

## **SECTION 2201 ORGANIZATION OF ZONING HEARING BOARD**

- A. The Zoning Hearing Board shall elect from its own membership its officers who shall serve annual terms as such and may succeed themselves.
- B. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all members of the Zoning Hearing Board except when member(s) of the Zoning Hearing Board are disqualified to act in a particular matter, the remaining member(s) may act for the Zoning Hearing Board.
- C. The Zoning Hearing Board may appoint a Hearing Officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Zoning Hearing Board as provided in Article IX, Section 908 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, and this Chapter.
- D. The Zoning Hearing Board may make, alter, and rescind rules and forms for its procedure, consistent with ordinances of the Township and laws of the Commonwealth of Pennsylvania.
- E. The Zoning Hearing Board shall keep full public records of its business, and shall submit a report of its activities to the Board of Supervisors once a year.

## **SECTION 2202 EXPENDITURES FOR SERVICE**

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

## **SECTION 2203 HEARINGS**

- A. The Zoning Hearing Board shall conduct hearings and make decisions and/or findings in accordance with the following requirements:
  - 1. The parties to the hearing shall be the Township, the Township Zoning Officer, the Township Zoning Hearing Board, the Applicant and/or Petitioner, and any person affected by the application who has made timely appearance of record before the Zoning Hearing Board, and any person(s) including civic and community organizations permitted by the Zoning Hearing Board to appear. All persons who wish to be considered parties shall enter appearances in writing on forms provided by the Zoning Hearing Board for that purpose.

2. Requests, applications, and petitions for a hearing before the Zoning Hearing Board and decisions and/or findings of the Zoning Hearing Board shall be filed with the Township Secretary at the Township Municipal Office. Applicants shall file their request and/or petition upon forms approved and to be furnished by the Zoning Hearing Board and pay a fee in accordance with the schedule fixed by resolution by the Board of Supervisors. No application, petition, and/or request shall be considered officially received until the application is completed in full including requested documentation and/or illustrations, and the fee is paid.
3. Notice of the hearing shall be given to the public, the Applicant, the Township Zoning Officer, the Township Board of Supervisors, and to any person who has made timely request for the same. A notice of the hearing shall be given to such other persons as the Township Board of Supervisors or the Township Zoning Hearing Board shall designate. In addition, a notice of said hearing shall be conspicuously posted on the affected tract or tracts of land at least one (1) week prior to the hearing. The notice of the hearing shall be given at such time and in such manner as shall be prescribed by the rules of the Zoning Hearing Board.

B. Conduct of Hearing

1. The hearing shall be conducted by the Zoning Hearing Board or the Hearing Officer. The final decision or findings shall be made by the Zoning Hearing Board but the parties may waive said final decision and findings by the Zoning Hearing Board and accept the decision and findings of the Hearing Officer as final.
2. The hearing shall commence not later than sixty (60) days after the completed application has been officially received and fee has been paid.
3. The presiding official of the Zoning Hearing Board shall have the 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.
4. The parties have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross examine adverse witnesses on all relevant issues.
5. Formal rules of evidence shall not apply but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
6. The Zoning Hearing Board or the Hearing Officer shall keep a stenographic record of the proceedings and a transcript of the proceedings as well as copies of graphic or written material received in evidence shall be made available to any party at cost.
7. The Zoning Hearing Board shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved

except upon notice and opportunity for all parties to participate; shall not take notice of any communication, reports, staff memoranda, or other materials unless the parties are afforded an opportunity to contest the material so noticed; and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representatives unless all parties are given an opportunity to be present.

8. The Zoning Hearing Board or the Hearing Officer may continue the hearings.

## **SECTION 2204    RENDERING OF DECISIONS AND/OR FINDINGS**

- A. The Zoning Hearing Board or the Hearing Officer shall render a written decision or make written findings on the application within forty-five (45) days after the date of the last hearing. In the case where said decision or findings are that of the Hearing Officer, the Zoning Hearing Board's decision or findings shall be entered no later than forty-five (45) days after the decision and/or findings of the Hearing Officer.
- B. CONTENTS OF THE DECISION
  1. Each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor.
  2. Conclusions based on any provisions of this Chapter, the Official Zoning Map, the Pennsylvania Municipalities Planning Code, any Township Ordinance, Rule, or Regulation, or Laws of the Commonwealth of Pennsylvania shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in light of the facts found.
- C. If the hearing is conducted by a Hearing Officer and there has been no stipulation that his decision or findings are final, the Zoning Hearing Board shall make his report and recommendations available to the parties and the parties shall be entitled to make written representation thereon to the Zoning Hearing Board prior to a final decision or entry of findings.
- D. When the Zoning Hearing Board fails to hold the required hearing within sixty (60) days from the date the Applicant's application was officially received, or when the Zoning Hearing Board fails to render the decision or findings within the forty- five (45) days after the last hearing, 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.
- E. ADVERTISEMENT OF THE DECISION
  1. A copy of the final decision or the findings shall be delivered to the Applicant personally or mailed to him not later than the day following the date of the decision.

2. To all other persons who have filed their name and address with the Zoning Hearing Board no later than the last day of the hearing, the Zoning Hearing Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.
3. Additional notice or notices shall be given as prescribed by the rules of the Zoning Hearing Board.
4. Where a decision has been rendered in favor of the Applicant because of the failure of the Zoning Hearing Board to meet or render a decision or findings, the Zoning Hearing Board shall give public notice of said decision within ten (10) days in the same manner as provided in this Part.

## **SECTION 2205 JURISDICTION OF ZONING HEARING BOARD**

- A. CHALLENGE TO THE VALIDITY OF THIS CHAPTER OR THE OFFICIAL ZONING MAP
  1. The Zoning Hearing Board shall hear challenges to the validity of this Chapter or the Official Zoning Map except when:
    - (a) The challenge is of an alleged defect in the process of enactment or adoption of this Chapter and the Official Zoning Map. Such challenge/appeal shall be taken directly to the Court and filed not later than thirty (30) days from the effective date of this Chapter or Map.
    - (b) The challenge to the validity of this Chapter or Map is submitted to the Board of Supervisors together with a curative amendment.
  2. In all such challenges the Zoning Hearing Board shall take evidence and make a record of the findings. At the conclusion of the hearing the Zoning Hearing Board shall decide all contested questions and shall make findings on all relevant issues of fact which shall become a part of the record on appeal to the Court.
- B. Appeals from the determination of the Zoning Officer, including, but not limited to the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.
- C. Appeals from a determination by the Township Engineer or the Zoning Officer with reference to the administration of any floodplain or flood hazard ordinances or such provisions within a land use ordinances.
- D. Applications for variances from the terms of the Zoning Ordinance and Flood Hazard Ordinance or such provisions within a land use ordinance, pursuant to Section 910.2 of the Pennsylvania Municipalities Planning Code, Act 247, as amended.



- E. The Zoning Hearing Board shall hear requests for Variances where it is alleged that the provisions of this Chapter inflict unnecessary hardship upon the Applicant.
1. The landowner or any tenant with permission of the landowner shall file a written request for a Variance upon a form approved and furnished by the Zoning Hearing Board and shall pay a fee in accordance with the schedule fixed by resolution by the Board of Supervisors. No application shall be considered officially received until the application is completed in full and the fee is paid. In some cases the Zoning Hearing Board may require preliminary application to the Zoning Officer. In such cases the Zoning Officer shall transmit the application and any information received therewith along with the official file on said issue to the Zoning Hearing Board and a copy of the contents of the file shall also be transmitted to the applicant. (Revised by Ord. 182, 9/8/1997)
  2. The hearing shall be conducted in accordance with this Section.
  3. The Zoning Hearing Board may grant a Variance provided the following findings are made where relevant in a given case.
    - (a) That the unnecessary hardship is due to the 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 not the circumstances or conditions generally created by the provisions of this Chapter in the neighborhood or district in which the property is located.
    - (b) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Chapter and that the authorization of a Variance is therefore necessary to enable the reasonable use of the property.
    - (c) That such unnecessary hardship has not been created by the Appellant.
    - (d) That the Variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, not be detrimental to the public welfare, nor will violate the spirit and intent of this Chapter and its Community Development Goals and Objectives.
    - (e) That the Variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

4. In granting a Variance the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Chapter.
  5. A Variance applies only to that particular piece of property for which it is granted.
- F. The Zoning Hearing Board shall hear and decide requests for Special Exceptions in those cases wherein this Ordinance indicates a Special Exception may be granted within a specific zoning district subject to compliance with the expressed standards and criteria for which the Special Exception is to be granted and the general standards and criteria of Part XXI, Sections 2134 and 2135.
1. The landowner or any tenant with permission of the landowner shall file a written request for a Special Exception upon a form approved and furnished by the Zoning Hearing Board and shall pay a fee in accordance with the schedule fixed by resolution of the Board of Supervisors. No application shall be considered officially received until the application is completed in full and the fee is paid.
  2. The hearing shall be conducted in accordance with this Part.
- G. Where the Zoning Hearing Board has jurisdiction over a zoning matter pursuant to this Part, the Zoning Hearing Board shall also hear all appeals which an Applicant may elect to bring before it with respect to any requirement pertaining to the same development plan or development. In any such case, the Zoning Hearing Board shall have no authority to pass upon the non-zoning issues, but shall take evidence and make a record thereon as provided in this Part. At the conclusion of the hearing, the Board shall make findings on all relevant issues of fact which shall become part of the record on appeal to the Court.

## **SECTION 2206 TIME LIMITATIONS**

- A. No person shall be allowed to file any proceeding with the Zoning Hearing Board later than thirty (30) days after an application for development, preliminary or final, has been approved by the Township if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan or from an adverse decision by the Zoning Officer on a challenge to the validity of this Chapter or an amendment hereto or map or an amendment thereto shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

- B. All appeals from determinations adverse to the landowner shall be filed by the landowner within thirty (30) days after notice of the determination is issued.

## **SECTION 2207 STAY OF PROCEEDINGS, FURTHER APPEALS**

- A. Upon filing of any proceeding referred to in Section 913.3 of the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended, and during its pendency before the Board, all land development pursuant to any challenged Ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder, shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals, on petition, after notice to the Zoning Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Board.
- B. After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all evidence presented, if the court determine that the appeal is frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court.
- C. The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the responding party to post a bond shall be interlocutory.
- D. If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond and the appellate court sustains the order of the court below to post a bond, the respondent to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals, shall be liable for all reasonable costs, expenses and attorney fees incurred by the petitioner.

## PART XXIII

### ADMINISTRATION

#### SECTION 2300 ADMINISTRATION

- A. Zoning Officer - This Chapter shall be administered by the Zoning Officer. The Township Board of Supervisors shall appoint a Zoning Officer who shall not hold any elective office in the Township. The Board of Supervisors may, from time to time, appoint deputy Zoning Officers who shall serve under the supervision of the Zoning Officer. The Board of Supervisors shall fix the compensation to be paid to the Zoning Officer and such deputy Zoning Officers as may be appointed to assist the Zoning Officer. The Zoning Officer and deputy Zoning Officers shall serve at the pleasure of the Township Board of Supervisors.
- B. Duties and Responsibilities - The Zoning Officer shall administer this *Chapter* in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to the requirements of this Chapter. Within this power, the Zoning Officer shall have duties as follows:
1. Receive applications as indicated and review applications for completeness and compliance.
  2. Notify applicants of deficiencies in application(s) and request additional information.
  3. Declare the application officially received.
  4. Distribute applications to the various Township agencies and Boards for reviews and/or approvals, as required.
  5. Maintain file on all applications in the review process.
  6. Receive review comments and written approvals or recommendations from the various Township agencies and Boards as required.
  7. Issue building, zoning, temporary use, and sign permits after all reviews comments, and approvals as required have been received.
  8. Make inspection(s).
  9. Issue stop work order(s).
  10. Issue denials for permits.
  11. Issue occupancy permits only after all construction and development conforms to the requirements of this *Chapter* and other related Township

Ordinances and, if applicable, all conditions imposed by the Zoning Hearing Board have been complied with.

12. The Zoning Officer may identify and register nonconforming uses, structures and/or lots as directed by the Board of Supervisors.
13. At least once every three (3) months, the Zoning Officer shall submit to the Township Board of Supervisors a written statement of all building permits, occupancy permits, zoning permits, sign permits, temporary use permits, and all violation notices and orders issued.
14. The Zoning Officer shall meet with the Planning Commission as needed at the Planning Commission's regularly scheduled meeting to keep the Commission abreast of matters concerning land development in the township, and to discuss problems in administering this Zoning Chapter or recommend changes to this Zoning Chapter.
15. An official record shall be kept of all business and activities of the office of the Zoning Officer specified by provisions of this Chapter.

#### **SECTION 2301 COORDINATION WITH OTHER TOWNSHIP REQUIREMENTS AND PERMITS, STATE AND FEDERAL REQUIREMENTS AND PERMITS**

In all cases, any application for a permit of any of the types heretofore described in this *Chapter* shall be decided not only on the basis of compliance with this Zoning *Chapter*, but also on the basis of compliance with all other applicable Township Ordinances and all other applicable rules and regulations of the various Township authorities and agencies which might be concerned, as well as State and Federal requirements and permits.

#### **SECTION 2302 BUILDING PERMIT**

- A. Permit required - A building permit shall be required prior to the:
  1. Placement, erection, or construction of a building or structure.
  2. Structural alteration or reconstruction of a building or structure.
  3. Addition to a building or structure.
  4. Relocation of a building or structure.
- B. It shall be unlawful for any person, business, association, partnership or corporation to undertake or cause to undertake any construction or development anywhere within the Township unless a building permit has been obtained from the Zoning Officer.
- C. No building permit shall be required in the case of normal maintenance activities or for alterations which do not structurally change a building.

- D. All applications for building permits shall be made in writing by the owner or his duly authorized agent on a form furnished by the Township. The application shall contain the name, address and phone number of the applicant, a brief description of the intended use of the structure, a site plan and a building plan drawn to a scale of one (1) inch being equal to one hundred (100) feet or less, permits or applications including DEP planning modules for sanitary sewer(s) and copies of any and all other permits or applications for permits pursuant to county state or federal law, in addition the application shall include:
1. Site Plan - all applications for a building permit shall be accompanied by three (3) copies of a site plan, drawn to scale showing - North arrow; scale; date of drawing; lot dimensions and total acreage; exact exterior size and location of existing and proposed building(s) or structure(s); exact location and areas of bodies of water, water courses, drainage ways, utility rights of way and easements (both existing and proposed; existing and proposed driveways, streets, and highways, within, adjacent and opposite of the land in question; existing and proposed off-street parking, loading and unloading facilities; existing and proposed building lines, side and rear yard dimensions and any other data as may be deemed necessary by the Zoning Officer. The Zoning Officer may also require the applicant to produce a survey of the subject land, if deemed necessary.
  2. Building Plan - all applications for a building permit shall be accompanied by three (3) copies of a building plan drawn to scale showing; exact exterior dimensions to include width, depth and height; elevation above sea level of the lowest floor and basement for all buildings and structures within an identified flood hazard area; type of construction for each building or structure, including foundation, interior and exterior walls, roof, electrical, plumbing and heating systems, number of rooms, use of rooms, square footage of interior floors and any other information required by this Chapter or as allowed necessary by the Zoning Officer. Provided nonetheless that no building plan shall be required for any single family dwelling or single family accessory use except where such dwelling or accessory use is to be constructed or is located within a designated flood plan.
  3. If any proposed construction or development is located entirely or partially with any identified flood plain area, applicants for Building Permits shall provide all the necessary information in sufficient detail and clarity to enable the Zoning Officer to determine that:
    - (a) 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;



- (b) All utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage; and
  - (c) Adequate drainage is provided so as to reduce exposure to flood hazards.
  - (d) The elevation of the one hundred (100) year flood;
  - (e) If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a one hundred (100) year flood; and
  - (f) Detailed information concerning proposed flood proofing measures including the following:
    - (1) Document, certified by a registered professional engineer, which states that the proposed construction or development has been adequately designed to withstand the one hundred (100) year flood elevations, pressures, velocities, impact and uplift forces associated with the one hundred (100) year flood.
    - (2) Such statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure and/or the development.
    - (3) Detailed information needed to determine compliance with Section 1907, Storage, and Section 1908, Development Which May Endanger Human Life, including;
      - i. The amount, location and purpose of any dangerous materials or substances which are intended to be used, produced, stored or otherwise maintained on site.
      - ii. 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 Section 1908 during a one hundred (100) year flood.
      - iii. The appropriate component of the Department of Environmental Resources' "Planning Module for Land Development."
    - (4) 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.
- E. Prior to issuing a building permit to a contractor, the Township shall require the contractor to present proof of workers' compensation insurance or an affidavit

that the contractor does not employ other individuals and is not required to carry workers' compensation insurance.

1. Every building permit issued by Chippewa Township to a contractor shall clearly set forth the name and workers' compensation policy and the contractor's Federal or State Employer Identification Number. This information shall be in addition to any information required by this Part. If the building permit is issued to an applicant which affirms it is not obligated to maintain workers' compensation insurance under the Pennsylvania Workers' Compensation Act as amended, the permit shall clearly set forth the contractor's Federal or State Employer Identification Number and the substance of the affirmation, and that the applicant is not permitted to employ any individual to perform work pursuant to the building permit.
2. Chippewa Township shall be named as a workers' compensation policy certificate holder of a contractor-issued building permit. This certificate shall be filed with the Township's copy of the building permit. Any insurer issuing a policy certificate holder pursuant to this section and 77 P.S. §462.2 shall be required to notify Chippewa Township of the expiration or cancellation of any such policy of insurance or policy certificate within three (3) working days of such cancellation or expiration.
3. Chippewa Township shall issue a stop-work order to a contractor who is performing work pursuant to a building permit, upon receiving actual notice that the contractor's workers' compensation insurance or State-approved self-insured status has been canceled. Also, if Chippewa Township receives actual notice that a permittee, having filed an affidavit of exemption from workers' compensation insurance, has hired persons to perform work pursuant to a building permit and does not maintain required workers' compensation insurance, the municipality shall issue a stop-work order. This order shall remain in effect until workers' compensation coverage is obtained for all work performed pursuant to the building permit.
4. Nothing in this section enacted pursuant to Act 44 of 1993 shall be the basis of any liability on the part of the Township of Chippewa.
5. For purposes of this subsection, "proof of insurance" shall include a certificate of insurance or self-insurance, demonstrating current coverage and compliance with the requirements of the Pennsylvania Workers' Compensation Act, as amended, or the Occupational Disease Act and the Longshore and Harbor Workers' Compensation Act (44 Stat. 1424, 33 U.S.C. §901 et seq.), its amendments and supplements, where applicable.

- F. The Zoning Officer shall issue a Building Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.
1. Prior to the issuance of any building permit, the Zoning Officer shall determine if the following permits are necessary.
    - (a) Driveway Permit - determine if a driveway permit application has been filed;
    - (b) Sewage Permit
    - (c) Occupancy Permit - determine if an occupancy permit application has been filed;
    - (d) House Number - determine if a house number and street address has been assigned;
  2. In addition, the Zoning Officer shall determine the following:
    - (a) Subdivision Plan - is the proposed building or construction in a recorded subdivision or does the parcel have a legal deed;
    - (b) Land Development Plan - is the building or construction in an approved land development plan;
    - (c) Airport Overlay Zone - is a permit necessary with respect to the Beaver County Overlay Airport Zoning District. (Revised by Ord. 182, 9/8/1997)
  3. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the Township of Chippewa, and until all required permits or approvals have been first obtained from the Department of Environmental Protection, Bureau of Dams and Waterway Management.
- G. It shall be the duty of the Zoning Officer to review the application within thirty (30) days from the date it is submitted to determine if the application is complete or whether additional information and documentation is needed. No application shall be subject to final review and decision until all documentation required by this Chapter has been received by the Zoning Officer. Deficiencies in the application will be communicated to the applicant in writing. No application will be deemed received by the Zoning Officer unless and until all the required information has been produced as required by this Chapter and as requested the Zoning Officer, and the existing building permit fee (as from time to time set by resolution of the Board of Supervisors) has been paid to the Township.
- H. Applications for a building permit shall be accompanied by a fee payable to the Township of Chippewa, based upon a schedule of fees as determined from

time to time by the Board of Supervisors, which fees shall be paid into the General Fund of the Township.

I. Action on Building Permits:

1. Applications for a building permit shall be reviewed by the Zoning Officer. The Zoning Officer shall process and permit applications within the time periods in the current building code.
2. A copy of all plans and applications for any proposed permit located within an identified flood plain or for buildings, structures and accessory uses other than single family dwelling type shall be immediately delivered to the Township Planning Commission and Township Engineer for review and comment.
3. In the event of a denial, the Zoning Officer shall state in writing the reason(s) for such denial including the citation of the specific section(s) of this or other pertinent Ordinances used in the determination.
4. Upon approval of the application for a building permit, one (1) copy of the site plan and one (1) copy of the building plan shall be returned to the applicant along with one (1) copy of the building permit which shall be publicly displayed at the construction. One (1) copy of such permit shall be kept on file in the Township office.
5. The building permit issued shall be prominently posted upon the construction site prior to work being undertaken to place, erect, construct, alter, reconstruct, or add to a building or structure. The failure or neglect of the applicant to prominently post the permit and maintain the same throughout the duration of the permitted work shall be a violation of this Chapter. Duplicate permits shall be issued by the Zoning Officer without additional charge. Loss, destruction, or defacement of any posted permit must be promptly reported to the Zoning Officer within twenty-four (24) hours after such event or casualty, Sundays, and legal holidays excepted.
6. All building permits shall expire upon completion of the work authorized, or within one (1) year from the date of issuance, whichever occurs first. Permits may be issued for periods in excess of one (1) year depending on the scale of the construction. A building permit shall expire if the work authorized is not commenced within one hundred eighty (180) days from the date of issuance. Renewal or extension of such permit will be granted only upon reapplication for the permit. Payment of an additional fee shall be determined by the Zoning Officer.
7. After the issuance of a building permit by the Zoning Officer, no changes of any kind shall be made to the application, permit, or any of the plans, specifications or other documents submitted without the written consent or approval of the Zoning Officer. Requests for any such change shall be in writing, and shall be submitted by the applicant to the Zoning Officer for

consideration. An additional fee may be required where the change or revision significantly increases the scope of work.

J. Inspection - The Zoning Officer, or his duly appointed representative, shall make the following minimum number of inspections of property for which a building permit has been issued:

1. Prior to construction the applicant shall notify the Zoning Officer when the area has been staked out indicating the dimensions of proposed construction. The Zoning Officer shall inspect the construction site. A record shall be made indicating the time and place of the inspection and the finding of the Zoning Officer in regard to conformance of the proposed construction with plans submitted. If the indicated dimensions and/or location of the proposed construction does not conform to the application, the nonconformity shall be identified by the Zoning Officer, and such violation shall be corrected. Construction shall only proceed after proper correction of the violation and authorization to proceed has been granted by the Zoning Officer.
2. The applicant shall notify the Zoning Officer when footer has been formed and/or prior to constructing walls, paving driveways, etc. The Zoning Officer shall inspect the construction site. A record shall be made indicating the time and date of the inspection and finding of the Zoning Officer in regard to conformance of the construction with plans submitted. If the actual construction does not conform to the application, the nonconformity shall be identified by the Zoning Officer, and such violation shall be corrected. Upon proper correction of the violation and receipt of written notice from the Zoning Officer, construction shall proceed.
3. At the completion of construction the applicant shall notify the Zoning Officer when construction is complete. The Zoning Officer shall inspect the site. A record shall be made indicating the time and date of the inspection, the findings of the Zoning Officer in regard to conformance with this Chapter, and the determination of the Zoning Officer regarding the issuance of an occupancy permit.
4. In the discharge of his duties, the Zoning Officer shall have the authority to enter any building, structure, premises or development, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this Chapter.

## **SECTION 2303 OCCUPANCY PERMIT**

A. Permit Required - An occupancy permit shall be required prior to:

1. The occupancy and use of a new building or structure or one that has been structurally altered.

2. The occupancy and use of a building or structure that has been moved or relocated.
3. A change in the use and/or tenancy of an existing building, structure, water body, or area of land. (Revised by Ord. 187, 6/8/1998)
4. A change or extension of a nonconforming use, building, or structure.
5. Change in tenancy of any dwelling unit. (Revised by Ord. 182, 9/8/1997)
6. The occupancy of any previously vacant public, commercial or industrial building. (Revised by Ord. 182, 9/8/1997)
7. Change of Residency

B. Application For Permit

1. All requests for an occupancy permit shall be made in writing, on a Township furnished form: by the owner, lessee, or other authorized agent and shall include a statement of the type of proposed occupancy intended for the building, land or water body.
2. One (1) copy of a plot/plan showing lot dimensions and exact size and location of the building, use, and/or structure as certified by a Pennsylvania Registered Land Surveyor may be required to accompany the request for an occupancy permit. Such plot/plan requirement may be waived by the Zoning Officer when the new construction is considered minor, when the occupancy involves a residential accessory use, or when the occupancy involves an existing building or structure for residential use only.
3. An occupancy permit, either for the whole or part of a new building or for the structural alteration of an existing building may be applied for coincident with the application for a building permit and shall be issued upon completion of construction after inspection shows the same to be in conformance with the provisions of this *Zoning Chapter*.
4. An occupancy permit for a change of use in an existing building shall be applied for and shall be issued before any such building shall be occupied, used, or changed in use.
5. All applications for an occupancy permit shall be accompanied by a fee be based upon the fee schedule of the Township as from time to time set by resolution of the Board of Supervisors.

C. Action On Occupancy Permits

1. Upon approval of the application for an occupancy permit, one (1) copy of this permit shall be given to the applicant, and one (1) copy of the permit shall be kept on file in the Township Office.



2. In the event of denial, the Zoning Officer shall forward to the applicant a written statement outlining the reason(s) for such denial.
3. An occupancy permit shall remain valid for as long as the structure or building is occupied by the person or corporate entity in whose name the permit has been issued.

D. Inspection

1. The Zoning Officer, or his duly appointed representative, shall make an inspection of a new, structurally altered or relocated building or structure or a building or structure for which a change of use is proposed. Such inspection may be made upon the completion of construction, if applicable, and may be made at the same time that the final inspection required under the Building Permit is conducted.
  2. A record shall be made indicating the time and date of the inspection and the findings of the Zoning Officer.
- E. It shall be unlawful for any person, business association, partnership, or corporation to occupy or cause to be occupied any building or structure unless and until an occupancy permit has been obtained from the Zoning Officer.
- F. A temporary occupancy permit may be issued by the Zoning Officer if the proposed tenants of the building desire to occupy the building or a part thereof before all of the site improvements are complete in accordance with the following:
1. A temporary occupancy permit shall not be granted if the unfinished or incomplete improvements are essential to the use or affects the health or safety of the tenants or the general public.
  2. A temporary occupancy permit, if authorized, shall be issued for a period not to exceed two hundred and ten (210) days and the length of the permit's duration shall be based on the scope of the project and the season the permit is issued. The Zoning Officer shall determine the duration of the temporary occupancy permit.
  3. A temporary occupancy permit may be renewed one (1) time, if good cause is demonstrated by the applicant, for a period not to exceed sixty (60) days.
  4. If the required site improvements are not complete at the expiration of the temporary occupancy permit, the applicant or owner shall be issued a notice of violation. If the required site improvements are complete at the expiration of the temporary occupancy permit, the Zoning Officer shall issue a permanent occupancy permit.
  5. The Zoning Officer may require an applicant for a temporary occupancy permit to execute an agreement specifying the conditions of the temporary occupancy permit. Also, if any site improvements are not

complete when the temporary occupancy permit application is filed, the applicant shall provide the township with financial security in a form acceptable to the Township Solicitor to cover the costs of the incomplete site improvements. An itemized cost estimate specifying the incomplete site improvements shall be submitted with the financial security. (Revised by Ord. 182, 9/8/1997)

#### **SECTION 2304 ZONING PERMIT**

- A. Permit Required - A zoning permit shall be required when the use of a lot or structure is proposed and confirmation of its compliance with the use provisions of the applicable zoning district regulations is warranted.
- B. It shall be unlawful for any person or persons to commence work for any activity required herein until a Zoning Permit has been duly issued.
- C. Application For A Permit
  - 1. All requests for zoning permits shall be made in writing by the owner or his authorized agent on a form furnished by the Township and shall include a statement of the use or occupancy intended of the land area or water body, a Site Plan prepared in triplicate and drawn to scale, and copies of all required federal, state, and county permits as approved by the appropriate review agency.
  - 2. Site Plan - All applications for a zoning permit shall be accompanied by three (3) copies of a site plan, drawn to scale, where construction is proposed upon receipt of said permit. The Zoning Officer may require that such site plan be prepared by a Pennsylvania Registered Land Surveyor. The site plan shall show exact dimensions and total acreage of the land parcel or water body, topography shown by contour lines at vertical intervals of five (5) feet, or at such intervals deemed necessary by the Zoning Officer to properly study the site, exact size and location of existing and proposed buildings, structures, water bodies, water courses, flood ways, flood plains, drainage courses, utility rights-of-ways or easements, any other natural or man-made condition on the site affecting or being affected by the proposed use of the property.
  - 3. The Zoning Officer may require additional data to determine compliance with this Chapter.
  - 4. It shall be the duty of the Zoning Officer to review the application and issue said permit within the time frame established for the issuance of building permits.
  - 5. Unless such requirement is waived by the Township Board of Supervisors, all applications for a zoning permit shall be accompanied by a fee, to be based upon the fee schedule of the Township.

D. Action On Zoning Permits

1. Upon approval of an application for a zoning permit one (1) copy of the site plan, where required, shall be returned to the applicant along with one (1) copy of the zoning permit which shall be publicly displayed at the site during the course of construction. One (1) copy of such permit shall be kept on file in the Township Office.
2. In the event of a denial, the Zoning Officer shall state in writing the reason(s) for such denial including the citation of the specific section(s) of this Chapter referred to in the determination.
3. The failure or neglect of the applicant to prominently post the permit and maintain the same throughout the duration of the permitted work shall be a violation of this Chapter. Duplicate permits shall be issued by the Zoning Officer within twenty-four (24) hours after such event or casualty, Sundays and legal holidays excepted.
4. All zoning permits shall expire upon completion of the work authorized within one (1) year from the date of issuance, whichever occurs first. Permits may be issued for periods in excess of one (1) year as deemed appropriate. A zoning permit shall expire if the work authorized is not commenced within one hundred eighty (180) days from the date of issuance.

E. Inspection - The Zoning Officer, or his duly appointed representative shall make the following inspections on property for which a permit has been issued.

1. The Zoning Officer shall inspect the site as necessary to assure compliance with the use provisions of this Chapter for the subject zoning district.
2. At the completion of construction or removal, the applicant shall notify the Zoning Officer. The Zoning Officer shall inspect the site. A record shall be made indicating the time and date of the inspection; the findings of the Zoning Officer in regard to conformance with this Chapter as it relates to the use.

**SECTION 2305 TEMPORARY USE PERMIT**

- A. Permit Required – A temporary use permit shall be required prior to the commencement of a temporary use of a structure, land or water body, or temporary activity or event including, but not limited to, the seasonal sale of fruit, vegetables or Christmas trees, multi-family, multi-day yard sales, carnivals or circuses, classic or custom car shows, tented assembly events, sidewalk sales, outdoor concerts, commercial film production, or the erection/placement of temporary signage. (Ord. 246, 5/15/13)
- B. Application for Permit

1. All requests for temporary permits shall be made in writing on a form furnished by the Township and shall include a full description of the type of use for which such permit is being sought and the dates during which this use shall be in existence.
2. Unless such requirement is waived by the Township Board of Supervisors, all applications for a temporary use permit shall be accompanied by a fee, to be based upon the fee schedule adopted of the Township.

C. Action On Temporary Permits

1. Upon approval of the application for a temporary use permit, one (1) copy of this permit shall be given to the applicant. This copy of the permit must be publicly displayed at the site of the temporary use during the duration of the use or event. One (1) copy of the permit shall be kept on file in the Township Office.
2. In the event of denial, the Zoning Officer shall forward to the applicant a written statement containing the reason(s) for such denial.
3. Temporary permits are valid for a period from one (1) week to six (6) weeks during any one (1) calendar year, with up to two (2) extensions. For roadside stands said permit is valid for one (1) year renewable upon reapplication.
4. No temporary permit shall be issued for any temporary use where said use would violate any of the provisions of this *Chapter*.

D. Inspection

1. The Zoning Officer, or his duly appointed representative, may make an inspection of the property on which such temporary use is to be located to determine the suitability of the site for the use. This inspection shall be made prior to issuing a permit, prior to initiation of the use, or in the event a renewal of the permit is requested, during the time the use is in existence.
2. In the event of such inspection, a record shall be made indicating the time and date of the inspection, the findings of the Zoning Officer in regard to conformance with this Chapter, and other Township ordinances, and the opinion of the Zoning Officer in regard to the suitability of the site for this use.

- E. It shall be unlawful for any person, firm, business, association, partnership or corporation to temporarily use any land, building or other structure or waterway or watercourse without having first obtained a temporary use permit from the Zoning Officer.

SECTION 2306 SIGN PERMIT

A. Permit Required - A Sign Permit shall be required prior to the erection or structural alteration of any sign, either permanent or temporary. It shall be unlawful for any person, firm, business, association, partnership or corporation to commence work for the erection or structural alteration any sign until a permit has been issued. No sign permit shall be required for temporary real estate signs, nameplate signs, or official governmental street, road, and traffic control signs.

B. Application For Permit

1. All requests for sign permits shall be made in writing on a form furnished by the Township and shall include a full description of the proposed sign, a description of the tax parcel upon which such proposed sign is to be located, and a description of other existing signs on the same tax parcel. Such application shall also include copies of all required Federal and/or State Permits as approved by the appropriate review agency.
2. All applications for a sign permit shall be accompanied by two (2) copies of a drawing/plan showing width of sign; height of sign above adjacent ground level, clearance between bottommost part of sign and ground level, distance between front edge of sign and adjacent street or road right-of-way, and distance between front edge of sign and inside edge of adjacent sidewalk, if applicable.
3. It shall be the duty of the Zoning Officer to review the application for completeness and compliance, request more information of the applicant, and officially process the application for a sign within thirty (30) days from the date that a complete application was filed.
4. All applications for a sign permit shall be accompanied by a fee to be based upon the fee schedule of the Township.

C. Action On Sign Permits

1. Upon approval of the sign permit one (1) copy of the permit shall be given to the applicant, and one (1) copy of the permit shall be kept on file in the Township Office.
2. In the event of denial, the Zoning Officer shall forward to the applicant a written statement containing the reason(s) for such denial.
3. Permanent sign permits shall expire upon completion of work authorized therein or within six (6) months from the issuance thereof, whichever occurs first. Permits may be renewed one (1) time where circumstances warrant.
4. Temporary sign permits shall expire upon conclusion of the event or activity for which the sign permit was issued.

D. Inspection

1. For sign permits, the Zoning Officer, or his duly appointed representative, shall make inspection of the property or structure on which the sign is to be located.
  - (a) A record shall be made indicating the time and date of the Zoning Officer's inspection and the findings in regard to conformance of the placement of the sign with plans and descriptions submitted with the application for the sign. If the actual construction does not conform to the application, a written notice of a violation shall be issued by the Zoning Officer, and such violation shall be corrected. Erection or placement of the sign shall only proceed after proper correction of the violation and receipt of written notice from the Zoning Officer that the violation has been corrected.
  - (b) At the completion of the erection or placement of the sign, the applicant shall notify the Zoning Officer, who shall inspect the site. A record shall be made indicating the time and date of the inspection and the findings of the Zoning Officer in regard to conformance with this Chapter.
2. For temporary sign permits, the Zoning Officer, or his duly appointed representative, may make inspection(s) to determine conformance with this Chapter.



## **PART XXIV**

### **AMENDMENTS**

#### **SECTION 2400 GENERAL ZONING AMENDMENT**

- A. Whenever the public necessity, convenience, or general welfare indicate, the Board of Supervisors may by Ordinance and in compliance with applicable laws, particularly the Pennsylvania Municipalities Planning Code, Pennsylvania Act 247, as amended, (P.L. 805, No. 247 of 1968), amend, supplement, or change the regulations, restrictions, district boundaries, or classification of buildings, structures, and land or water as the same are established by this Chapter, or may hereafter be made a part thereof.
- B. APPLICATIONS OR PETITIONS
  - 1. Amendment applications or petitions may be initiated by any member of the Board of Supervisors, by the Planning Commission, by the Zoning Officer, or by any person having proprietary interest in the land under question.
  - 2. Petitions for an amendment(s) shall be filed with the Township Secretary and the petitioner upon filing the petition shall complete an application of a form furnished by the Township and pay a fee in accordance with the schedule fixed by resolution. No petition shall be considered officially received until the application is completed including requested documentation and/or illustrations and the fee is paid. This filing fee shall be waived for an application/petition for an amendment when said application/petition is filed by any member of the Board of Supervisors, Planning Commission, or the Zoning Officer.
- C. REVIEW PROCEDURE - The Township Secretary upon receipt of the petition, completed application, and filing fee shall submit the petition and application information for the proposed amendment(s) to the Township Planning Commission and Beaver County Planning Commission at least thirty (30) days prior to the date of the scheduled public hearing to provide the planning commission an opportunity to submit recommendations.
- D. PUBLIC HEARING
  - 1. The Board of Supervisors shall hold a public hearing on the petition and/or application pursuant to public notice. The public hearing shall commence not later than sixty (60) days after the petition and application were duly filed unless the applicant requests or consents to an extension of time. The hearing may be postponed or continued at the request of the applicant or by mutual consent of the parties.

2. The public hearing shall be conducted within the following guidelines:

- (a) The Chairman or Vice Chairman of the Board of Supervisors shall preside and shall have the 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.
  - (b) The parties have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross examine adverse witnesses on all relevant issues.
  - (c) Formal rules of evidence shall not apply but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
  - (d) The Board of Supervisors shall keep a Stenographic record of the proceedings and a transcript of the proceedings as well as copies of graphic or written material received in evidence and shall be made available to any party at cost.
3. If, after any public hearing upon an amendment, the proposed amendment is revised or further revised to include land not previously affected by it, the Board of Supervisors shall hold another public hearing, pursuant to public notice before proceeding to vote on the amendment.

**E. RENDERING THE DECISION**

- 1. Upon completion of the hearing, the Board of Supervisors shall vote on and render a written decision within forty-five (45) days.
- 2. The vote and decision shall be held during a regular or special meeting of the Board of Supervisors and a copy of the decision shall be made available to all interested parties not later than the day following the date of the decision.
- 3. Approval of the proposed amendment as requested by the petitioners or as proposed by the Planning Commission or Board of Supervisors shall be granted by formal affirmative majority vote of the Board of Supervisors.
- 4. If the proposed amendment requested is not approved, is approved but partially revised, altered, or changed, the petitioner and/or the Planning Commission shall be informed by the Board of Supervisors in writing. This written notice shall include specific statement(s) as to the denial, or as to the revisions to the amendment were made, prior to adoption by the Board of Supervisors.

**SECTION 2401 LANDOWNERS CURATIVE ZONING AMENDMENT**

- A. A landowner who desires to challenge on substantive grounds the validity of this Chapter, or the Official Zoning Map, or any provision hereof, which prohibits or restricts the use or development of land in which he has an interest

may submit a curative amendment to the Board of Supervisors with a written request that his challenge and proposed amendment(s) be heard and decided.

- B. Petitions for a curative amendment shall be filed with the Township Secretary. Such petition may be submitted at any time but if an application for a permit or approval is denied under this Chapter, the request shall be made not later than thirty (30) days after notification of such denial. In such case the landowner elects to make the request to the Board of Supervisors and the request is timely, the time within which he may seek review of the denial of the permit or approval on other issues shall not begin to run until the request within the petition is finally disposed of.
- C. The landowner shall provide a written request to the Board of Supervisors requesting it to hold a hearing on his challenge. The request shall contain the following:
  - 1. A short statement reasonably informing the Board of Supervisors of the matters that are in issue and the grounds for the challenge.
  - 2. A certification that the landowner did not know at the time of filing the petition that the Township has resolved to consider a particular scheme of rezoning by publication of notice of hearings on a proposed zoning ordinance or amendment or that the revised rezoning would be inconsistent with the landowner's proposed use, provided that this revised zoning scheme had reached sufficient particularity to disclose that, if adopted, it would cure the defect in the Chapter subject to the landowner's substantive challenge.
  - 3. Plans and other material reasonably describing the use or development proposed by the landowner in lieu of the use or development permitted by this Chapter or the Official Zoning Map and sufficient enough to evaluate the challenge.
  - 4. An amendment or amendments to this Chapter proposed by the landowner to cure the alleged defects specified in the challenge.
- D. REVIEW PROCEDURE - The Township Secretary upon receipt of the complete petition shall submit the petition to the Township Planning Commission and the Beaver County Planning Commission at least thirty (30) days prior to the public hearing to provide the planning commissions an opportunity to submit recommendations.
- E. PUBLIC HEARING
  - 1. The Board of Supervisors shall hold a public hearing on the challenge and proposed amendment. The hearing shall commence not later than sixty (60) days after the challenge was filed unless the landowner requests or consents to an extension of time. The hearing may be

postponed or continued at the request of the landowner or by mutual consent of the parties.

2. The public notice of the hearing shall, in addition to the requirements for advertisement for any amendment, indicate that the validity of this Chapter or Zoning Map is in question and shall indicate the place where and times when a copy of the landowner's petition, including all plans submitted and the proposed amendment(s) may be examined by the public.
3. The public hearing shall be conducted within the following guidelines:
  - (a) The Chairman or Vice Chairman of the Board of Supervisors presiding shall have the 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.
  - (b) The parties have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross examine adverse witnesses on all relevant issues.
  - (c) Formal rules of evidence shall not apply but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
  - (d) The Board of Supervisors shall keep a stenographic record of the proceedings and a transcript of the proceedings as well as copies of graphic or written material received in evidence shall be made available to any party at cost.
  - (e) The Board of Supervisors shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials unless the parties are afforded an opportunity to contest the material so noticed, and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representatives unless all parties are given an opportunity to be present.
4. The Board of Supervisors shall consider the following as they related to the challenged filed by the landowner: The Board of Supervisors, which has determined that a validity challenge has merit, may accept a landowner's curative amendment, with or without revision, or may adopt an alternative amendment which will cure the challenged defects. The Board of Supervisors shall consider the curative amendments, plans and explanatory materials submitted by the landowner and shall also consider:
  - (a) The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;

- (b) If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of this Chapter or Zoning Map;
- (c) The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources and other natural features;
- (d) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources and natural features, the degree to which these are protected or destroyed the tolerance of the resources to development and any adverse environmental impacts; and
- (e) The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

#### F. RENDERING THE DECISION

1. The vote and decision shall be held during a regular or special meeting of the Board of Supervisors.
2. Approval of the proposed amendment shall be granted by formal, affirmative, majority vote of the Board of Supervisors.
3. The landowner's request for a curative amendment shall be considered denied when:
  - (a) The Board of Supervisors notifies the landowner that it will not adopt the amendment.
  - (b) The Board of Supervisors adopts another amendment which is unacceptable to the landowner.
  - (c) The Board of Supervisors fails to act on the landowner's request within thirty (30) days of the close of the last hearing unless the time is extended by mutual consent of the landowner and the Township.

#### SECTION 2402 MUNICIPAL CURATIVE AMENDMENT

- A. The Township, by formal action, may declare this Chapter or portions thereof or declare the Official Zoning Map or portions thereof substantively invalid and propose a curative amendment to overcome such invalidity.
- B. Within thirty (30) days following the declaration and proposal the Board of Supervisors shall, by resolution, make specific findings that set forth the declared invalidity of this Chapter or the Official Zoning Map. The resolution may include:

1. Reference to specific uses which are either not permitted nor not permitted in sufficient quantity.
  2. References to a class of use or uses which require revision.
  3. Reference the entire Chapter which requires revisions.
- C. Within thirty (30) days following the declaration and proposal, the Board of Supervisors shall begin to prepare and consider a curative amendment to this Chapter and/or the Official Zoning Map to correct the declared invalidity.
- D. Within one hundred eighty (180) days from the date of the declaration and proposal, the Board of Supervisors shall enact a curative amendment to or reaffirm the validity of this Chapter and/or the Official Zoning Map pursuant to the provisions of this Section to cure the declared invalidity.
- E. After formal declaration and proposal to prepare a municipal curative amendment, the Township shall not be required to entertain or consider any landowner's curative amendment nor shall the Zoning Hearing Board be required to give a report requested in regard to a challenge to the validity of the Chapter of the Official Zoning Map or in regard to unified appeals when such curative amendment or appeal is based upon the grounds identical or substantially similar to those specified in the resolution required in this Section. Upon completion of the procedures for a municipal curative amendment, no rights to a cure shall from the date of the declaration and proposal accrue to any landowner on the basis of the substantive invalidity of this unamended Chapter or the unamended Official Zoning Map for which there has been a municipal curative amendment.
- F. The Township having utilized the municipal curative amendment may not again utilize the municipal curative amendment for a thirty-six (36) month period following the date of the enactment of a municipal curative amendment or reaffirmation of the validity of this Chapter and the Official Zoning Map through the municipal curative amendment process.



## PART XXV

### ENFORCEMENT REMEDIES AND PENALTIES

#### SECTION 2500 ENFORCEMENT REMEDIES

In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Chapter 27 of the Code of Ordinances, the Board of Supervisors or, with the approval of the Board of Supervisors, a Zoning Officer or Assistant manager, or any aggrieved owner or tenant of real property who shows that his property or person is or will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises any act, conduct, business or use constituting a violation. When any such action is instituted by landowner or tenant, notice of that action shall be served upon the Township at least 30 days prior to the time the action is begun by serving a copy of the complaint on the Board of Supervisors. No such action may be maintained until such notice has been given.

#### SECTION 2501 ENFORCEMENT PROCEDURE

- A. If it appears to the Township that a violation of this Chapter of the Code of Ordinances has occurred, the Township shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.
- B. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel and to any other person requested in writing by the owner of record.
- C. An enforcement notice shall state at least the following:
  1. The name of the owner of record and any other person against whom the Township intends to take action.
  2. The location of the property in violation.
  3. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the Chapter.
  4. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
  5. That the recipient of the notice has the right to appeal to the zoning hearing board with thirty (30) days in accordance with procedures set forth in Chapter 27, Part XXII.

6. That failure to comply with the notice within the time specified, unless extended by appeal to the zoning hearing board, constitutes a violation, with the sanctions clearly described. (Ord. 175, 8/12/1996)

## **SECTION 2502 PENALTIES**

Any persons, partnership, firm, association or corporation who violates the provisions of this Chapter 27 of the Code of Ordinances, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, shall pay a judgment of not more than \$500.00 plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays or timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the 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 district justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of zoning ordinances shall be paid over to the Township. (Ord. 175, 8/12/1996)

## **SECTION 2503 Penalties for Violation of Oil and Gas Development Zoning Provisions (Ord. 238, 10/20/2010) Repealed (Ord. 244, 8/08/2012)**

Any Operator or person performing work at their direction who violates or permits a violation of this Chapter 27, shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township before a Magisterial District Judge, pay a fine of not more than \$1,000, plus all court costs, including reasonable attorney's fees incurred by the Township in the enforcement of this Chapter. No judgment shall be imposed until the date of the determination of the violation by the Magisterial District Judge. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable Rules of Civil Procedure. Each day a violation exists shall constitute a separate offense. Further, the appropriate officers or agents of the Township are hereby authorized to issue a cease and desist notice and/or to seek equitable relief, including injunction, to enforce compliance herewith. No bond will be required if injunctive relief is sought by the Township. A person who violates this Ordinance shall also be responsible for the Township's attorney's fees, engineering fees, expert witness fees and court costs associated with enforcement.

## **PART XXVI**

### **FEES**

#### **SECTION 2600 FEES**

The Board of Supervisors is hereby empowered to adopt a schedule of fees from time to time by resolution to cover the cost of the administration of this Chapter. The fees to be collected may be imposed for, but not limited, to fees for reproduction of the Zoning Chapter, building, zoning, occupancy and sign permits, public hearings for conditional uses and other public hearings required in the Chapter.

## **PART XXVII**

### **VALIDITY AND REPEALER**

#### **SECTION 2700    VALIDITY**

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 any part thereof, and the parts of or sections remaining shall remain in effect as though the part or section declared unconstitutional has never been a part thereof.

#### **SECTION 2701    REPEALER**

Ordinance No. 68, the Zoning Chapter of Chippewa Township, adopted January 24, 1973, and all subsequent amendments there of and there to, in addition to any or the Chapter or part there of inconsistent herewith are hereby specifically repealed.

## PART XXVIII

### ENACTMENT

#### SECTION 2800 EFFECTIVE DATE

This CHAPTER is Enacted and Ordained by the Board of Supervisors of the Township of Chippewa this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and to become effective five (5) days hereafter.

Be it further Ordained that a copy of the notice of the Public Hearing held by the Chippewa Township Planning Commission and a copy of the notice of Public Hearing held by the Board of Supervisors of Chippewa Township shall be appended to this Chapter and be a part hereof as Appendix A and Appendix B respectively.

ATTEST:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Chairman, Board of Supervisors

\_\_\_\_\_  
Township Manager

