

C. The Zoning Hearing Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicate such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Borough Secretary and shall be a public record.

D. The Zoning Hearing Board shall submit a report of its activities to Borough Council once a year.

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

to the members of Borough Council.

(Ord. 77-5, 2/28/1977, §1600)

§27-1602. Hearings.

1. *Requirements and Procedures.* The Board shall conduct hearings and make decisions in accordance with the following procedures and requirements:

A. A hearing shall be held by the Zoning Hearing Board within 45 days of the time an application is received, or a decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed, in writing, to an extension of time.

B. Whenever a hearing has been scheduled, notice shall be given to the general public by means of publication once each week for 2 successive weeks in a newspaper of general circulation in the borough. Such public notice shall state the time and place of the hearing and the particular nature of the matter to be considered. The first publication shall not be more than 30 days and the second publication shall not be less than 7 days from the date of the hearing. Direct individual notice shall also be given to the applicant, the Borough Planning Commission, the Zoning Officer, the County Planning Commission, and such other persons who have made timely request for such notice. Also, notice of such hearings shall be conspicuously posted on the affected tract or parcel of land. [Ord. 2012-03]

C. The hearings shall be conducted by the Board or the Board may appoint any member as a hearing officer. The decision, or where no decision is called for, the findings shall be made by the Board but the parties may waive decision or findings by the Board and accept the decision or findings by the hearing officer as final.

D. The parties to the hearing shall be any person who is entitled to notice under paragraph .A without special request therefore who has made timely appearance of record before the Board and any other person permitted to appear by the Board.

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

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

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

H. The Board or hearing officer, as the case may be, shall keep a stenographic record of the proceedings, and a transcript of the proceedings and copies of graphic or written material received in evidence shall be made available to any party at cost.

I. The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not

take notice of any communication, reports, staff memoranda, or other materials unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings with any party or his representative unless all parties are given an opportunity to be present.

J. Upon receipt and review of application filed with the Zoning Hearing Board, the Zoning Hearing Board shall make a determination of anticipated expenses of the Zoning Hearing Board to provide for the hearing. The Zoning Hearing Board shall estimate its anticipated need for legal counsel, engineering service, stenographic services, secretarial support, rental of facilities needed for the hearing, etc. The Zoning Hearing Board shall give notice to the applicant that the applicant shall be responsible for all above-referenced costs associated with the Board's holding of the hearing, and shall require the applicant to deposit within 10 days a sum of money (which shall range from \$75 to \$500) which shall be credited against such anticipated costs, or suffer dismissal of the application. In the event during the course of the hearing the Board's costs exceed the amount deposited by the applicant, the Board shall require the applicant to deposit immediately additional sums. In the event hearing costs are less than the amount deposited by the applicant, the Board shall promptly return the difference to the applicant after a decision has been rendered. The failure of the applicant to pay such sums of money to defray the Board's costs shall be grounds for dismissal of the applicant's application. [*Ord. 86-1*]

2. *Notice of Decision.*

A. The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days. Each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore.

B. Conclusions based on any provisions of this Chapter or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and if there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings. Where the Board has power to render a decision and the Board or the hearing officer, as the case may be, fails to render the same within 45 days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant.

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

(*Ord. 77-5, 2/28/1977, §1601; as amended by Ord. 86-1, 3/4/1986, §2; and by Ord. 2012-03, 12/4/2012*)

§27-1603. Powers and Duties.

The Zoning Hearing Board shall have the following powers and duties:

A. *Appeals from the Zoning Officer.* The Board shall hear and decide appeals where it is alleged by the appellant that the Zoning Officer has failed to follow prescribed procedures or has misinterpreted or misapplied any provision of a valid ordinance or map or any valid rule or regulation governing the action of the Zoning Officer. Nothing contained herein shall be construed to deny to the appellant the right to proceed directly in court where appropriate pursuant to Pa.R.C.P. 1091 to 1098, relating to mandamus.

B. *Variances.* The Board shall hear requests for variances where it is alleged that the provisions of this Chapter inflict unnecessary hardship upon the applicant. The Board may, by rule, prescribe the form of application and may require preliminary application to the Zoning Officer. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Chapter. All requests for variances will first be sent by the Board to the Planning Commission for an advisory review and recommendation of the consistency of the request with the comprehensive plan.

C. *Special Exceptions.* Where Borough Council, in this Chapter, has stated special exceptions to be granted or denied by the Board pursuant to express standards and criteria, the Board shall hear and decide requests for such special exceptions in accordance with such standards and criteria. In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Chapter, as it may deem necessary to implement the purposes of this Chapter. All requests for special exception will first be sent by the Board to the Planning Commission for an advisory review and recommendation of the consistency of the request with the comprehensive plan.

(Ord. 77-5, 2/28/1977, §1602)

§27-1604. Standards for Zoning Hearing Board Action.

In any instance where the Zoning Hearing Board is required to consider a special exception or variance in accordance with the provisions of this Chapter, the Board shall, among other things, consider the following standards:

A. *For Variances.*

(1) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions generally created by the provisions of this Chapter 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 this Chapter 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.

(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 Chapter and the comprehensive plan.

B. For Special Exceptions.

(1) Consider the suitability of the property for the use desired. Assure itself that the proposed request is consistent with the spirit, purpose, and intent of this Chapter and the comprehensive plan.

(2) Determine that the proposed special exception will not substantially injure or detract from the use of neighboring property or from the character of the neighborhood and that the use of property adjacent to the area included in the proposed change or plan is adequately safeguarded.

(3) Determine that all yard, open space and height limitations for the district have been met.

(4) The provision of off-street parking.

(5) The number and location of vehicular access points to the site.

(6) The suitability of the proposal with respect to probable effects upon traffic in order to protect streets and highways from undue congestion.

(7) Pedestrian access to the site.

(8) The effect upon and/or availability of public facilities and utilities such as water, sewer, police and fire protection, schools, etc.

(9) The provision of a planting screen and/or additional yard or open space area to reduce the effect of the proposed use upon adjacent properties.

(10) Additional reasonable conditions as deemed necessary to assure compliance with the intent of this Chapter.

C. For Variances and Special Exceptions within the Floodway and Flood-Fringe Districts. In passing upon applications for variances and special exceptions the Zoning Hearing Board shall consider all relevant factors specified in other Sections of this Chapter and:

(1) The danger of life and property is due to increased flood heights or velocities caused by encroachments. The Zoning Hearing Board shall not grant a variance for any use or development within the Floodway District if the use or development would result in any increase in the 100-year flood elevation. [Ord. 79-3]

(2) The danger that materials may be swept onto other lands or downstream to the injury of others.

(3) The proposed water supply and sanitation systems and the ability of

these systems to prevent disease, contamination, and unsanitary conditions.

(4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

(5) The importance of the services provided by the proposed facility to the community.

(6) The requirements of the facility for a waterfront location.

(7) The availability of alternative locations not subject to flooding for the proposed use.

(8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(9) The relationship of the proposed use to the comprehensive plan and flood-plain management program for the area.

(10) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(11) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.

(12) Such other factors which are relevant to the purposes of this Chapter.

(*Ord. 77-5, 2/28/1977, §1603; as amended by Ord. 79-3, 4/3/1979, §4*)

§27-1605. Procedures Relating to Variances from Floodplain District Regulations.

1. *Notice to Applicant.* Whenever a variance from the provisions of Part 10 of this Chapter is granted, the Zoning Hearing Board shall notify the applicant in writing that:

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

B. Such variance may increase the risks to life and property.

2. *Recordkeeping; Report to Federal Insurance Administration.* A complete record of all requests for variances from Part 10 of this Chapter, and all related actions, shall be maintained by the Zoning Hearing Board. In addition, a report of all such variances granted during the year shall be included in the annual report to the Federal Insurance Administration.

(*Ord. 77-5, 2/28/1977, §1603; as added by Ord. 93-7, 8/3/1993, §3*)

§27-1606. Fees.

Each applicant for special exception, variance or other appeal before the Board, or for a curative amendment before the Borough Council shall at the time of making application pay an application fee in accordance with a schedule adopted by resolution of the Borough Council.

(*Ord. 77-5, 2/28/1977, §1604*)

§27-1607. Costs.

Costs shall be assessed to the applicant and shall be the actual cost to the Borough, as nearly as it can be reasonably determined, for advertising, mailing, reproduction,

stenographic and similar expenses. Such costs shall be paid by the applicant after any hearing, but prior to the time a decision is rendered.

(Ord. 77-5, 2/28/1977, §1605)

