

## **Chapter 27**

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**Part 1****General****§27-101. Short Title.**

This Chapter shall be known and may be cited as the “Borough of Hatboro Zoning Ordinance of 1985.”

(*Ord. 761, 8/26/1985, §100*)

**§27-102. Effective Date.**

The effective date of this Chapter shall be 10 days after the adoption of this Chapter as required by law, and the use of all land and every building or structure or portion of a building or structure erected, altered with respect to height and area, added to, or relocated and every use within a building or structure or use accessory thereto, in any district, shall be in conformity with the provisions of this Chapter.

(*Ord. 761, 8/26/1985, §101*)

**§27-103. Declaration of Legislative Intent.**

This Chapter is enacted for the purpose, inter alia, of lessening congestion on the roads and streets, securing safety from fire, panic, and other dangers; promoting health and the general welfare; providing adequate light and air; preventing the overcrowding of land; preventing undue concentration of population; facilitating the adequate provision for transportation, water, sanitary sewers, storm sewers, schools, parks, and other public services and facilities; and promoting the health, safety, morals, and general welfare of the Borough of Hatboro, County of Montgomery, Commonwealth of Pennsylvania.

(*Ord. 761, 8/26/1985, §102*)

**§27-104. Interpretation.**

In interpreting and applying the provisions of this Chapter, such provisions shall be interpreted and applied to require the minimum requirements needed to promote the public health, safety, comfort, convenience, and general welfare. Where the provisions of this Chapter impose greater restrictions than those of any statute, other ordinance or regulation, the provisions of this Chapter shall be controlling. Where the provisions of any statute, other ordinance, or regulation impose greater restrictions than this Chapter, the provisions of such statute, other ordinance, or regulations shall be controlling.

(*Ord. 761, 8/26/1985, §103*)

**§27-105. Statement of Community Development Objectives.**

The Borough of Hatboro, which has an adopted Comprehensive Plan prepared in 1972 and adopted on May 14, 1973, to guide the orderly growth and development of the Borough, intends this Chapter to implement the following community development objectives which have been approved by the Planning Commission and the Borough

Council of the Borough of Hatboro:

A. To preserve Hatboro as a pleasant residential area with a varied and balanced housing supply.

(1) Maintain existing good housing stock and maintain the necessary facilities (streets, community facilities, utilities) which are part of a good housing environment.

(2) Eliminate existing land use conflicts and avoid future inconsistencies.

(3) Maintain the present balance and variety of housing types—single-family, apartments, duplexes, and townhouses.

(4) Upgrade any deteriorating housing areas.

B. To preserve and strengthen Hatboro as a vital commercial center.

(1) Continue to concentrate businesses in the existing downtown area and avoid dispersion of commercial activities.

(2) Provide adequate support facilities for the business district; parking areas, street system, utilities, and public services.

(3) Promote use of the central business district by improving its competitive position in the area: advertising, good design, and appearance, safe and efficient pedestrian movement system and a wide variety of retail and service establishments.

C. To provide the facilities and amenities of life to meet the requirements of the Borough's residents.

(1) Maintain the necessary service levels for water, sewers, streets, police, and fire protection, and cultural, recreational, and educational facilities.

(2) Locate these services and facilities conveniently with respect to the population.

D. To provide for the efficient and safe circulation of people, vehicles, and goods within and without the Borough.

(1) Minimize conflicts among local vehicular and pedestrian traffic on York Road; giving priority to the needs of shoppers and pedestrians.

(2) Provide for good pedestrian circulation in and through residential areas.

E. To continue to provide good service and support facilities for the Borough's nonresidential activities, including transportation, utility, and governmental services for commercial and industrial areas.

F. To insure that any new development in the Borough contributes to the amenities of the Borough.

(1) Encourage attractive appearance and good design.

(2) Require that adequate supporting facilities, such as parking areas, be provided.

(3) Insure compatibility, with surrounding land uses and with prevailing physical features.

(4) Insure that new development does not harm environmentally valuable

areas of the Borough.

G. To maintain and protect the environmental and historic resources of the Borough, including historic buildings and structures, wooded areas, stream valleys, and air and water quality.

H. To relate implementation of the Comprehensive Plan to the financial capabilities of the Borough and to schedule community changes and improvements on the basis of need.

*(Ord. 761, 8/26/1985, §104)*

**§27-106. Conflict.**

It is not intended for this Chapter to repeal, abrogate, annul, or interfere with any existing ordinance or enactment, or with any rule, regulations, or permit adopted or issued thereunder except insofar as the same may be inconsistent in conflict with any of the provisions of this Chapter; provided, that where this Chapter imposes greater restrictions upon the use buildings or structures, or land, or upon the height or bulk of buildings or structures, or prescribes larger open spaces than are required by the provisions of such ordinance, enactment, rule, regulations, or permit, then the provisions of this Chapter shall control.

*(Ord. 761, 8/26/1985, §105)*



**Part 2****Definitions****§27-201. Meaning of Words.**

In interpreting this Chapter, the present tense includes the future; the singular number includes the plural and the plural the singular; the word “building” includes the word “structure” and shall be constructed as if followed by the words “designed or intended to be occupied”; the word “person” includes natural persons, partnership, firm, association, and corporation.

(*Ord. 761, 8/26/1985, §200; as amended by Ord. 1005, 5/23/2011*)

**§27-202. Definition of Terms.**

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

*Accessory building/structure; use*—when used in this Chapter the following shall mean:

(1) *Accessory building/structure*—a building or structure subordinate to principal building on same lot therewith and used for the purpose customarily incidental to those of the principal building. Such building or structure includes, but is not limited to, garages, sheds, domestic pet shelters, swimming pools (in-ground or on-ground), barns, or greenhouses. [*Ord. 1005*]

(2) *Accessory use*—any use of a principal or accessory building or structure customarily incidental to those of the principal building, and as permitted under §27-408 of this Chapter.

*Active adult community*—a planned age restricted residential community with usable open space to include: limited on-site services, medical offices, café, outdoor seating, pocket parks, and at least one common recreational hall. These offices, cafés, walkways, and parks should be open to the residents of the surrounding neighborhoods to promote a “sense-of-belonging.” Each residential unit will only be permanently occupied by persons age 55 or above with the following exceptions:

(1) A spouse under 55 years if married to a resident over that age.

(2) Up to two children, or one child and one child-in-law, over 18 years of age, residing with at least one parent over 55 years of age whose presence is required to care for that parent.

(3) A spouse under 55 years of age who is the surviving member of a previously qualified household.

(4) A live-in nurse or similar caretaker whose presence is required to care for an occupant over 55 years of age.

(5) Any adult child with special needs that must reside with at least one qualified parent.

[*Ord. 971*]

*Agriculture*—the cultivating of the soil and the raising and harvesting of the

products of the soil including, but not limited to, nursery, horticulture, and forestry.

*Alteration*—any change in existing facilities, structural parts, or mechanical equipment which does not increase the cubic content of a building.

*Amenities*—satisfactions derived from ownership or occupancy, or both, of a property because of qualities of excellence which characterize the property and its surroundings.

*Apartment*—a dwelling unit in a building containing three or more units and having direct access to the outside or access through a common entrance hall.

*Apartment house / apartment building*—a building containing three or more apartments.

*Approved*—passed upon as satisfactory by the authority designated by law to give approval to the matter in question.

*Assemblage*—the merging of adjacent properties into a single ownership or use, and the merged property considered as a single unit.

*Basement*—a story partly underground but having less than half its clear height above grade on at least one side.

*Basic structural alteration*—any enlargement of a building, whether by extending on any side or by increasing in height, any change in the use or classification of a main building, or by moving of a building from one location, to another.

*Borough Council*—the duly elected Borough Council of the Borough of Hatboro, Montgomery County, Pennsylvania.

*Boarding stable*—a building, structure, or outdoor facility used for the boarding of horses or other domestic animals.

*Building*—a roofed and walled structure built for permanent use affixed to a permanent foundation. [Ord. 1005]

*Building coverage*—the aggregate of the maximum horizontal cross-section areas of all buildings on a lot, taken at their greatest outside dimensions on the ground floor, including all attached structures, except steps, terraces, cornices, eaves, and gutters, but including roofed porches, roofed breeze ways, and roofed carports.

*Building line*—the line parallel to the street line at a distance therefrom equal to the depth of the front yard required for the district in which the lot is located, provided that, in the case of a lot where the side lines are not parallel, the building line shall be at that point where minimum lot width first coincides with the required lot width but in no case closer to the street line than the required front yard.

*Child care facilities*—facilities located in residences or other structures in the Borough and used for the following purposes:

(1) *Child day care center*—a facility licensed by the Department of Public Welfare of the Commonwealth of Pennsylvania, used for the care of seven or more children at any one time.

(2) *Family day care home*—a facility located in a residence and certified for operation by the Department of Public Welfare of the Commonwealth of

Pennsylvania, used for the care of four to six children, not relatives of the care giver.

(3) *Group day care home*—a facility located in a residence and certified for operation by the Department of Public Welfare of the Commonwealth of Pennsylvania, and used for the care of seven to 12 children, not relatives of the care giver.

[Ord. 859]

*Circulation*—provision made for traffic within or through buildings, outside areas, and communities.

*Club, fraternal institution, lodge*—a principal building used for the meeting place of an organized group of citizens such as a veterans' organization, fraternal organization, business organization, service organization, and the like, in which the activities are limited to members of the organization and their guests and which may also provide living quarters for caretakers and transient quarters for members.

*Common open space*—a parcel or parcels of land or an area of water, or a combination of land and water within a development site designed and intended for the use of enjoyment of residents of the development, not including streets, off-street parking areas, and areas set aside for public facilities. Common open space shall be substantially free of structures but may contain such improvements as are appropriate for recreation of residents.

*Comprehensive Plan*—the Comprehensive Plan for the Borough of Hatboro and amendments thereto, including maps, charts, and/or descriptive matter, officially adopted by the Borough Planning Commission and Borough Council.

*Completion*—the act of bringing to a condition of physical completeness and readiness for use and occupancy.

*Conditional use*—a use of a building, structure, or lot permitted by special exception by the Borough Council.

*Construction*—the construction, reconstruction, renovation, repair, extension, alteration, or relocation of a building or structure, including the placement of mobile homes.

*Conversion*—the remodeling or alteration of a building or structure to include more apartments or dwelling units than were originally intended. Conversions include the alteration of a nonresidential building or structure into a dwelling unit for at least one family; the alteration of a single-family dwelling to include two or more dwelling units; and the alteration of a multi-family building or structure to include more units than originally intended.

*Court*—an open, unoccupied space bounded on two or more sides by the exterior walls of a building or by exterior walls and lot lines.

(1) *Inner court*—a court enclosed on all sides by exterior walls of a building or by exterior walls and lot lines on which walls are allowable.

(2) *Outer court*—a court enclosed on not more than three sides by the exterior walls of a building or by exterior walls and lot lines on which walls are allowable, with one side or end open to a street, driveway, alley, or yard.

*Cul-de-sac*—a street with access closed at one end and with a vehicular turnabout at the closed end.

*Curb elevation* or *curb level*—the elevation of the top of a curb at a given point with a reference to a designated datum.

*Curb line*—that line defining the maximum width between right-of-way lines that may be paved as the cartway or street. When street or roads are curbed, the curb is built at the curb line.

*Deed*—a conveyance of realty whereby title is transferred from one person to another.

*Density*—the maximum number of dwelling units permitted within that area stipulated as the minimum area allowed in a particular residential district.

*Developer*—any landowner, agent of such landowner, or tenant with the permission of such landowner, who makes or causes to be made a subdivision of land or a land development.

*Development*—any man-made changes to improved or unimproved real estate, including, but not limited to, buildings or other structures, the placement of mobile homes, streets and other paving, utilities, mining, dredging, filling, grading, excavation, or drilling operations.

*Development plan*—the provisions for development of a planned residential development, including a plat of subdivision, all covenants relating to use, location, and bulk of buildings and other structures; intensity of use or density of development, streets, ways, and parking facilities, common open and public facilities. The phrase “provisions of the development plan,” when used in this Chapter, shall mean the written and graphic materials referred to in this definition.

*Dwelling* or *dwelling units*—a house, an apartment, or other group of rooms, or a single room is a dwelling when it is occupied or intended for occupancy as separate living quarters.

*Dwelling types*—when used in this Chapter:

(1) *Single-family*:

(a) *Single-family detached dwelling*—a building designed for and occupied exclusively as a residence for only one family and having no party wall in common with an adjoining dwelling or building.

(b) *Townhouse*—a building designed for and occupied exclusively as the residence for one family with party walls, except in the case of end units, in common on two sides.

(2) *Two-family*:

(a) *Twin*—a building designed for and occupied by two families, the building having one party wall serving both dwelling units.

(b) *Duplex*—a building designed for and occupied by two families, one living above the other, each family occupying the entire area of the structure at one of two floor levels and having no party wall in common with an adjoining building.

(3) *Multi-family dwelling*—a detached building occupied by three or more families each living independently and completely separated from the other.

(a) *Garden apartment*—a multi-family dwelling as defined above, which is not more than two stories in height.

(b) *Mid-rise apartment*—a multi-family dwelling as defined above, which is not more than seven and not less than three stories in height.

*Easement*—a vested or acquired right to use land other than as a tenant, for a specific purpose, such right being held by someone other than the owner who holds title to the land.

*Elderly person*—a person who has reached the age of 62 years.

*Electric substation*—an assemblage of equipment for purposes other than generation or utilization, through which electricity in bulk is passed for the purpose of switching or modifying its characteristics to meet the needs of the general public.

*Family*—legally related or blood related individuals living together as a single, nonprofit housekeeping unit or two or less unrelated individuals living together and doing their own cooking on the premises, excluding occupants of a club, fraternity house, lodge, residential club, or rooming house.

*Frontage*—the extent of a building or of land along a public street or highway.

*Garage*—

(1) *Private*—an accessory building or a part of a principal building used for the storage of motor vehicles owned and used by the owner or tenant of the premises, and for the storage of not more than two motor vehicles owned and used by persons other than the owner or tenant of the premises. Not more than one commercial motor vehicle or truck may be stored in a private garage.

(2) *Public*—a building, other than a private or storage garage, one or more stories in height, used solely for the commercial storage, service, or repair of motor vehicles.

(3) *Storage*—a building, not a private or public garage, one story in height, used solely for the storage of, motor vehicles (other than trucks), but not for the service or repair thereof nor for the sale of fuel, accessories, or supplies.

*Gasoline filling station*—any area of land, including structures thereon, or any building or part thereof, that is used for the sale of gasoline or other motor vehicle fuel or accessories, and which may or may not include facilities for lubricating, washing or other wise servicing motor vehicles but which shall not include painting or body and fender repairs.

*Group home*—a residential facility used as living quarters by any number of unrelated persons requiring special care, and their attendant adult supervisors. A group home is specifically designed to create a residential setting for the following types of individuals: foster children, juvenile delinquents, the mentally and physically impaired, and other similar uses as a special exception; the individuals may be either transient or permanent residents. A group home shall be considered an institutional one.

*Height of building*—a building's vertical measurement from the mean level of ground surrounding the building to a point mid-way between the highest and lowest points of the roof, provided the chimneys, tanks and towers, elevator penthouses, and similar projections shall not be included in calculating the height

of a building. [Ord. 1005]

*Historically significant structure*—a structure that is listed or is eligible for listing in the National Register of Historic Places, or listed or eligible for listing in any Pennsylvania, Montgomery County, or Borough of Hatboro historic inventory or registry. [Ord. 971]

*Home occupation*—any lawful occupation customarily conducted in a dwelling by the occupants as an incidental use only. Home occupation does not include the conducting of a clinic, hospital, barber shop, beauty parlor, tearoom, tourist home, animal hospital, or any similar issue. [Ord. 1005]

*Hotel*—a building used for the purpose of furnishing for compensation more or less temporary lodging to the public, with or without meals.

*Impervious surfaces*—those surfaces which do not absorb rain. All buildings, parking areas, driveways, roads, sidewalks, and any areas in concrete, asphalt, and packed stone shall be considered impervious surfaces within this definition. In addition, other areas determined by the Borough Engineer to be impervious within the meaning of the definition will also be classed as impervious surfaces. [Ord. 967]

*Improvement*—a structure or public utility or any other installation or physical change made in a property with a view to increasing the value, utility, or beauty of the property.

*Kennel*—a building, structure, or outdoor facility used for the shelter, breeding, or boarding of three or more dogs.

*Landowner*—the legal owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee having the remaining term of not less than 40 years. [Ord. 1005]

*Livestock barn*—a building, structure, or outdoor facility used for the shelter of domestic farm animals.

*Loading, unloading space*—a space, accessible from a street or right-of-way, in a building or on a lot, for the temporary use of vehicles while loading or unloading.

*Lot*—a measured parcel of land having fixed boundaries and designated on a plot or survey.

(1) *Front of lot*—the edge of a lot which borders on a street or highway. In the case of a corner lot, the front may be designated by Borough Council or by the owner.

(2) *Rear of lot*—the edge of a lot opposite the front. In the case of a triangular lot the rear shall be designated by Borough Council.

*Lot line*—a property boundary line of any lot held in single and separate ownership, except that, in the case of any lot abutting a street, the lot line shall be deemed to be the same as the street line, and shall not be the center line within the street lines even though such may be the property boundary line. [Ord. 1005]

*Lot width*—the width of a lot measured at the setback line.

*Lot area*—the total horizontal area of the lot lying within the lot lines, provided that no area of land lying within any street line shall be deemed a portion of any lot area. The area of any lot abutting a street shall be measured to the street line

only.

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

*Mobile home lot*—a parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home, which is leased by the park owner to the occupants of the mobile home erected on the lot.

*Mobile home park*—a parcel of land under single ownership which has been planned and improved for the placement of mobile homes for nontransient use, consisting of two or more mobile home lots.

*Motel or motor court*—a building or a group of two or more detached or semi-detached buildings containing rooms or apartments having separate entrances provided directly or closely in connection with automobile parking or storage space serving such rooms or apartments, which building or group of buildings is designated, intended, or used principally for the providing of sleeping accommodations for travelers and is suitable for occupancy at all seasons. [Ord. 1005]

*Nonconforming building or use*—a building, or structure, a use of a building, structure or lot, or a lot, which by reason of design, size, or use, does not conform with the requirements of the district in which it is located.

*Parking lot*—any area used for the storage of motor vehicles.

*Parking space*—a reasonably level space designed for and used for the parking of one motor vehicle, and being at least 9 feet wide and 18 feet long with a minimum of 162 square feet in area. Area shall be measured exclusive of passageways, driveways, or other means of access or circulation. An all weather parking space is a parking space surfaced to whatever extent necessary to permit reasonable use under all weather conditions. [Ord. 1005]

*Permanent occupancy*—the residing in a dwelling by a person for a period exceeding 31 consecutive days or 61 cumulative days within the same given 365-day period with the following exceptions:

- (1) Any active duty members of a US military or service organization (i.e., Americorps, Peace Corps) during periods of authorized leave.

[Ord. 971]

*Planned unit community*—a residential or active adult community development in which separate lots will not be created for each principal building. [Ord. 971]

*Planning Commission*—the duly appointed Hatboro Borough Planning Commission as provided by Ord. 278 enacted and ordained by the Borough Council of the Borough of Hatboro.

*Principal building*—a building in which is conducted the principal use of the lot on which it is located.

*Professional office or studio*—an office or studio for a physician, dentist, teacher,

artist, architect, landscape architect, musician lawyer, engineer, or other such professional, but not including real estate office, beauty shop, barbershop, and provided that no goods, equipment, merchandise, or material associated with such practice may be displayed, stored, or sold on the lot area on which the structure is located.

*Public utility facility*—a building or structure and its equipment, used for the transmission or distribution of gas, electricity, sewer, water, telephone, and television signals. Such facilities located in residential districts shall not include any business facilities, repair shops, storage of materials or trucks, or housing for repair crews.

*Right-of-way line*—the dividing line between a lot and the outside boundary of a public street, road, or highway legally opened or officially plotted. The dividing line between a lot and a privately owned street, road or right-of-way over which the owners or tenants of two or more lots each held in single and separate ownership have the right-of-way.

*Rooming house (boarding house)*—a building used for the purpose of a residence for one family in which the owner rents rooms within the building to not more than six nontransient persons, with or without the provision of table board for such persons.

*Sales lot*—an outdoor lot used for the display of, merchandise such as building materials, monuments, nursery, greenhouse and garden supplies, new and used motor vehicles, and farm and lawn care machinery, displayed out of doors and offered for sale but not for the storage of used materials, junk, or badly damaged merchandise whether or not offered for sale.

*Sanitary sewer facility*—a public sanitary sewer system, or a comparable common or package sanitary sewer facility approved by the appropriate governmental agencies.

*Sidewalk, public*—a paved area lying between the curb line and the street or property line. Usually a fixed and proportional width of the total distance between the opposite street lines, the sidewalk is public property but is maintained by the adjoining lot owner at that owner's responsibility and cost.

*Single and separate ownership*—the ownership of a lot by one or more persons, and partnerships, or corporations, which ownership is separate and distinct from that of, any adjoining lot. [Ord. 1005]

*Special exception*—approval granted to an applicant to use land in a district for a purpose other than that generally permitted outright in that district. A special exception is granted by the Zoning Hearing Board in accordance with standards contained in this Chapter, provided that the specific application of the use would not be injurious to the public interest.

*Story*—that part of a building between any floor and the floor or roof next above.

*Street line*—a street line is that line defining the legally open, or to be opened, width of a public street, road, or highway, beyond which line is privately held property. The street line is sometimes called the property line since the area beyond that line is normally privately held property.

*Street, road, highway*—a public or privately owned right-of-way serving as a

means of vehicular and pedestrian travel.

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

*Studio*—a room or rooms used by an artist, musician, or person of similar calling in which such person practices his calling or teaches the same to not more than two persons at one time.

*Trailer*—a vehicle without motive power which may be towed on public streets, roads without a special hauling permit, which is designed for human occupancy under transient circumstances such as camping, travel, or other recreation, and has a body width not exceeding 8 feet and a body length not exceeding 32 feet.

*Trailer camp, park, or court*—a parcel of land under single ownership which has been planned and improved with water and sanitary facilities for the placement of trailers for periods of short duration usually not exceeding 5 days.

*Tourist home*—a dwelling in which sleeping accommodations for less than 10 persons are provided or offered primarily for travelers and for compensation.

*Zoo*—a facility used for the keeping and private or public display of wild or domestic animals.

(*Ord. 761, 8/26/1985, §201; as amended by Ord. 798, 6/27/1988; by Ord. 859, 9/30/1991; by Ord. 958, --/2005; by Ord. 967, 5/22/2006, §3; by Ord. 971, 12/18/2006, §1; and by Ord. 1005, 5/23/2011*)



**Part 3****Zoning District Classifications****§27-301. Classes of Districts.**

For the purposes of this Chapter, the Borough of Hatboro is hereby divided into eleven zoning districts which shall be designated as follows:

- A. FP Floodplain Conservation District.
- B. R-1 Residential District.
- C. R-2 Residential District.
- D. R-3 Residential District.
- E. R-4 Residential District.
- F. O Office District.
- G. RC-1 Retail Commercial District.
- H. RC-2 Retail Commercial District.
- I. HB Highway Business District.
- J. LI Limited Industrial District.
- K. HI Heavy Industrial District.

Such districts are hereinafter enumerated, established in the text of this Chapter and confirmed as located on the Zoning Map.

*(Ord. 761, 8/26/1985, §300)*

**§27-302. Zoning Map.**

The boundaries of said districts shall be as shown on the map attached to, and made a part of, this Chapter. Said map shall be known as the "Zoning Map of the Borough of Hatboro." The Zoning Map and all notations, references, and data shown thereon are hereby incorporated by reference into this Chapter, and shall be as much a part of this Chapter as if all were fully described herein.

*(Ord. 761, 8/26/1985, §301)*

**§27-303. Boundaries of Districts.**

Where uncertainty exists with respect to the boundaries of the various districts, as shown on the Zoning Map, the following rules shall apply:

A. The boundaries between districts are, unless otherwise indicated, either the center lines of roads and of rights-of-way of railroads and/or public utilities, or such lines extended, or lines parallel thereto. Where numbers are shown on the zoning map between a road and district boundary line, they indicate that the district boundary line runs parallel to the road line at a distance therefrom equal to the number of feet so indicated.

B. In undivided property, the district boundary lines on the zoning map shall be determined by use of the scale of the zoning map.

C. When a district boundary line divides a lot held in single and separate

ownership at the effective date of this Chapter, the regulations as to the use in the less restrictive district shall extend over the portion of the lot in the more restricted district, a distance not to exceed 50 feet beyond the district boundary line; provided, that in case of a lot, other than a corner lot, the regulations as to the use in a less restricted district may extend a distance of more than 50 feet beyond the district boundary line, when authorized as a special exception.

D. If there is a question as to location of any district boundary, line, or other line, then in that event, Borough Council shall designate the location of the district boundary line or other line. [*Ord. 872*]

(*Ord. 761, 8/26/1985, §302; as amended by Ord. 872, 3/22/1993, §1*)

**§27-304. Federal and State Owned Property.**

Whenever Federal or State owned property or property owned by any Federal or State Agency, or any political subdivision thereof, is included in one or more zoning districts, it shall be subject to the provisions of this Chapter only insofar as permitted by the Constitution and laws of the United States of America and the Commonwealth of Pennsylvania.

(*Ord. 761, 8/26/1985, §303*)

**Part 4****General Regulations****§27-401. Introduction.**

For the purposes of this Chapter the following regulations shall govern each and every district.

*(Ord. 761, 8/26/1985, §400)*

**§27-402. Lots of Record.**

A lot which is of public record in single and separate ownership at the time of enactment of this Chapter which is not of sufficient size or dimension to permit the erection of a building thereon in accordance with the requirements of this Chapter, and provided the Zoning Hearing Board finds the necessary additional ground is not available because of the settled condition of the neighborhood, or because of inability of the owner to acquire additional ground upon fair terms, the Zoning Hearing Board may grant a variance for the use of such parcel of ground upon such conditions as the Zoning Hearing Board may specify.

*(Ord. 761, 8/26/1985, §401)*

**§27-403. Reduction of Lot Area.**

No lot shall be so reduced that the area of the lot, or the dimensions of the required open space shall be less than herein prescribed.

*(Ord. 761, 8/26/1985, §402)*

**§27-404. Subdivision Plan of Lots of Record.**

A lot which does not conform to the regulations of the district in which it is located and which is included in a recorded plan of lots heretofore approved under the provisions of the Land Subdivision Ordinance [Chapter 22] of the Borough of Hatboro and its supplements and amendments, shall not be used unless the regulations of the district are met, unless such recorded subdivision plan was approved by the Borough Council of the Borough of Hatboro within 1 year preceding the effective date of this Chapter, or a variance is obtained from the Zoning Hearing Board.

*(Ord. 761, 8/26/1985, §403)*

**§27-405. Obstruction to Vision at Intersections Prohibited.**

On any lot, in an area between the curb or the paved area of any street and the building line, no wall, fence, or other structure shall be erected, altered, or maintained between the height of 3 feet and 9 feet above the street curb level or the mean street level, whichever is greater.

*(Ord. 761, 8/26/1985, §404)*

**§27-406. Access to Public Street or Highway.**

No building or structure may hereafter be erected or altered on any lot situated

without frontage on a public street or highway unless there is direct access to that lot from a public street or highway through a permanent right-of-way. Such right-of-way shall be at least 25 feet wide with a paved cartway not less than 10 feet wide for a single-family dwelling, or not less than 16 feet wide for two-way traffic for any other type of building or structure.

(Ord. 761, 8/26/1985, §405)

#### **§27-407. Existing Interior Lots.**

An existing lot for which access to a public street or highway is by a strip of land less than 25 feet wide may be built upon only when authorized by a variance. In computing the area of such lots, the area of the strip of ground connecting the lot with the public street or highway shall be used as an access strip only to the particular lot in question. The Zoning Hearing Board shall consider the suitability of the strip of ground which connects the lot with the public street or highway for use as an access driveway and shall insure that any such driveway will not generate dust. The Zoning Hearing Board may impose such other conditions as may be required.

(Ord. 761, 8/26/1985, §406)

#### **§27-408. Accessory Uses.**

Accessory uses authorized in this Chapter shall include, but not be limited to, the following:

A. Uses accessory to land cultivation, including lawns, flower and vegetable gardens, and including the preparation of garden products for use by the residents.

B. Uses accessory to dwelling:

(1) Use of private garage for the storage of private motor vehicles, and the routine maintenance of private vehicles owned by the occupant of the premises.

(2) Use of private swimming pools both in-ground and on-ground for the use of the occupant and guests of the occupant of the premises.

(3) Use of storage sheds for tools and garden equipment, or the general storage of household goods and equipment.

(4) Use of nonpermanent buildings or structures as children's playhouse shelter for domestic pets, bird houses, or other similar use. No such building or structure, except bird houses, may be erected in a tree or trees.

(5) Use of permanent buildings as living quarters for household employees, caretakers, or watchman, provided that the building meets standards of current building and occupancy codes for occupancy.

C. The following uses may be authorized by special exception granted by the Zoning Hearing Board. Authorization is subject to a finding by the Zoning Hearing Board that the exception will not cause any change in the character of the residential neighborhood, that parking and traffic flow will not overburden existing streets and parking facilities, and that the majority of residents within 500 feet of the property in question have no objection to the intended use. All applications for special exception shall be reviewed by the Borough Engineer and Planning Commission before consideration by the Zoning Hearing Board.

(1) Use of principal or accessory permanent building as professional office

or studio of a physician, dentist, teacher, artist, architect, landscape architect, musician, lawyer, professional whose practice does not require laboratory, workshop, or sales facilities on the premises. No more than three people in addition to practitioner may assist or be employed therein and the practitioner must live in the premises. [Ord. 1005]

(2) Use of principal or accessory permanent building for home occupation as defined in §27-202 of this Chapter. No more than three people in addition to the home owner may assist or be employed therein, and the owner of the premises resides thereon.

(3) Use of rooms as sleeping quarters for rental to nonfamily members. Rooms may not be rented to more than two nontransient persons, with or without the provision of table board, and the lessor must reside on the premises.

D. Uses accessory to noncommercial recreational use customary refreshment and service uses in areas designated as public parks or recreation areas.

E. Uses authorized in this Part as accessory to a dwelling shall not be deemed to include health care facilities, animal care facilities, retail or wholesale facilities, storage or sale of tradesman equipment or supplies, facilities for personal services such as barbershop, beauty parlor, or businesses such as a hotel, tearoom, café, restaurant, or any similar use.

(Ord. 761, 8/26/1985, §407; as amended by Ord. 798, 6/27/1988; and by Ord. 1005, 5/23/2011)

#### **§27-409. Minimum Setback for Accessory Uses.**

Except as otherwise provided in this Chapter, an accessory building or structure may be erected within a side yard, provided it is located at least as far back from the street line as the foremost portion of the principal building.

(Ord. 761, 8/26/1985, §408; as amended by Ord. 798, 6/27/1988)

#### **§27-410. Yard Exception for Accessory Building.**

Except as otherwise provided in this Chapter, an accessory building or structure may be erected anywhere in the rear yard, but not nearer than 8 feet from any side or rear property line; with the following additional exceptions:

A. An accessory building not erected on a permanent foundation may be erected anywhere in a rear yard, but not nearer than 4 feet from any side or rear property line.

B. An accessory building erected on a permanent foundation may be erected on the side property line if the adjoining property owner(s) give written consent and provided that the property line wall of any building so erected shall be of solid masonry construction.

C. On-ground and in-ground swimming pools may be erected in any side yard or rear yard but may not be nearer than 8 feet from any side or rear property line.

D. No accessory building may be erected nearer than 8 feet from any other existing building on the same or adjoining property. Provision must be made for the disposal of roof water onto the same property on which the building is erected or

to the nearest storm sewer.

(*Ord. 761, 8/26/1985, §409; as amended by Ord. 798, 6/27/1988*)

**§27-411. Projections into Required Yards.**

No building or structure, and no part of a building or structure shall be erected within, or shall project into, any minimum required yard in any district, except that:

A. An unenclosed porch, not more than 14 feet in height, may be erected to extend into a required front or rear yard a distance of not more than 10 feet, and provided that in no case shall it extend into such front or rear yard more than one-half the existing depth of the yard.

B. A terrace, deck, platform, or landing, not covered by a roof, canopy, or trellis, which does not extend above the level of the first floor of the building, may be erected to extend into a required yard a distance of not more than 12 feet provided that it shall not extend into such yard more than 40 percent of the existing depth or width of the yard.

C. A carport may be erected over a driveway in such a required side yard; provided, that such structure is: [*Ord. 1005*]

(1) Not more than 14 feet in height and 20 feet in length.

(2) Entirely open on all sides except where, attached to a building, exclusive of the necessary supporting columns and the customary architectural features.

(3) Does not extend closer to the side, lot line than the distance permitted for an accessory use building in the zoning district in which the carport is erected.

D. Open fire escapes or steps, bay windows, and balconies may project not more than 3 feet into any required yard.

(*Ord. 761, 8/26/1985, §410; as amended by Ord. 1005, 5/23/2011*)

**§27-412. Fences and Walls.**

Except as otherwise provided by this Chapter, no fence or wall over 6 feet in height shall be erected within any open spaces required by this Chapter; and further, no fence or wall over 4 feet in height shall be permitted forward of the building line, and any such fence or wall so erected forward of the building line shall contain openings therein equal to 50 percent or more of the surface area of the fence or wall. A permit fee shall be set, from time to time, by resolution of Borough Council.

(*Ord. 761, 8/26/1985, §411*)

**§27-413. Height Exception.**

Exceptions to the maximum height specified in each district shall be governed by the following:

A. In all districts, chimneys, spires, towers, skylights, water tanks, radio or television antennas, or any structures for similar uses, shall not be included in calculating the height where such structures are customary vertical projections of a permitted building.

B. In any residential district the prescribed basic height limit may be exceeded by 1 foot, up to a maximum of 10 feet, for each foot by which the width of each side yard and the depth of the rear yard is increased beyond the minimum requirements.

(*Ord. 761, 8/26/1985, §412*)

**§27-414. Removal of Topsoil.**

The continuation of adequate topsoil on the land within the Borough of Hatboro is considered necessary for the general welfare of the Borough and the future development thereof. Thus the permanent removal of topsoil from the land within the Borough of Hatboro is prohibited. This prohibition shall not be construed to prohibit the owner of the land in removing topsoil where necessary for the purpose of construction of a building or structure and the regrading of the land surrounding the building or structure following construction.

(*Ord. 761, 8/26/1985, §413; as amended by Ord. 1005, 5/23/2011*)

**§27-415. Preservation and Care of Trees and Shrubs.**

All trees and shrubs shall receive such care as to preserve them during their natural lifetime. Any tree or shrub or portion thereof which dies or suffers damage due to lightning, wind or other causes, shall be removed immediately where potential harm to others or property exists, or, otherwise shall be removed within 6 months. Every lot owner shall maintain one tree or shrub for every 3,000 square feet of lot area.

(*Ord. 761, 8/26/1985, §414*)

**§27-416. Mobile Home and Mobile Home Parks.**

Mobile homes are a permitted use in any residential district provided that they meet the applicable requirements for single-family detached dwellings as set forth in this Chapter.

A. Mobile home parks shall be permitted as a conditional use, with the approval of Borough Council, only in the R-1 Residential District. However, the proposed mobile home dwellings shall be considered as single-family detached dwellings requiring public sewage and public water facilities and meeting all of the requirements of the R-1 Residential District as set forth in this Chapter.

(*Ord. 761, 8/26/1985, §415*)

**§27-417. Trailers, Motor Homes.**

No lot or premises may be used as a trailer or motor home camp, and no lot or premises shall maintain an inhabited trailer or motor home for a period in excess of 30 days, except in a Highway Business District, with prior approval of Borough Council, and then only if adequate sanitary and other utilities are available.

(*Ord. 761, 8/26/1985, §416*)

**§27-418. Condominium Ownership.**

No section of this Chapter shall be constructed to prohibit condominium ownership as permitted by the Pennsylvania Uniform Condominium Act, P.L. 286, 68 Pa.C.S.A.

§3101 *et seq.*

(*Ord. 761, 8/26/1985, §417; as amended by Ord. 1005, 5/23/2011*)

**§27-419. Prohibition of Public Nuisances.**

The following standards shall be followed throughout the Borough of Hatboro:

A. No building or structure shall be erected, altered, or used, and no lot or premises shall be used, for any trade, industry, or business that is noxious or offensive by reason of odor, dust, smoke, gas, vibration, illumination, or noise.

B. No lot or premises shall be used for the storage, deposit, or disposal of rubbish, junk, hazardous waste, or any noxious, offensive, or otherwise objectionable material.

(*Ord. 761, 8/26/1985, §418*)

**§27-420. Minimum Lot Sizes with Respect to Sewage Disposal.**

The following regulations shall apply, notwithstanding zoning district area and width requirements as otherwise set forth in this Chapter:

A. In all residential districts of the Borough of Hatboro which are served neither with sanitary sewers nor with public water supply, lots shall have a minimum width at the building line of 150 feet.

B. In all residential districts of the Borough of Hatboro which are not served with sanitary sewers, but which are served with public, water supply, lots shall have a minimum area of 30,000 square feet and a minimum width at the building line of 125 feet.

C. Smaller lot sizes and widths than specified in paragraphs .A and .B above, but not less than permitted in the zoning district regulations, may be permitted when authorized as a special exception and upon submission of satisfactory evidence to the fact that the smaller lot area or width will provide safe and effective sanitary sewage disposal in the particular location in question. Such evidence shall include, but shall not be limited to, a specific recommendation from the official representative of any governmental agency or municipal authority having jurisdiction of the subject matter. Lots served with capped sanitary sewer lines not connected to a sewage disposal plant shall not be considered as being served with public sewer.

D. No multiple dwellings, hospitals, sanitariums, convalescent homes, clubs, fraternal institutions, motor courts, motels, or mortuaries, or uses permitted in the retail commercial or industrial districts shall be erected, altered or used without service of sanitary sewers and public water supply.

E. No industrial plant shall dispose of any industrial wastes by emptying same into the sanitary or storm sewer systems or by disposing of same on any lot, public street or highway in the Borough of Hatboro, except as hereinafter provided:

(1) Industrial wastes may be emptied into the sanitary sewer system or into a private sewage disposal system when authorized as a special exception, and upon submission of satisfactory evidence that such wastes can be disposed of by a sewage disposal system. Such evidence shall include, but may not be limited to, specific recommendations from the official representative of any

governmental agency or municipal authority having jurisdiction of the subject matter.

(*Ord. 761, 8/26/1985, §419*)

**§27-421. Keeping of Domestic and Wild Animals.**

Except as otherwise provided in this Chapter, no building or structure shall be erected, altered, or used, and no lot or premises shall be used as a livestock barn, boarding stable, kennel, zoo, animal research laboratory, or any other facility for the keeping, breeding, experimental research, trade, or sale of domestic or wild animals except as a conditional use approved by Borough Council.

A. The Borough Council shall consider the suitability of the size of the lot, the disposal of animal wastes, the noise, odor, and dust created by such use, and the safety, health, and environmental hazards to neighboring uses as well as the adequacy of the proposed facilities for the proper care of the animals.

(*Ord. 761, 8/26/1985, §420*)

**§27-422. Electric Substation in Residential District.**

An electric substation located in a residential district shall not be permitted rotating equipment, storage of material, trucks or repair facilities, housing of repair crews, or offices of place of business.

(*Ord. 761, 7/26/1985, §421*)

**§27-423. Private Swimming Pools.**

For the purpose of this Chapter a private swimming pool shall be an accessory structure, and shall be erected in accordance with regulations controlling any structure capable of holding water to a depth of 18 inches or more, and capable of containing at least 20 gallons of water, and designed for the purpose of bathing. For the purpose of this Chapter, the term shall include spas and hot tubs.

A. Before any private swimming pool may be erected or constructed either on-ground or in-ground, a permit shall be required.

(1) Application for on-ground pool permit shall contain a description of the size of pool and the location of the pool on the property.

(2) Application for in-ground pool permit shall be same as required for any permanent structure under this code and current applicable building codes.

B. All private swimming pools installed shall be completely enclosed by a fence of a minimum height of 4 feet and with maximum horizontal width openings of 6 inches. Such fence shall be no closer than 5 feet from the pool and must be of such nature and construction that it will be sufficiently durable to prevent unauthorized entrance. All gates or doors opening through such fence shall be equipped with a self-closing and self-latching device at all times when not in use, with the following exceptions: [*Ord. 1005*]

(1) No fence will be required for on-ground with sides at least 4 feet above ground, with a self-locking gate or retractable ladder at the pool entrance way.

(2) A permanent building may be used as part of the required enclosure

for in-ground pools.

C. All private swimming pools shall be maintained in good condition with fence and required gates and ladders in place at all times. The Zoning Officer may order the repair or removal of any pool not properly maintained or protected from accidental access.

(*Ord. 761, 7/26/1985; as added by Ord. 798, 6/27/1988; and as amended by Ord. 1005, 5/23/2011*)

**§27-424. Vehicle Parking/Storage.**

The following regulations shall govern the parking or storage of motor vehicles, utility trailers, recreational vehicles, boats and boat trailers, and truck trailers in Residential and Office Zoning Districts:

A. Motor vehicles (as defined in the Pennsylvania Vehicle Code, 75 Pa.C.S.A. §101 *et seq.*) shall not be permitted to remain in public view if such motor vehicle does not have a legal license plate or is unable to be operated legally on a public street. This shall not apply to an emergency situation where a motor vehicle, owned by a resident of property in a Residential District, is permitted to remain on such property for a period not in excess of 96 hours.

B. Utility trailers more than 8 feet in length, travel trailers, motor homes, or motor bus more than 25 feet in length may not be kept or stored in a Residential or Office District. Any other recreational motor vehicle, boat, or boat trailer which does not create a nuisance or a health, safety, or fire hazard may be kept or stored in the rear yard in a Residential District only.

C. Any truck more than 18 feet in length, 80 inches in width, or more than 8,200 pounds in gross vehicle weight may not be parked in any driveway or parking lot, or kept or stored in any Residential District.

D. Major repairs to any motor vehicle which require more than 48 hours, or which create a health, safety, or fire hazard, or nuisance, or which detract from the character of the surrounding properties, shall not be permitted in any Residential or Office District. (The term “major repairs” shall include removal of body or mechanical parts rendering the motor vehicle legally inoperable as defined in the Pennsylvania Vehicle Code, 75 Pa.C.S.A. §101 *et seq.*)

(*Ord. 761, 7/26/1985; as added by Ord. 798, 6/27/1988*)

**§27-425. Child Day Care.**

No building or structure shall be used for the purpose of operating a child day care center, family day care home, or group day care home in the Borough of Hatboro without a special exception granted by the Zoning Hearing Board in accordance with the provisions found in Part 23 of this Chapter.

(*Ord. 761, 7/26/1985; as added by Ord. 859, 9/30/1991*)

**Part 5****FP Floodplain Conservation District****§27-501. Declaration of Legislative Intent.**

1. In expansion of the goals and objectives stated in the “Declaration of Legislative Intent” found in Part 1, §27-103, of this Chapter and the “Community Development Objectives” found in Part 1, §27-105, of this Chapter, the specific intent of this Part with respect to FP Floodplain Conservation Districts shall be to protect areas of floodplain subject to and necessary for the containment of flood waters and to permit and encourage the retention of open space land uses which will be so located and utilized as to constitute a harmonious and appropriate aspect of the continuing physical development of the Borough of Hatboro.

2. Furthermore, in light of the Borough’s certification as eligible for Federal Flood Insurance, it is the intent of this Part to provide adequate protection for flood prone properties within the Borough of Hatboro in furtherance of the goals of the National Flood Insurance Program, and meet the requirements of the Pennsylvania Flood Plain Management Act, P.L. 851, No. 160 of 1978, 32 P.S. §679.101 *et seq.* In advancing these principles and the general purposes of this Chapter and Comprehensive Plan, the following shall be the specific objectives of the FP Floodplain Conservation District:

A. To combine with present zoning requirements certain restrictions made necessary for flood prone areas to promote the general health, welfare, and safety of the Borough of Hatboro.

B. To prevent the erection of buildings or structures in areas unfit for human usage by reason of danger from flooding, unsanitary conditions, or other hazards.

C. To minimize danger to public health by protecting the quality and quantity of surface and subsurface water supplies adjacent to and underlying flood hazard area and promoting safe and sanitary drainage.

D. To permit only those uses which can appropriately be located in the floodplain as herein defined and which will not impede the flow or storage of flood waters, or otherwise cause danger to life and property at above or below their locations along the floodplain.

E. To protect adjacent landowners and those both upstream and downstream from damages resulting from development within a floodplain and the consequent obstruction or increase in flow of flood waters.

F. To protect the entire Borough of Hatboro from individual uses of land which may have an effect upon subsequent expenditures for public works and disaster relief and adversely affect the economic well-being of the Borough of Hatboro.

G. To maintain undisturbed the ecological balance between those natural systems, elements, including wildlife, vegetation, and marine life, dependent upon watercourses and water areas.

H. To protect other municipalities within the same watershed from the impact of improper development and the consequent increased potential for flooding.

- I. To provide areas for the deposit of flood-borne sediment.
- J. To require that uses vulnerable to flood, including public facilities, be constructed so as to be protected from flood damages.

K. *Definitions.*

*Administrator*—the Federal Insurance Administrator.

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

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

*Existing construction*—the purposes of determining rates, structures for which the “start of construction” commenced before the effective date of the Flood Insurance Rate Map (FIRM) or before January 1, 1975, for FIRMs effective before that date. “Existing construction” may also be referred to as “existing structures.”

*Flood or flooding*—general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) The overflow of inland or tidal waters.
- (b) The unusual and rapid accumulation or runoff of surface waters from any source.
- (c) *Mudslides (i.e., mudflows)*—
  - 1) Which are proximately caused by flooding and akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
  - 2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of unusually high water level in a natural body of water, nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

*Flood proofing*—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.

*Flood encroachment lines*—the lines marking the limits of floodways or Federal, State, and local floodplain maps.

*Freeboard*—a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

*Historic structures*—any structure that is:

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

(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 historical places in states with historic preservation programs which have been approved by the Secretary of the Interior. [*Ord. 1005*]

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

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

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

*Lowest floor*—the lowest floor of the lowest enclosed area (including basement). An unfinished or floor resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this Chapter.

*New construction*—structures for which the “start of construction” commenced on or after January 12, 1976, and includes any subsequent improvements to such structures.

*One hundred year flood*—a flood that, on the average, is likely to occur once every 100 years, (i.e., that has 1 percent chance of occurring each year, although the flood may occur any year). [*Ord. 1005*]

*Person*—includes any individual or group of individuals, corporation, partnership, association, or any other entity including State and local governments and agencies.

*Program*—the National Flood Insurance Program authorized by 42 U.S.C. §§4001-4128.

*Recreational vehicle*—a vehicle which is: (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projection; (3) designed to be self-propelled or permanently towable by a light duty truck; and, (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

*Start of construction*—(for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub.L. 97-348), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means

the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. 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 erection of temporary forms; nor does it include the installation on the property of accessory buildings; such as garages and sheds not occupied as dwelling units or not as part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the “actual start” includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile home park or mobile home subdivision, the “actual start” is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including at a minimum the construction of streets, either final site grading or the pouring of concrete pads, and the installation of utilities) is completed.

*Structure*—for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a mobile home. “Structure” for instance coverage purposes means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a mobile home on foundation. For the latter purposes, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

*Substantial damage*—damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

*Substantial improvement*—any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, (1) before the improvement or repair is started, or (2) if the structure has been damaged, and is being restored, before the damage occurred. For the purposes of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure. The term does not, however, include either: (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living, conditions or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

(*Ord. 761*, 8/26/1985, §500; as amended by *Ord. 813*, 11/27/1989; by *Ord. 910*, 12/16/1996, §1; by *Ord. 945*, 5/–/2003; and by *Ord. 1005*, 5/23/2011)

#### **§27-502. Boundaries of the Floodplain Conservation District.**

The Floodplain Conservation District is defined and established to include the

following:

A. Those areas subject to a 100-year recurrent interval flood as delineated in the study entitled Floodplain Information on Pennypack Creek; Montgomery County, Pennsylvania, dated March 1973, prepared by the Department of the Army, Philadelphia District, Corps of Engineers, Philadelphia, Pennsylvania.

B. The low area adjoining and including any water or drainage course or body and water subject to periodic flooding or overflow and delineated as alluvial soils or local alluvium by the Soil Conservation Service, United States Department of Agriculture, in the "Soil Survey of Montgomery County," 1967.

C. Studies used to establish the boundaries shall be available in the Borough Municipal Building for reference.

D. The Floodplain Conservation District, as defined in this Part 5, shall be shown on the Zoning Map, which shall also be designated the Borough of Hatboro Floodplain Conservation District Map and shall be available to the public in the Borough Municipal Building.

E. All subsequent changes made in the boundaries shall be indicated on the Floodplain Conservation District Map (the Zoning Map).

F. Those areas subject to inundation by the waters of the 100-year flood as delineated in the Flood Insurance Study (FIS), dated December 19, 1996, and does not include an amendments, for the Borough of Hatboro, Montgomery County, Pennsylvania, as prepared by the Federal Emergency Management Agency, Federal Insurance Administration. Said floodplains shall be comprised of two subdistricts as follows:

(1) *Floodway (F1)*—that portion of the floodplain district required to carry and discharge the waters of the 100-year flood without increasing the water surface elevation at any point more than 1 foot above existing conditions, as demonstrated in the Flood Insurance Study referenced above. Within any designated floodway area, construction, development, use, activity, or encroachment of any kind shall not be allowed except where the effect of proposed activity on flood heights is fully offset by accompanying stream improvements.

(2) *Floodway Fringe (F2)*—those portions of land within the floodplain district subject to inundation of the 100-year flood, lying beyond the floodway in areas where detailed study data and profiles are available.

(Ord. 761, 8/26/1985, §501; as amended by Ord. 813, 11/27/1989; by Ord. 910, 12/16/1996, §2; and by Ord. 945, 5/1/2003)

### **§27-503. Overlay Concept.**

The Floodplain Conservation District shall be deemed an overlay on any zoning district now or hereafter applicable to any lot.

A. Should the Floodplain Conservation District be declared inapplicable by legislative or administrative actions or judicial action, the zoning applicable to such lot shall be deemed to be the district in which it is located without consideration of this Part.

B. Should the zoning of any parcel or any part thereof in which the Floodplain

Conservation District is located or changed through any legislative or administrative or judicial action, such change shall have no effect on the Floodplain Conservation District unless such change was included as part of the original application.

C. In any zoning district, the minimum setback of all structures from the centerline of all watercourses shall be determined by the maximum front, rear, or side yard requirements in the applicable Section of this Chapter, except where such conditions as defined in §27-502 herein prescribe a greater setback.

D. A building permit is required for any and all development in the Floodplain Conservation District.

E. Emergency work or regular maintenance work on the sewer lines will not require prior approval from the Borough so long as the work is performed within an easemented area.

(*Ord. 761, 8/26/1985, §502; as amended by Ord. 813, 11/27/1989; and by Ord. 945, 5/-/2003*)

#### **§27-504. Uses Permitted in the Floodplain Conservation District.**

The following uses and no other shall be permitted in the Floodplain Conservation District:

A. Cultivation and harvesting crops according to recognized soil conservation practices.

B. Pasture and grazing of animals according to recognized soil conservation practices.

C. Outdoor plant nursery or orchard according to recognized soil conservation practices.

D. Wildlife sanctuary, woodland preserve, arboretum and passive recreation or parks, including hiking, bicycle, and bridle trails, but not including facilities subject to damage by flooding.

E. Game farms, fish hatchery, or hunting or fishing reserve, for the protection and propagation of wildlife, but permitting no structures.

F. Forestry, lumbering, and reforestation according to recognized natural resources conservation practices.

G. Front, side, and rear yards and required lot area in any district, provided such yards are not be used for onsite sewage disposal system.

H. Normal accessory uses (excepting enclosed structures, fences, and swimming pools) permitted under the usual zoning in residential, commercial, and industrial districts.

(*Ord. 761, 8/26/1985, §503; as amended by Ord. 813, 11/27/1989; and by Ord. 945, 5/-/2003*)

#### **§27-505. Prohibited Uses.**

The following uses shall not be permitted in the Floodplain Conservation District:

A. All freestanding structures and buildings and retaining walls, with the exception of flood retention dams, culverts, and bridges as approved by the

Pennsylvania Department of Environmental Protection. [*Ord. 1005*]

B. The filling of or removal of topsoil from all floodplain lands as defined in §27-502 herein.

C. The relocation of any watercourse without approval by the Borough Council of the Borough of Hatboro, which shall first have received the recommendation of the Borough Planning Commission and the Soil Conservation Service, United States Department of Agriculture; and the relocation of any watercourse without the approval of the Pennsylvania Department of Environmental Protection.

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, Bureau of Dams and Waterway Management.

In addition, the Federal Emergency Management Agency and Pennsylvania Department of Community and Economic Development, Bureau of Community Planning, shall be notified by the municipality prior to any alteration or relocation of any watercourse.

[*Ord. 1005*]

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

E. Onsite sewage disposal systems.

F. Private water supply wells.

G. No storage or production of materials or encroachment of any kind within a Floodway (F1) which would cause any increase in flood heights.

H. Any construction, development, use, activity, or encroachment of any kind within a Floodway (F1) which would cause any increase in flood heights.

(*Ord. 761, 8/26/1985, §504; as amended by Ord. 813, 11/27/1989; by Ord. 945, 5/1/2003; and by Ord. 1005, 5/23/2011*)

#### **§27-506. Uses Permitted by Special Exception.**

The following uses may be permitted by a special exception from the Zoning Hearing Board and upon the condition that no use permitted as a special exception within the Floodway (F1) shall increase the elevation of the 100-year frequency recurrent interval flood:

A. Recreation use, whether open to the public or restricted to private membership, such as parks, camps, picnic areas, golf courses, fishing areas, sport or boating clubs, not to include enclosed structures excepting toilet facilities but permitted piers, docks, floats, or unenclosed shelters usually found in developed outdoor recreational areas. Any toilet facilities provided shall be connected to the public water and sewage system.

B. Sewage treatment plant, sewer lines, outlet installations for sewage treatment plants and sewage pumping stations with the approval of the Borough Engineer, appropriate sewer authorities, and the Pennsylvania Department of Environmental Protection when accompanied by documentation to the necessity for

locating within the boundaries of the Floodplain Conservation District. [Ord. 1005]

C. Sealed public water supply wells with the approval of the Borough Engineer and the Pennsylvania Department of Environmental Protection. [Ord. 1005]

D. Dams, culverts, and bridges with the approval of appropriate authorities with jurisdiction, such as Pennsylvania Department of Environmental Protection. [Ord. 1005]

E. *Roads, Driveways, and Parking Facilities.*

(1) In the case of roads and driveways no such facilities shall be permitted as a special exception if viable alternative alignments are feasible. In any case, pervious rather than impervious materials shall be used in the construction of any road or driveway situated within the floodplain.

(2) In the case of parking facilities no such facility shall be permitted as a special exception unless satisfactory evidence is submitted that such parking will not be used during periods of flood flow, thus posing no threat to safety of the vehicles, their uses and downstream properties. Temporary parking for periods not to exceed 1 hour and for recreation uses are examples of such exceptions. In any case pervious rather than impervious materials shall be used in the construction of any parking facility within the floodplain.

F. Grading or regrading of lands, including the deposit of topsoils and the grading thereof. The application for a special exception for such use shall be accompanied by the following:

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

(2) An application for amending the boundaries of the Floodplain Conservation District if the boundaries are affected by the grading or regrading of the land.

(3) A plan indicating the deposit of any fill or materials proposed to be deposited by the grading or regrading of land. Such fill or other materials shall be protected against erosion by rip-rap, vegetative cover, or bulkheading.

G. Similar uses to the above which are in compliance with the intent of this Part.

(Ord. 761, 8/26/1985, §505; as amended by Ord. 813, 11/27/1989; by Ord. 945, 5/2003; and by Ord. 1005, 5/23/2011)

### **§27-507. Application Procedure.**

For any new use of land in the Floodplain Conservation District, excepting uses existing as of the date of the enactment of this Chapter, an application for a floodplain use permit shall be filed with the Zoning Officer, who shall make an initial determination on the application.

A. For a use other than those permitted in §27-505, an application seeking approval by special exception or variance shall be forwarded to the Zoning Hearing Board along with the required studies for information and the findings of the Zoning Officer.

B. The Zoning Officer shall assure that all required permits have been obtained from any other Federal or State office or agency.

(*Ord. 761, 8/26/1985, §506; as amended by Ord. 813, 11/27/1989; and by Ord. 945, 5/-/2003*)

**§27-508. Additional Procedures for Consideration of a Special Exception or Variance.**

The following procedures, in addition to those required elsewhere in this Chapter, shall apply to requests for special exceptions and variances under this Part:

A. The Zoning Hearing Board shall request the review and recommendations of the Soil Conservation Service of the United States Department of Agriculture and the United States Army Corps of Engineers at least 30 days prior to the public hearing.

B. The Zoning Hearing Board shall request at least 30 days prior to a public hearing the review and recommendations of the Borough of Hatboro Planning Commission.

C. The Zoning Hearing Board shall request at least 30 days prior to the public hearing the review and recommendations of technical agencies such as the Montgomery County Planning Commission, the Pennypack Watershed Association and other planning agencies as appropriate, to assist it in determining the environmental impact of the proposed use.

D. In rendering its decision, the Zoning Hearing Board may impose such special measures or conditions as it deems necessary or appropriate for the proposed use to conform to the intent of this Part.

(*Ord. 761, 8/26/1985, §507; as amended by Ord. 813, 11/27/1989; and by Ord. 945, 5/-/2003*)

**§27-509. Standards for Approval of Uses by Special Exception.**

The Zoning Hearing Board shall exercise discretion in allowing only those uses which are substantially in accord with the objectives stated in §27-502 of this Part. In considering a use as a special exception, the Zoning Hearing Board shall consider the following:

A. The effect of the use shall not substantially alter the cross-sectional profile of the streams and floodplains at the location of the proposed use.

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

C. The general welfare or public interest of the Borough of Hatboro or of other municipalities in the same watershed shall not be adversely affected.

D. Any buildings or structures permitted by special exception or variance shall be constructed and placed on the lot so as to offer the minimum obstruction to the flow of water, and shall be designated to have minimum effect upon the flow and height of flood water. The lowest floor including the basement of all structures shall be at a minimum of not less than 1 foot above the 100-year recurrent interval flood. [*Ord. 1005*]

E. Any building or structure permitted by special exception or variance shall

include floodproofing measures, as certified by a registered, professional engineer, or architect, such as the following, without limitation because of specific enumeration:

- (1) Anchorage to resist flotation, and lateral movements.
- (2) Installation of watertight doors, bulkheads, and shutters.
- (3) Reinforcement of walls to resist water pressures.
- (4) Use of paints, or mortar to reduce seepage of water through walls.
- (5) Addition of mass or weight to structure to resist flotation.
- (6) Installation of pumps to lower water levels in structures.
- (7) Construction and location of water supply and waste treatment systems floodproofed so as to prevent the entrance of floodwaters into the systems or discharge from them.
- (8) Pumping facilities for subsurface external foundation wall and basement floor pressures.
- (9) Construction to resist rupture or collapse caused by water pressure or floating debris.
- (10) Cutoff valves on sewer lines, or the elimination of gravity flow basement drains.
- (11) Elevation of structures and their utilities to reduce the likelihood of flood damage.

(*Ord. 761, 8/26/1985, §508; as amended by Ord. 813, 11/27/1989; by Ord. 945, 5/2003; and by Ord. 1005, 5/23/2011*)

#### **§27-510. Standards for Approval of Uses by Variance.**

A property owner of a lot of record, as of the date of the enactment of this Part, who is able to prove that the strict enforcement of this Part would create undue hardship by denying a reasonable use of an existing lot which is situated either wholly or partially in the Floodplain Conservation District, may seek relief by applying for a variance from the Zoning Hearing Board.

A. The Zoning Board, after deciding upon the merits of the application, may permit the applicant to make some reasonable use of the property in question, while ensuring that such use will not violate the basic objectives of this Part, as specified in §27-501 hereof.

B. In considering a use as a variance, the Zoning Hearing Board shall consider those standards outlined in this Section, as well as any other standards required by law to be applied.

C. In reviewing variance requests pertaining to those uses and activities regulated by §§38.6 and 38.7 of DCED's Flood Plain Management Regulations, 12 Pa.Code §113.1 *et seq.*, enacted pursuant to the Pennsylvania Flood Plain Management Act (Act 166-7B), 32 P.S. §679.101 *et seq.*, the Zoning Hearing Board shall ensure that no variances are granted which will violate any of the above-referenced requirements. [*Ord. 1005*]

D. *Variances and Exceptions.* The issuance of a variance is for floodplain management purposes only. Insurance premium rates are determined by statute

according to actuarial risk and will not be modified by the granting of a variance. While the granting of variances generally is limited to a lot size less than ½ acre (as set forth in paragraph .B of this Section), deviations from that limitation may occur. However, as the lot size increases beyond ½ acre, the technical justification required for issuing a variance increases. The Administrator may review a community's findings justifying the granting of variances and if that review indicates a pattern inconsistent with the objectives of sound floodplain management, the Administrator may take appropriate action under §59.24(b) of the Federal Regulations.

If it should become necessary to grant any variance, the applicant shall be required to comply with all applicable requirements of the National Flood Insurance Program Regulations (60.3(a) through (d) including the requirements for elevation floodproofing and anchoring.

Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or a State Inventory of Historic Places, without regard to the procedures set forth in this Section.

Procedures for granting of variances are as follows:

(1) Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

(2) Variances may be issued for new construction and substantial improvements to be erected on a lot of ½ acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the procedures of subparagraphs (3), (4), (5), and (6) of this Section.

(3) Variances shall only be issued by a community upon (a) a showing of good and sufficient cause, (b) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on, or victimization of the public, or conflict with existing local laws or ordinances.

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(5) The Borough shall notify the applicant in writing over the signature of a Borough official that (a) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (b) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

(6) The Borough shall (a) maintain a record of all variance actions, including justification for their issuance, and (b) report such variances issued in its annual or biennial report submitted to the Administrator. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the 100-year flood.

(*Ord. 761*, 8/26/1985, §509; as amended by *Ord. 813*, 11/27/1989; by *Ord. 945*, 5/-/2003; and by *Ord. 1005*, 5/23/2011)

**§27-511. Uses, Buildings, and Structures Rendered Nonconforming by the Adoption of this District.**

Following the adoption of this Part, any use, building, or structure which is situated within the boundaries of the FP Floodplain Conservation District and which does not conform to the permitted uses specified in §27-505, shall become a nonconforming use, building, or structure, regardless of its conformance to the district in which it is located without consideration of this Part.

A. In deciding whether to allow the expansion of a use, building, or structure made nonconforming by reason of this Part, the Zoning Hearing Board shall apply the standards of §27-510.

B. An expansion to a use or activity sited in §§38.6 and 38.7 of the Department of Community and Economic Development Flood Plain Management Regulations, 12 Pa.Code §113.1 *et seq.*, shall comply with all the administrative and technical requirements contained therein. [*Ord. 1005*]

(*Ord. 761*, 8/26/1985, §510; as amended by *Ord. 813*, 11/27/1989; by *Ord. 945*, 5/-/2003; and by *Ord. 1005*, 5/23/2011)

**§27-512. Municipality Liability.**

The granting of a building permit or approval of a subdivision or land development plan in the FP Floodplain Conservation District shall not constitute a representation, guarantee, or warranty of any kind by the municipality, or by any official or employee thereof of the practicality or safety of the proposed use, building, or structure, and shall create no liability upon the Borough of Hatboro, its officials, agents, servants, or employees.

(*Ord. 761*, 8/26/1985, §511; as amended by *Ord. 813*, 11/27/1989; and by *Ord. 945*, 5/-/2003)

**Part 6****R-1 Residential District****§27-601. Declaration of Legislative Intent.**

In expansion of the “Declaration of Legislative Intent” contained in §27-105 of this Chapter, it is hereby declared to be the intent of this Part with respect to R-1 Residential Districts to establish reasonable standards of performance and to promote the desirable benefits which low density single-family detached residential and agricultural uses have throughout the Borough.

(*Ord. 761, 8/26/1985, §600*)

**§27-602. Use Regulations.**

In the R-1 Residential District a building may be erected, altered, or used, and a lot or premises may be used or occupied, for any of the following uses and no other:

- A. Single-family detached dwelling.
- B. Cultivation of the soil (agriculture).
- C. Any of the following uses when authorized by a special exception:
  - (1) Educational, religious, or philanthropic use, excluding correctional, penal or mental institutions, group homes for the mentally or physically ill or retarded, half-way houses for alcohol, drug, or other similar institutions.
  - (2) Public utility facility, park, or other municipal recreational use.
  - (3) Cemetery, provided that the parcel devoted to this use shall be not less than 5 acres.
  - (4) Passenger station for public transportation.
  - (5) Family day care home and group day care home in single-family detached dwellings only. [*Ord. 859*]
  - (6) Child day care center when facilities are located in a structure used as a church or school. [*Ord. 859*]
- D. Accessory uses as authorized by the “General Regulations” of this Chapter, and subject to restrictions as set forth in paragraph .C(6), herein. [*Ord. 798*]

(*Ord. 761, 8/26/1985, §601; as amended by Ord. 798, 6/27/1988; and by Ord. 859, 9/30/1991*)

**§27-603. Area, Width, and Yard Regulations.**

The following area, width, and yard regulations shall apply in the R-1 Residential District:

- A. *Lot Area.* A lot area of not less than 10,000 square feet shall be provided for residential use within the R-1 Residential District.
- B. *Width and Yard Regulations.* The following shall be used to determine the required width and yard regulations for all residential lots within the R-1 District:
  - (1) *Coverage.* Total building coverage of not more than 20 percent of the

total lot area. Coverage includes accessory use buildings.

(2) *Lot Width*. A width of not less than 70 feet measured at the building line.

(3) *Front Yard*. A front yard depth of not less than 30 feet measured from the right-of-way line to the building foundation wall nearest to the right-of-way line. A front yard shall be that yard that extends from the right-of-way line to the nearest wall of the principal building.

(4) *Rear Yard*. A rear yard depth of not less than 25 feet measured from the building foundation wall at the nearest point to the rear property line. A rear yard is that yard directly opposite the front yard.

(5) *Side Yards*. No building or structure shall be erected nearer than 10 feet to any side property line measured from the nearest foundation wall to the property line, except as provided in subparagraph (6), herein.

(6) *Accessory Building/Structures Restrictions*. Accessory buildings and structures may be erected at least 10 feet to the rear of the building line, and no less than 10 feet from the rear property line. Accessory buildings and structures may be erected no less than 8 feet from any side property line, except that no accessory building may be erected nearer than 8 feet from any other existing building on the same or adjoining lot. Provisions must be made for disposal of roof water onto the subject property or directly to the nearest storm sewer. [Ord. 798]

(Ord. 761, 8/26/1985, §602; as amended by Ord. 798, 6/27/1988)

#### **§27-604. Height Regulations.**

The maximum height of a building or structure erected or enlarged in this district shall be:

A. For any dwelling: 35 feet measured from the mean level of the ground to the highest point of the building, except as permitted in §27-413 of this Chapter.

B. For any building accessory to any dwelling: 15 feet measured from the mean level of the ground to the highest point of building.

C. For any nonresidential use: 65 feet measured from the mean level of the ground to the highest point of the building, except as permitted in §27-413 of this Chapter.

(Ord. 761, 8/26/1985, §603)

**Part 7****R-2 Residential District****§27-701. Declaration of Legislative Intent.**

In expansion of the “Declaration of Legislative Intent” contained in §27-103 of this Chapter and the “Community Development Objectives” contained in §27-105 of this Chapter, it is hereby declared to be the intent of this Part with respect to R-2 Residential Districts to establish reasonable standards of performance and to promote the desirable benefits which medium density single-family detached residential uses have throughout the Borough.

(*Ord. 761, 8/26/1985, §700*)

**§27-702. Use Regulations.**

In the R-2 Residential District a building may be erected, altered, or used, and a lot or premises may be used or occupied for any of the following uses and no other:

- A. Single-family detached dwelling.
- B. Cultivation of the soil (agriculture).
- C. Any of the following when authorized by a special exception:
  - (1) Educational, religious, or philanthropic use, or group homes, excluding correctional, penal, or mental institutions.
  - (2) Public utility facility, park, or other municipal recreational use.
  - (3) Cemetery, provided that the parcel devoted to this use shall not be less than 5 acres.
  - (4) Passenger station for public transportation.
  - (5) Rooming house/boarding house.
  - (6) Child day care center and group day care home in single-family detached dwellings only. [*Ord. 859*]
  - (7) Child day care center when facilities are located in a structure used as a church or school. [*Ord. 859*]
- D. Accessory uses as authorized by the “General Regulations” of this Chapter subject to restrictions as set forth in §27-703.B.6, herein.

(*Ord. 761, 8/26/1985, §701; as amended by Ord. 798, 6/27/1988; by Ord. 857, 8/26/1991; and by Ord. 859, 9/30/1991*)

**§27-703. Area, Width, and Yard Regulations.**

The following area, width, and yard regulations shall apply in the R-2 Residential District:

- A. *Lot Area.* A lot area of not less than 7,000 square feet shall be provided for residential use within the R-2 Residential District:
  - (1) *Lot Area.* A lot area of not less than 10,000 square feet shall be provided for rooming house/boarding house use.

B. *Width and Yard Regulations.* The following shall be used to determine the required width and yard regulations for all residential lots within the R-2 Residential District:

(1) *Coverage.* Total building coverage of not more than 25 percent of total lot area. Coverage includes accessory use buildings.

(2) *Lot Width.* A width of not less than 50 feet measured at the building line.

(3) *Front Yard.* A front yard depth of not less than 25 feet measured from the right-of-way line to the building foundation wall nearest to the right-of-way line. A front yard depth of not less than 40 feet shall be required for boarding house/rooming house use. A front yard shall be that yard that extends from a right-of-way line to the nearest wall of the principal building.

(4) *Rear Yard.* A rear yard depth of not less than 25 feet measured from the building foundation wall at the nearest point to the rear property line. A rear yard is that yard directly opposite the front yard.

(5) *Side Yards.* No building or structure shall be erected nearer than 8 feet to any side property line measured from the nearest foundation wall to the property line, except as provided in paragraph .B(6) herein. Except that in the case of rooming houses/boarding houses the required side yard shall be not less than 15 feet.

(6) *Accessory Building/Structure Restrictions.* Accessory buildings and structures may be erected at least 10 feet to the rear of the building line, and no less than 10 feet from rear property line. Accessory buildings and structures may be erected no less than 8 feet from any side property line, except that an accessory building may be erected on the side property line if the adjoining property owner(s) give written consent. The property line wall must be of solid masonry construction. No accessory building may be erected nearer than 8 feet from any other existing building on the same or adjoining lot. Provision must be made for disposal of roof water onto the subject property or directly to nearest storm sewer.

C. For any nonresidential use permitted in the R-2 Residential District by special exception a minimum lot size of 40,000 square feet shall be required as well as the standards set forth in §27-420 of this Chapter.

(Ord. 761, 8/26/1985, §702 as amended by Ord. 798, 6/27/1988; by Ord. 857, 8/26/1991; and by Ord. 859, 9/30/1991)

#### **§27-704. Height Regulations.**

The maximum height of a building or structure erected or enlarged in this district shall be:

A. For any dwelling: 35 feet measured from the mean level of the ground to the highest point on the building, except as permitted in §27-413 of this Chapter.

B. For any building accessory to any dwelling: 15 feet measured from the mean level of the ground to the highest point of the building.

C. For any nonresidential use: 65 feet measured from the mean level of the ground to the highest point of the building, except as permitted in §27-413 of this

Chapter.  
(*Ord. 761, 8/26/1985, §703*)



**Part 8****R-3 Residential District****§27-801. Declaration of Legislative Intent.**

In expansion of the “Declaration of Legislative Intent” contained in §27-103 of this Chapter and the “Community Development Objectives” contained in §27-105 of this Chapter, it is hereby declared to be the intent of this Part with respect to R-3 Residential Districts to establish reasonable standards of performance for a higher density of dwellings; namely two-family dwellings and townhouses, in those areas of the Borough where the existing character of development and the potential for redevelopment would most readily accommodate a higher intensity of residential dwelling type. (*Ord. 761, 8/26/1985, §800*)

**§27-802. Use Regulations.**

In the R-3 Residential District a building may be erected, altered, or used, and a lot or premises may be used or occupied for any of the following uses and no other:

A. Any of the permitted uses in the R-1 and R-2 Residential Districts in accordance with the use regulations, area, width, and yard regulations, and height regulations adopted for the permitted use in R-1 or R-2 are also met in the R-3 District.

B. Two-family dwellings (twin and duplexes).

C. Townhouses.

D. Any of the following uses when authorized by special exception:

(1) Indoor recreational facility, such as a community center within a residential development provided that its use is intended solely for the residents of the development.

(2) Professional office use in a residential development, provided that such use shall comply with the requirements for off-street parking and loading facilities as specified in Part 20 of this Chapter.

E. Accessory uses as authorized by the “General Regulations” of this Chapter, and subject to restrictions as set forth in §27-803.C.7 herein.

(*Ord. 761, 8/26/1985, §801; as amended by Ord. 798, 6/27/1988; and by Ord. 864, 5/18/1992*)

**§27-803. Development Regulations.**

The following density, area, width, and yard requirements shall apply for each permitted dwelling type:

A. *Minimum Acreage.* The following minimum acreage requirements shall apply for each permitted dwelling type:

(1) For two-family dwellings the minimum acreage shall be the required lot area as specified in paragraph .C herein.

(2) For townhouse development a minimum of 40,000 square feet shall be

required before a development plan can be submitted to the Borough for consideration.

B. *Density.* In the R-3 Residential District the maximum permitted density shall be 12 dwelling units per acre for both two-family dwellings and townhouses.

C. *Area, Width, Yard, and Coverage Regulations.* The following regulations shall apply, subject to the maximum density permitted in paragraph .B herein:

(1) *Lot Area.* The minimum total area allowed for each permitted use shall be:

(a) Two-family houses shall be permitted on separate lots of 4,000 square feet per dwelling unit.

(b) Duplex type two-family homes shall be permitted on lots of 7,000 square feet per building.

(c) Townhouses shall be permitted on lots of 4,000 square feet for each end dwelling unit and 3,000 square feet for each inside dwelling unit.

(2) *Building Coverage.* The total building coverage allowed for each lot area, including accessory buildings, shall be:

(a) Two-family twin house—35 percent for each 4,000 square foot lot.

(b) Duplex type two-family house—30 percent.

(c) Townhouse—40 percent for each separate lot area as required in subparagraph (1)(c) herein.

(3) *Lot Width.* Lot width shall be measured at the building line. The minimum width of each lot shall be:

(a) For one-half of a two-family twin house, each lot shall have a lot width of not less than 35 feet.

(b) For a duplex type two-family house, each lot shall have a lot width of not less than 50 feet.

(c) For townhouses, each end unit shall have a lot width of not less than 35 feet, and all interior units shall have a lot width of not less than 20 feet.

(4) *Front Yard.* For all types of permitted dwellings, a front yard depth of not less than 25 feet measured from right-of-way line to the building foundation wall nearest to the right-of-way line. A front yard shall be a yard that extends from a right-of-way line to the nearest wall of the principal building.

(5) *Rear Yard.* For all types of permitted dwellings, a rear yard of not less than 25 feet measured from the building foundation wall at the nearest point to the rear property line. A rear yard is that yard directly opposite the front yard.

(6) *Side Yard Requirements.*

(a) *Single-Family Detached Dwelling Use.* Two side yards shall be required and no building or structure shall be erected nearer than 8 feet to any side property line measured from the nearest foundation wall to the property line. Two side yards shall be required. [Ord. 864]

(b) *Twin Semi-detached Dwelling.* One side yard shall be required at least 8 feet wide measured from the property line to the nearest foundation wall. No side yard shall be required on the common wall side of the twin home, provided any wall constructed on the party wall property line shall meet Borough standards for fire wall construction. [Ord. 864]

(c) *Duplex Type Dwelling.* Two side yards shall be required and no building or structure shall be erected nearer than 8 feet to any side property line measured from the nearest foundation wall to the property line. [Ord. 864]

(d) *Townhouse.* Side yards shall be required and shall comply with the townhouse development regulations set forth in §27-807 herein. [Ord. 864]

(7) *Accessory Use Building Restrictions.* Accessory buildings and structures may be erected at least 10 feet to the rear of the building line, and no less than 10 feet from the rear property line. Accessory buildings and structures may be erected no less than 8 feet from any side property line, except that an accessory building may be erected on the side property line if the adjoining property owner(s) give written consent. The property line wall must be of solid masonry construction. No accessory building may be erected nearer than 8 feet from any other existing building on the same or adjoining lot. Provision must be made for disposal of roof water onto the subject property or directly to the nearest storm sewer.

(Ord. 761, 8/26/1985, §802; as amended by Ord. 798, 6/27/1988; and by Ord. 864, 5/18/1992)

#### **§27-804. Height Regulations.**

The maximum height of a building or structure erected or enlarged in this district shall be:

- A. For any dwelling: 35 feet measured from the mean level of the ground to the highest point of the building except as permitted in §27-413 of this Chapter.
- B. For any building accessory to any dwelling: 15 feet measured from the mean level of the ground to the highest point of the building.

(Ord. 761, 8/26/1985, §803)

#### **§27-805. Parking Regulations.**

In addition to the requirements set forth in §27-2002 of this Chapter, the following parking regulations shall apply in an R-3 Residential District:

- A. The required parking spaces, when they are not an integral part of the building design, may be arranged within a court or a separate parking area, as deemed suitable after review by the Borough of Hatboro Planning Commission and approval by Borough Council.
- B. No parking area for three or more vehicles shall be located closer than 20 feet to a side or rear property line, or closer than 25 feet to a right-of-way line.
- C. All parking areas shall be arranged so that driveways are clear for movement of emergency vehicles at all times.

(Ord. 761, 8/26/1985, §804)

**§27-806. Utilities.**

All utility lines (electric, telephone, television, cable, etc.) serving the R-3 Residential District developed subsequent to the enactment of this Chapter shall be placed underground.

(Ord. 761, 8/26/1985, §805)

**§27-807. Townhouse Development Regulations.**

The following additional regulations shall apply for townhouse development proposals.

A. *Building Size.* For townhouses, there shall be no more than eight attached dwelling units.

B. *Distance Between Buildings.* For townhouse developments, where the individual lot requirements are not applicable under §27-803.C, herein, in the case of two or more buildings the horizontal distance between any two buildings shall be not less than one and one-half times the height of the taller building.

C. *Setbacks* For developments where the individual lot requirements are not applicable under §27-803.C, herein, the following minimum building setbacks shall be applied:

(1) From any R-3 Residential District boundary line: 20 feet.

(2) From a public street or highway right-of-way line: 25 feet.

(3) From any parking area of 10 or more spaces for vehicles: 20 feet.

(4) A side yard width of not less than 20 feet measured from the side property line to the nearest foundation wall of the nearest building to the property line.

D. *Access.* Provision shall be made for safe and efficient ingress and egress to and from public streets and highways serving the townhouse development without causing undue congestion or interference with normal traffic flow. The Borough Planning Commission shall determine the adequacy of the thoroughfare to carry the additional traffic generated by the townhouse development, as well as the adequacy of the street frontage of the proposed development.

E. *Common Areas and Facilities.* The provision of certain facilities serving the entire development such as parking lots, interior pedestrian ways, driveways, alleys, lighting: facilities, landscape planting areas, buffers, open space, and recreation facilities are hereby encouraged, and may be located either on individual lots or in common areas. In cases where they are provided in common areas, provision satisfactory to Borough Council must be made for their perpetual maintenance and care. Use of these facilities may be restricted to the residents of the development and may be maintained by the developer, a homeowners association or a similar instrument. Any common area shall first be offered to the Borough of Hatboro; however, the Borough need not accept dedication of the open space but shall receive a first option to purchase, which may be executed at any time with 12 months notice.

F. *Lighting Facilities.* Lighting facilities shall be provided as needed and shall

be arranged in a manner which will protect public streets and highways, and neighboring properties from glare or hazardous interference of any kind. Lighting facilities shall be required when deemed necessary for the safety and convenience of the townhouse residents.

G. *Plantings*. Shade trees and other plantings shall be provided as the Borough Planning Commission shall deem necessary or appropriate in all open space and buffer areas in a townhouse development. The developer shall make provisions for the continuing care of any such trees, shrubs, and open space areas within the townhouse development.

H. *Buffer Area*. The townhouse development shall have a permanent landscaped planting area of at least 15 feet in depth designed for screening from view any residential, office, commercial, or industrial uses which adjoin the townhouse development.

I. *Procedural Requirements*. The following information shall be shown on a townhouse development plan in an R-3 Residential District, in addition to that required by the Land Subdivision and Development Ordinance [Chapter 22].

- (1) Floor area in square feet for each townhouse unit.
- (2) Number of bedrooms per townhouse unit.
- (3) Total number of townhouse dwelling units per building.
- (4) Total acreage in the proposed plan.
- (5) Total number of off-street automobile parking spaces:
- (6) Exterior vertical and horizontal building dimensions.
- (7) Total ground floor area of each building.

(Ord. 761, 8/26/1985, §806)



**Part 9****R-4 Residential District****§27-901. Declaration of Legislative Intent.**

In expansion of the “Declaration of Legislative Intent” contained in §27-103 of this Chapter and the “Community Development Objectives” contained in §27-105 of this Chapter, it is hereby declared to be the intent of the R-4 Residential District to provide for areas of high density residential use in the Borough, such as garden apartments. These areas are located in those portions of the Borough where the character of existing development, the provision of essential sewer and water facilities, superior highway access and proximity to commercial and employment centers would most readily accommodate a higher density multi-family development.

(*Ord. 761, 8/26/1985, §900*)

**§27-902. Use Regulations.**

In an R-4 Residential District a building may be erected, altered, or used, and a lot may be used or occupied for any of the following uses and no other:

A. Any of the permitted uses in R-1, R-2, and R-3 Residential Districts. All such uses, except townhouse, shall meet all development requirements as set forth in this Chapter for the district in which the use is permitted. Townhouse development in the R-4 Residential District shall meet requirements as set forth in §27-904 in this Chapter.

B. Garden apartments.

C. Parks, playground, tot lots, and open space.

D. Garden apartment type housing for the elderly as a conditional use, and subject to the standards set forth in Part 16 of this Chapter.

E. Any of the following uses when authorized by special exception:

(1) Indoor recreational facility, such as a community center, within a garden apartment development provided that its use is intended solely for the residents of the development.

(2) Professional office use in a residential development, provided that such use shall comply with the requirements for off-street parking and, loading facilities as specified in Part 20 of this Chapter. [*Ord. 864*]

(3) Nursing and convalescent homes.

F. Accessory uses as authorized by the general regulations of this Chapter, except that on-ground private swimming pools shall not be permitted for townhouse or garden apartment type development. In-ground private swimming pools are permitted as an accessory structure in a townhouse or garden apartment type development in a required recreation and open space area, provided all set back requirements and fencing requirements can be fully met. Such swimming pools shall be restricted to the use of the tenants of the apartments, and their guests. [*Ord. 1005*]

(*Ord. 761, 8/26/1985, §901; as amended by Ord. 798, 7/27/1988; by Ord. 864, 5/18/1992;*

and by *Ord. 1005*, 5/23/2011)

**§27-903. Acreage and Density Requirements.**

The following minimum acreage and maximum density standards shall apply in the R-4 Residential District:

A. *Minimum Acreage.* A proposal for garden apartment development shall have a minimum tract area of 3 acres, before a development plan can be submitted to the Borough for consideration.

B. *Maximum Density.* Maximum permitted density shall be 15 dwelling units per acre.

(*Ord. 761*, 8/26/1985, §902)

**§27-904. Garden Apartment and Townhouse Development Regulations for R-4 District.**

1. The regulations set forth in this Section shall apply for townhouse and garden type apartments. Whenever the words “garden apartment” or “garden type apartment” are used in this Section, only, it shall also mean “townhouse.” [*Ord. 1005*]

2. For housing for the elderly, the development regulations found in Part 16 of this Chapter shall also apply.

3. The following regulations shall apply for townhouse and garden apartment development, subject to the maximum density permitted in §27-903.B herein. The developer shall show evidence that the developer has considered and made provision for the development to be executed, in accordance with the following conditions: [*Ord. 864*]

A. The proposed development shall be constructed in accordance with an overall plan and shall be designed as a unified architectural unit with appropriate landscaping.

(1) If the development of the garden apartments is to be carried out in stages, each stage shall be so planned that the foregoing requirements and the intent of this Chapter shall be fully complied with at the completion of any stage. The initial stage of development shall comprise of a total floor area of not less than 30,000 square feet.

(2) The developer shall assure the provision of required improvements by means of a proper completion guarantee in the form of a bond or the deposit of funds or securities in escrow to cover the cost of the improvements. The work shall be performed in accordance with all the requirements and the approved plans.

(3) The entire development must be held in single ownership and shall remain in single ownership as long as the development is used as garden apartments and benefits from the special provisions allowed for garden apartments, except as otherwise permitted under the Pennsylvania Uniform Condominium Act, P.L. 286, 68 Pa.C.S.A. §3101 *et seq.*

B. *Building Coverage.* Not more than 30 percent of the area of each garden apartment development shall be occupied by buildings, including accessory use buildings.

C. *Setback from Streets.* There shall be a setback of not less than 25 feet from the right-of-way line of any street on which the garden apartment development abuts.

D. *Setback from Property Lines.* There shall be a setback of not less than 20 feet from any property line on which the garden apartment development abuts.

E. *Distance Between Buildings.* In the case of two or more buildings in garden apartment development, the horizontal distance between any two buildings measured from the building foundation wall at the nearest point to the nearest adjoining building foundation wall shall be not less than one and one-half times the height of the taller building. [Ord. 1005]

F. *Parking.* Except as provided in Part 16, not less than two off-street automobile parking spaces shall be required for each dwelling unit. Such parking spaces shall be placed so as not to interfere, with any service or recreation area, and shall be not less than 25 feet from any property line or street right-of-way line.

G. *Height of Building.* No building in a garden apartment development shall exceed a height of 35 feet measured from the mean level of the ground to the highest point of the building and, in any event, no building shall be more than two stories exclusive of basement.

H. *Service.* Areas for loading and unloading of delivery trucks and other vehicles and for the collection of refuse, fuel and other services shall be provided as specified in Part 20, and shall be so arranged that they may be used without blockage or interference with the use of accessways or automobile parking facilities.

I. *Access.* Provision shall be made for safe and efficient ingress and egress to and from public streets and highways serving the garden apartment development without undue congestion to, or interference with, normal flow of traffic. The Borough Planning Commission shall determine the adequacy of the surrounding public streets and highways to carry additional traffic that may be generated by the garden apartment development as well as the adequacy of street frontage of the proposed garden apartment development; and, shall address their findings to the Borough Code Enforcement Officer and to Borough Council before any permit may be issued.

J. *Utilities.* All garden apartment dwelling units shall be served by a public sanitary sewage disposal system and public water supply. All utility lines (electric, telephone, TV cable, etc.) serving a garden apartment development shall be placed underground.

K. *Lighting Facilities.* Lighting facilities provided in a garden apartment development shall be provided as needed and shall be arranged in a manner which will protect street and highway users, and neighboring property users, from glare or hazardous interference of any kind. Lighting facilities shall be required when deemed necessary by the Borough Planning Commission for the safety and convenience of the garden apartment residents.

L. *Buffer Area.* The garden apartment development shall have a permanent landscaped planting area of at least 15 feet in depth designed for screening from view any residential, commercial, office, and industrial use which adjoin the garden apartment development.

M. *Recreation and Open Space.* The developer shall provide a minimum of 20 percent of the total site area as usable open space for community areas, playgrounds, and tot lots and other services and amenities for the comfort and convenience of the garden apartment residents.

N. *Plantings.* Shade trees and other plantings shall be provided as the Borough Planning Commission shall deem necessary or appropriate in all open space and buffer area within the garden apartment development.

(*Ord. 761, 8/26/1985, §903; as amended by Ord. 864, 5/18/1992; and by Ord. 1005, 5/23/2011*)

**§27-905. Procedural Requirements.**

The following information shall be shown on all plans for a development in an R-4 Residential District, in addition to that required by the Land Subdivision Ordinance [Chapter 22]:

- A. Floor area in square feet for each apartment dwelling unit.
- B. Number of bedrooms per apartment dwelling unit.
- C. Total number of apartment dwelling units per building.
- D. Total acreage in the proposed plan.
- E. Total number of off-street automobile parking spaces.
- F. Exterior vertical and horizontal building dimensions.
- G. Total ground floor area of each building.

(*Ord. 761, 8/26/1985, §904*)

**Part 10****O Office District****§27-1001. Declaration of Legislative Intent.**

In expansion of the goals and objectives stated in the “Declaration of Legislative Intent” found in §27-103 of this Chapter and the “Community Development Objectives” found in §27-105 of this Chapter, it is hereby declared to be the intent of this Part with respect to O Office District to establish reasonable standards of performance and promote the desirable benefits which well located general and professional office uses will have throughout the Borough of Hatboro. Furthermore, it is the intent of this Part to provide to transitional use districts in those areas of the Borough which are changing from R-1 and R-2 Residential Districts to a mixed, commercial and multi-family residential character.

(*Ord. 761, 8/26/1985, §1000; as amended by Ord. 1005, 5/23/2011*)

**§27-1002. Use Regulations.**

The following uses shall be permitted in the O Office District and no other:

A. *Office Buildings*: Professional, executive, administrative, and governmental; such uses shall include, but not be limited to, the following:

- (1) Insurance, real estate, and other similar business and professional offices.
- (2) Dental and medical clinics.
- (3) Funeral home.
- (4) Office buildings, provided no merchandising is carried on therein with the general public.

B. The following uses shall be permitted by special exception:

- (1) Private, vocational, business, and professional schools except those of an industrial character.
- (2) Any use of the same general character as any of the above permitted uses when authorized as a special exception by the Zoning Hearing Board; provided, that such use shall be permitted subject to such reasonable restrictions as the Zoning Hearing Board may determine; and, further provided, that no use shall be permitted which is either noxious or hazardous.
- (3) Child day care center.

C. Accessory uses as authorized by the general regulations of this Chapter, except that no on-ground or in-ground private swimming pools are permitted as an accessory structure to any of the permitted uses in this zoning district.

D. The following uses shall be permitted when authorized by Council as a conditional use:

- (1) *Active Adult Community*. Active adult community see §27-202 for definition. See §27-1801 for active adult community development standards.
- (2) *Limited Nonresidential Use Within Active Adult Community*. Limited

nonresidential use may be included as an accessory use within an active adult community only, not to exceed 5 percent of the total proposed interior building area, in order to allow for professional office, retail sales, and retail service uses. All nonresidential uses must be limited to the ground level. Each individual nonresidential use shall be limited to be no less in size than 1,000 and no greater in size than 3,000 square feet. No fabrication, manufacturing, or processing shall be allowed on site. These nonresidential uses shall enhance the life style of active adult residents within the complex. All proposed such uses and future changes in any of the original uses must be reviewed by Council to assure compliance with this Section. It is the specific intent of this subsection to permit Borough Council the discretion, based on substantial supporting evidence and proof, that there will be no detriment to the public interest. The intent is also to limit the “trips” from the complex during peak traffic times without detracting from the “Town Center.” All nonresidential uses must satisfy the parking mandates as delineated in §27-2001 of this Chapter.

[Ord. 971]

(Ord. 761, 8/26/1985, §1001; as amended by Ord. 798, 6/27/1988; by Ord. 859, 9/30/1991; and by Ord. 971, 12/18/2006, §2)

### **§27-1003. Area, Width, and Yard Regulations.**

The following area, width and yard regulations shall apply in the O Office District:

A. *Lot Area.* A lot area of not less than 7,000 square feet shall be provided for every use or group of uses permitted in the O Office District.

B. *Width.* A lot width of not less than 70 feet measured at the building line.

C. *Building Coverage.* Total building coverage of not more than 30 percent of the total lot area. Coverage includes accessory use buildings.

D. *Front Yard.* A front yard of not less than 35 feet measured from the right-of-way line to the building foundation wall nearest to the right-of-way line. A front yard shall be a yard that extends from a right-of-way line to the nearest wall of the principal building.

E. *Rear Yard.* A rear yard of not less than 25 feet measured from the building foundation wall at the nearest point to the rear property line. A rear yard is that yard directly opposite the front yard.

F. *Side Yards.* No building or structure shall be erected nearer than a minimum of 20 feet, but no less than the buffer requirements of the abutting yard along the same property line, to any side property line measured from the nearest foundation wall to the property line, except as provided in paragraph .G herein.

[Ord. 971]

G. *Accessory Use Building Restrictions.* Accessory buildings and structures may be erected at least 10 feet to the rear of the building line, and no less than 10 feet from the rear property line. Accessory buildings and structures may be erected no less than 8 feet from any side property line. No accessory building may be erected nearer than 8 feet from any other existing building on the same or adjoining lot. Provision must be made for the disposal of roof water onto the same

lot or directly to the nearest storm sewer.

(*Ord. 761, 8/26/1985, §1002; as amended by Ord. 798, 6/27/1988; and by Ord. 971, 12/18/2006, §3*)

**§27-1004. Height Regulations.**

The maximum height of a building or structure erected or enlarged in the O Office District shall be:

A. For any permitted uses in §§27-1002.A and .B herein: 35 feet measured from the mean level of the ground to the highest point of the building, except as permitted in §27-413 of this Chapter.

B. For any building or structure accessory to any permitted use: 15 feet measured from the mean level of the ground to the highest point of the building.

(*Ord. 761, 8/26/1985, §1003*)

**§27-1005. Development Regulations.**

The following additional development regulations shall apply in the O Office District:

A. *Building Floor Area.* No building may be erected, altered, or used for any of the uses permitted in §27-1002 herein that has a usable floor area of less than 1,500 square feet, on the first floor level. The first floor level shall be at, or within 5 feet of the mean level of the lot upon which the building is situated. Offices may be located on floor levels below grade, provided that at least one wall of the office is located above grade or is exposed to an open light well or sunken court yard. [*Ord. 798*]

B. *Off-Street Parking.* Parking shall be required on the same lot as the principal building. All parking areas shall have direct access to a public street or highway, and be separated from the public street or highway by a raised curb, planting strip, wall, or other suitable barrier against unchanneled vehicular entrance or exit. Location of entrance and exit accessways must meet current PennDOT requirements and meet the approval of the Borough Engineer. Parking space requirements are set forth in §27-2003.B.6 of this Chapter. [*Ord. 798*]

C. *Access to Public Streets or Highways.* Each separate use, group of uses, or buildings, constructed as part of an integrated plan, shall have not more than two accessways to any one public street or highway, and where practicable, access to parking areas shall be provided by a common service driveway or a minor public or private street, in order to avoid direct access on a major public street or highway.

D. *Buffer Area.* Any office development shall have a permanent landscaped planting area of at least 15 feet in depth designed for screening from view any residential, commercial, or industrial uses which adjoin the office development.

(*Ord. 761, 8/26/1985, §1004; as amended by Ord. 798, 6/27/1988*)



**Part 11****RC-1 Retail Commercial District****§27-1101. Declaration of Legislative Intent.**

In expansion of the Declaration of Legislative Intent contained in Part 1, §27-105 of this Chapter, it is hereby declared to be the intent of this Part with respect to RC-1–Retail Commercial District to establish reasonable standards of performance and promote the desirable benefits which retail commercial uses, professional and business offices will have upon the development and potential development of the Central Business District of the Borough of Hatboro.

(*Ord. 761, 8/26/1985, §1100*)

**§27-1102. Use Regulations.**

In the RC-1 Commercial District a building or structure may be erected, altered, or used, and a lot or premises may be used or occupied for any of the following uses and no other:

A. Retail sale of dry goods, general merchandise clothing, food, flowers, beverages, pharmaceuticals, household supplies or furnishings; sale or repair of jewelry, watches, clocks, optical goods, or musical, professional or scientific instruments.

B. Shops for personal services such as: barbershop, beauty parlor, dry cleaning and pressing pick-up station, tailor shop, and shoe repair shop. A dry cleaning plant shall be permitted only by variance granted by the Zoning Hearing Board.

C. Restaurant, tearoom, café, taproom, or similar establishment serving food and/or beverage, and having facilities for the indoor seating of their patrons, but without drive-in or drive-through service; nor shall drive-in or drive-through facilities be permitted as an accessory use under paragraph .I.

D. Business or professional office, studio, bank, and financial institution, telephone exchange or other public utility office, passenger station for public transportation.

E. Club, fraternal organization, lodge.

F. Greenhouse, nursery sales yard.

G. Indoor theater.

H. Newspaper publishing and job printing.

I. Accessory uses as authorized by the general regulations of this Chapter, including dwelling units; provided, that all dwelling units shall be located at or above the second story level, and shall not be more than 50 percent of the total lot area. No on-ground or in-ground private swimming pools are permitted as an accessory structure to any of the permitted uses in this zoning district. [*Ord. 798*]

J. The following uses when authorized as a special exception, subject to the provisions of applicable Sections of this Chapter:

- (1) Any use of the same general character as any of the above permitted uses.
- (2) Funeral home.
- (3) Animal hospital, pet shop, kennel; provided there is adequate provision made for disposal of animal waste, suppression of noise and control of odor.
- (4) Hand or automatic self-service laundry, provided there is adequate provision made for water disposal.
- (5) Hospital, health care facility, subject to regulations as set forth in §27-420 of this Chapter.
- (6) Pay parking lot.
- (7) Child day care center. [Ord. 859]

(Ord. 761, 8/26/1985, §1101; as amended by Ord. 798, 6/27/1988; and by Ord. 859, 9/30/1991)

**§27-1103. Area, Width, and Yard Regulations for Retail Commercial Uses.**

1. *Lot Area.* A lot area of not less than 5,000 square feet shall be provided for every use or group of uses permitted in the RC-1 Commercial District, except as provided in §27-1106 of this Part.

2. *Lot Width.* A width of not less than 50 feet measured at the building line.

3. *Coverage.* Total building coverage of not more than 60 percent of the total lot area. Coverage includes accessory use buildings.

4. *Front Yard.* A front yard of less than 5 feet measured from the right-of-way line to the building foundation wall nearest to the right-of-way line. A front yard shall be that yard that extends from the right-of-way line to the nearest wall of the principal building. Parking shall not be permitted in any front yard closer than 20 feet to any right-of-way line.

5. *Rear Yard.* A rear yard of not less than 25 feet measured from the building foundation wall at the nearest point to the rear property line. A rear yard is that yard directly opposite the front yard.

6. *Side Yards.* No side yards shall be required.

7. *Accessory Building/Structure Restrictions.* Accessory buildings and structures may be erected at least 10 feet to the rear of the building line, and no less than 10 feet from the rear property line. Accessory buildings and structures may be erected no less than 4 feet from any side property line. No accessory building may be erected nearer than 8 feet from any other existing building on the same or adjoining lot. Provision must be made for the disposal of roof water onto the same lot or directly to the nearest storm sewer. [Ord. 798]

(Ord. 761, 8/26/1985, §1102; as amended by Ord. 798, 6/27/1988)

**§27-1104. Height Regulations.**

The maximum height of any building or structure erected or enlarged in this district shall be:

A. Thirty-five feet measured from the mean level of the ground to the highest point of the building, except as otherwise permitted in §27-413 and in §27-1205.H of this Chapter.

B. For any building accessory to any of the permitted uses in this Part: 15 feet measured from the mean level of the ground to the highest point of the building.

(Ord. 761, 8/26/1985, §1103)

**§27-1105. Development Regulations for Retail Commercial Uses.**

The following additional regulations shall apply in the RC-1 Commercial District:

A. *Building Floor Area.* No building may be erected, altered, or used for any uses permitted in §27-1102 herein that has a usable floor area of less than 1,500 square feet, all on the same level. The first floor level shall be at or within 5 feet above the mean level of the lot upon which the building is situated.

B. *Building Width.* No building may be erected, altered, or used for any of the uses permitted in §27-1102 herein, having a usable width of less than 19 feet. Width shall be the distance measured parallel to the building line on which a building fronts.

C. *Residential Use Restrictions.* No building containing residential uses shall be erected, altered, or occupied with less than 15 feet of clear space between any window of a habitable room and a property line or building wall.

D. *Off-Street Parking.* No parking lot or area for off-street, parking, or storage of motor vehicles, shall abut directly upon a public street or highway. Each such area shall be separated from a public street or highway by a raised curb, planting strip, wall, or other suitable barrier against unchanneled vehicular entrance or exit, except for necessary accessways or driveways.

E. *Access to Public Streets or Highways.* Each separate use, group of uses or buildings, constructed as part of an integrated plan shall have not more than two accessways to any one public street or highway, and, where practicable, access to parking areas shall be provided by a common service driveway or a minor public or private street, in order to avoid direct access on a major public street or highway.

F. *Buffer Area.* Any commercial development within an RC-1 Retail Commercial District shall have a permanent landscaped planting area of at least 15 feet in depth designed for screening from view any residential, office, or industrial uses which adjoin the retail commercial development.

(Ord. 761, 8/26/1985, §1104)



**Part 12****RC-2 Retail Commercial District****§27-1201. Declaration of Legislative Intent.**

In expansion of the “Declaration of Legislative Intent” contained in §27-103 of this Chapter and the “Community Development Objectives” contained in §27-105 of this Chapter, it is hereby declared to be the intent of this Part with respect to RC-2 Retail Commercial District to establish reasonable standards of performance and promote the desirable benefits which retail commercial uses, professional and business offices, and mid-rise multi-family development will have upon the development and potential development of the Central Business District of the Borough of Hatboro.

A. Retail sale of dry goods, general merchandise, clothing, food, flowers, beverages, pharmaceuticals, household supplies or furnishings; sale or repair of jewelry, watches, clocks, optical goods, or musical, professional or scientific instruments.

B. Shops for personal services such as: barbershop, beauty parlor, dry cleaning and pressing pick-up station, tailor shop, and shoe repair shop. A dry cleaning plant shall be permitted only by variance granted by the Zoning Hearing Board.

C. Restaurant, tearoom, café, taproom, or similar establishment serving food and/or beverage, and having facilities for the indoor seating of their patrons, but without drive-in or drive-through service; nor shall drive-in or drive-through facilities be permitted as an accessory use under paragraph .M.

D. Business or professional office, studio, bank, and financial institution, telephone exchange or other public utility office, passenger station of for public transportation.

E. Club, fraternal organization, lodge.

F. Greenhouse, nursery sales yard.

G. Indoor theater.

H. Newspaper publishing and job printing.

I. Educational, religious or philanthropic use, subject to the provisions of §27-420 of this Chapter.

J. Licensed day care center.

K. Housing for the elderly, subject to additional standards as set forth in Part 16 of this Chapter.

L. Mid-rise apartments, subject to development regulations as set forth in §27-1206 of this Part.

M. Accessory uses as authorized by the general regulations of this Chapter, including dwelling units, shall be located at or above the second story level, and shall not be more than 50 percent of the total lot area. No on-ground or in-ground private swimming pools are permitted as an accessory structure to any of the permitted uses in this zoning district. [Ord. 798]

N. The following uses when authorized as a special exception, subject to the provisions of applicable sections of this Chapter:

- (1) Any use of the same general character as any of the above permitted uses.
- (2) Funeral home.
- (3) Animal hospital, pet shop, kennel; provided there is adequate provision made for disposal of animal waste, suppression of noise and control of odor.
- (4) Hand or automatic self-service laundry, provided there is adequate provision made for water disposal.
- (5) Hospital, health care facility, subject to regulations as set forth in §27-420 of this Chapter.
- (6) Pay parking lot.
- (7) Child day care center. [*Ord. 859*]

(*Ord. 761, 8/26/1985, §1200; as amended by Ord. 798, 6/27/1988; and by Ord. 859, 9/30/1991*)

**§27-1202. Area, Width, and Yard Regulations for Retail Commercial Uses.**

1. *Lot Area.* A lot area of not less than 5,000 square feet shall be permitted in the RC-2 Commercial District, except as provided in §27-1206 of this Part.
2. *Lot Width.* A width of not less than 50 feet measured at the building line.
3. *Coverage.* Total building coverage of not more than 60 percent of the total lot area. Coverage includes accessory use buildings.
4. *Front Yard.* A front yard of less than 5 feet measured from the right-of-way line to the building foundation wall nearest to the right-of-way line. A front yard shall be that yard that extends from the right-of-way line to the nearest wall of the principal building. Parking shall not be permitted in any front yard closer than 20 feet to any right-of-way line.
5. *Rear Yard.* A rear yard of not less than 25 feet measured from the building foundation wall at the nearest point to the rear property line. A rear yard is that yard directly opposite the front yard.
6. *Side Yards.* No building or structure shall be erected nearer than 5 feet to any side property line measured from the nearest foundation wall to the property line, except as provided in §27-603.B.6, herein.
7. *Accessory Building/Structure Restrictions.* Accessory buildings and structures may be erected at least 10 feet to the rear of the building line, and no less than 10 feet from the rear property line. Accessory buildings and structures may be erected no less than 4 feet from any side property line. No accessory building may be erected nearer than 8 feet from any other existing building on the same or adjoining lot. Provision must be made for the disposal of roof water onto the same lot or directly to the nearest storm sewer. [*Ord. 798*]

(*Ord. 761, 8/26/1985, §1202; as amended by Ord. 798, 7/27/1988*)

**§27-1203. Height Regulations.**

The maximum height of any building or structure erected or enlarged in this district shall be:

A. Thirty-five feet measured from the mean level of the ground to the highest point of the building, except as otherwise permitted in §27-413 and in §27-1206.H of this Part.

B. For any building accessory to any of the permitted uses in this Part: 15 feet measured from the mean level of the ground to the highest point of the building.

(Ord. 761, 8/26/1985, §1203)

**§27-1204. Development Regulations for Retail Commercial Uses.**

The following additional regulations shall apply in the RC-2 Commercial District:

A. *Building Floor Area.* No building may be erected, altered, or used for any uses permitted in §27-1102 herein that has a usable floor area of less than 1,500 square feet, all on the same level. The first floor level shall be at or within 5 feet above the mean level of the lot upon which the building is situated.

B. *Building Width.* No building may be erected, altered, or used for any of the uses permitted in §27-1202 herein, having a usable width of less than 19 feet. Width shall be the distance measured parallel to the building line on which a building fronts.

C. *Residential Use Restrictions.* No building containing residential uses, other than mid-rise apartments, shall be erected, altered, or occupied with less than 15 feet of clear space between any window of a habitable room and a property line of building wall.

D. *Off-Street Parking.* No parking lot or area for off-street parking, or for storage of motor vehicles, shall abut directly upon a public street or highway. Each such area shall be separated from a public street or highway by a raised curb, planting strip, wall, or other suitable barrier against unchanneled vehicular entrance or exit, except for necessary accessways or driveways.

E. *Access to Public Streets or Highways.* Each separate use, group of uses or buildings, constructed as part of an integrated plan shall have not more than two accessways to any one public street or highway, and, where practicable, access to parking areas shall be provided by a common service driveway or a minor public or private street, in order to avoid direct access on a major public street or highway.

F. *Buffer Area.* Any commercial development within an RC-2 Retail Commercial District shall have a permanent landscaped planting area of at least 15 feet in depth designed for screening from view any residential, office, or industrial uses which adjoin the retail commercial development.

(Ord. 761, 8/26/1985, §1204)

**§27-1205. Development Regulations for Mid-rise Apartment Uses.**

Mid-rise apartments may be permitted in an RC-2 Retail Commercial District as a conditional use with approval of Borough Council, after review by the Borough Planning Commission, subject to the following standards:

A. *Acreage and Density Requirement.* The following minimum acreage and maximum density shall apply to a mid-rise apartment development:

- (1) A proposal for mid-rise apartments shall have a minimum tract area of 1 acre.
- (2) The maximum permitted density shall be 30 dwelling units per acre.

B. *Overall Plan Required.* The developer shall prove to the satisfaction of Borough Council that he has considered and provided for and that the development shall be executed in accordance with the following conditions:

(1) If the development is to be carried out in stages, that each stage has been so planned that the foregoing requirements and the intent of this Chapter shall be fully complied with at the completion of any stage.

(2) That he has provided to the Borough of Hatboro a proper completion guarantee in the form of a bond or the deposit of funds or securities in escrow to cover the cost of the improvements by a completion date satisfactory to the Borough of Hatboro.

C. *Coverage.* Total building coverage of not more than 15 percent of the total lot area. Coverage includes accessory use buildings.

D. *Setback from Public Streets or Highways.* There shall be a setback from the right-of-way line of each public street or highway on which the mid-rise apartment development abuts, which shall not be less than 25 feet in depth measured from the right-of-way line to the foundation wall nearest to the right-of-way line. Buildings in excess of 55 feet in height shall be set back an additional 1 foot for each additional 1 foot in height.

E. *Setback from Property Lines.* There shall be a setback of not less than 25 feet from any property line which adjoins the development, measured from the nearest foundation wall to the property line.

F. *Distance Between Buildings.* In the case of two or more buildings in a mid-rise apartment development, the horizontal distance between any two buildings, measured from the building foundation wall at the nearest point to the nearest adjoining building foundation wall, shall not be less than twice the height of the taller building, except:

- (1) For any two exterior facing walls, neither of which has any windows, serving an apartment unit, the minimum distance between the buildings shall be at least one-half the height of the taller building.

G. *Parking.* Not less than two off-street automobile parking spaces shall be required for each dwelling unit. Such parking area shall be placed so as not to interfere with any recreation or service area, and shall not be less than 25 feet from property lines or public street or highway right-of-way lines. In all cases, a developer shall be encouraged to provide subgrade, decked parking garages of at least two levels to serve the potential residents of the development.

H. *Height of Buildings.* No building in a mid-rise apartment development shall exceed the height of 65 feet measured from the mean level of the ground to the highest point of the building.

I. *Service.* Areas for loading and unloading of delivery trucks and other vehicles and for the collection of refuse, delivery of fuel and other service shall be

provided as specified in Part 20 herein, and shall be so arranged that they may be used without blockage or interference with the use of accessways or automobile parking facilities.

J. *Access.* Provisions shall be made for safe and efficient ingress and egress to and from public streets and highways serving the mid-rise apartment(s) without undue congestion to or interference with normal traffic flow. The Borough Planning Commission shall satisfy itself as to the adequacy of the surrounding public streets and highways to carry additional traffic generated by the mid-rise apartment development, as well as the adequacy of street frontage of the proposed mid-rise apartment development; and shall address their findings to the Borough Code Enforcement Officer and to Borough Council before any permit is issued.

K. *Utilities.* All mid-rise apartment dwelling units shall be served by a public sanitary sewage disposal system and public water supply. All utility lines (electric, telephone, TV cable, etc.) serving a mid-rise apartment shall be placed underground.

L. *Lighting Facilities.* Lighting facilities shall be provided as needed and shall be arranged in a manner which will protect public streets and highways, and neighboring properties from glare or hazardous interference of any kind. Lighting facilities shall be required when deemed by the Borough Planning Commission necessary for the safety and convenience of mid-rise apartment residents.

M. *Buffer Area.* The mid-rise apartment development shall have a permanent landscaped planting area of at least 15 feet in depth designed for screening from view any residential, commercial, office, and industrial uses which are adjoining the mid-rise apartment development.

N. *Recreation and Open Space.* The developer shall provide a minimum of 25 percent of the total site area as usable open space for the community areas, playgrounds and tot lots and other services and amenities necessary for the comfort and convenience of the mid-rise apartment residents.

O. *Plantings.* Shade trees and other plantings shall be provided as the Borough Planning Commission shall deem necessary or appropriate in all open space and buffer areas in the mid-rise apartment development. The developer shall make provisions for the continuing care of any such trees, shrubs, and open space areas within the mid-rise apartment development.

(Ord. 761, 8/26/1985, §1205)

#### **§27-1206. Procedural Requirements.**

The following information shall be shown on plans submitted for approval in addition to the requirements of the Land Subdivision Ordinance [Chapter 22]:

- A. Floor area in square feet for each apartment dwelling unit.
- B. Number of bedrooms per apartment dwelling unit.
- C. Total number of apartment dwelling units per building.
- D. Total number of acres in the proposed plan.
- E. Total number of off-street automobile parking spaces.
- F. Exterior vertical and horizontal building dimensions.

G. Total ground floor area of each building.  
(*Ord. 761, 8/26/1985, §1206*)

**Part 13****HB Highway Business District****§27-1301. Declaration of Legislative Intent.**

In expansion of the “Declaration of Legislative Intent” contained in §27-103 of this Chapter and the “Community Development Objectives” contained in §27-105 of this Chapter, it is hereby declared to be the intent of this Part with respect to HB Highway Business Districts to establish reasonable standards of performance for the development of highway oriented commercial uses in those locations which provide for superior highway access that is a necessary prerequisite for such uses. In addition, it is the intent of this Part to provide standards which will ensure that such higher density traffic generating commercial uses will not have a negative impact on any abutting residential neighborhoods in the Borough.

(Ord. 761, 8/26/1985, §1300)

**§27-1302. Use Regulations.**

In an HB Highway Business District, a building or combination of buildings may be erected, altered, or used, and a lot or premises may be used or occupied for any of the following uses and no other:

A. *Services to the Traveling Public.* Gasoline service stations, drive-in and drive-through restaurants, hotels, motels; provided, that no entrance or exit shall be located within 250 feet of a property used for a school, church, hospital, playfield, playground, park, recreation area, or library.

B. *Commercial Recreation.* Bowling alleys, skating rinks, miniature golf course, theaters.

C. *Automotive and Allied Sales and Services.* Service stations, repair shops, used car and truck sales, automotive parts and accessories, new car and truck sales, boat and marine sales, trailer sales, heavy equipment and/or farm implement sales, bicycle and motorcycle shops.

D. *Miscellaneous Sales.* Heating and plumbing shops, building material sales (including lumberyard), monument sales, nurseries, greenhouses, and garden stores.

E. Any use of the same general character as any of the above permitted uses, when authorized as a special exception by the Zoning Hearing Board; provided, that such use shall be permitted subject to such reasonable restrictions as the Zoning Hearing Board may determine; and, further provided, that no trade or business shall be permitted which is either hazardous or noxious.

F. Trailer camp and motor home camp.

(Ord. 761, 8/26/1985, §1301)

**§27-1303. Area, Width, and Yard Regulations.**

The following area, width and yard regulations shall apply in the HB Highway Business District:

A. *Lot Area.* A lot area of not less than 6,000 square feet shall be provided for every use or group of uses permitted in the HB Highway Business District.

B. *Width.* A lot width at the right-of-way line of not less than 70 feet shall be provided.

C. *Coverage.* Not more than 50 percent of the area of each lot may be occupied by buildings. Coverage includes accessory use buildings.

D. *Front Yard.* A front yard of not less than 40 feet measured from the right-of-way line to the building foundation wall nearest to the right-of-way line; provided, that parking shall not be permitted closer than 10 feet to any right-of-way line. A front yard shall be that yard that extends from the right-of-way line to the nearest wall of the principal building.

E. *Rear Yard.* A rear yard of not less than 25 feet measured from the building foundation wall at the nearest point to the rear property line. A rear yard is that yard directly opposite the front yard.

(Ord. 761, 8/26/1985, §1302)

#### **§27-1304. Height Regulations.**

No building shall exceed 35 feet in height, except as provided for in §27-413 of this Chapter.

(Ord. 761, 8/26/1985, §1303)

#### **§27-1305. Development Regulations.**

The following additional development regulations shall apply in the HB Highway Business District:

A. No building may be erected, altered or used for any of the uses permitted in §27-1302 herein that has a usable first floor area of less than 1,500 square feet all on the same level. Such level shall be at or within 5 feet above the mean level of the curb of the street upon which the building fronts.

B. No building may be erected, altered, or used for any of the uses permitted in §27-1302 herein, having a usable width of less than 19 feet. Width shall be the distance measured parallel to the building line.

C. No building containing residential uses shall provide less than 15 feet of clear space between any window of a habitable room and a property line or building wall.

D. In order to minimize traffic congestion and hazard and to encourage the appropriate development of highway frontage:

(1) No parking lot or area for off-street parking or for the storage of motor vehicles shall abut directly upon a street or highway. Each parking or storage area shall be separated from a street or highway by a raised curb, planting strip, wall, or other suitable barrier against unchanneled vehicular entrance or exit, except for necessary accessways or driveways.

(2) Each separate use, or group of buildings, constructed as part of an integrated plan shall have not more than two accessways to any one street or highway, and, where practicable, access to parking areas shall be provided by

a common service driveway or minor street in order to avoid direct access on a major street or highway.

E. *Buffer Area.* Any highway business development within an HB Highway Business District shall have a permanent landscaped planting area of at least 15 feet in depth designed for screening from view any residential, office or industrial uses which adjoin the highway business development.

(Ord. 761, 8/26/1985, §1304)



**Part 14****LI Limited Industrial District****§27-1401. Declaration of Legislative Intent.**

In expansion of the “Declaration of Legislative Intent” contained in §27-103 and the “Community Development Objectives” contained in §27-105 of this Chapter, it is hereby declared to be the intent of the LI Limited Industrial District to provide for a variety of nonpolluting and smaller scale industrial, research, and development, and office facilities within the Borough of Hatboro.

(Ord. 761, 8/26/1985, §1400)

**§27-1402. Use Regulations.**

The specific uses permitted in this district shall be the erection, construction, alteration, or use of buildings or premises for the following uses and no other, to be conducted wholly within a completely enclosed building or in a court enclosed on all sides by buildings, except for on-site parking and loading incidental thereto, and where approved by the Zoning Hearing Board, public utility facilities not normally enclosed within a building:

A. The manufacture, compounding, processing, packaging, or treatment of such products as candy, drugs, pharmaceuticals, cosmetics, and food products; provided, however, that the following uses shall not be permitted:

- (1) Manufacture of sauerkraut, vinegar, or yeast.
- (2) Refining of oils or rendering of fats, bones, or oils.
- (3) Roasting of coffee, spices, or soybeans.
- (4) Milling of flour.
- (5) Drying, smoking, pickling, preserving, or curing of meats or fish.

B. The manufacture, compounding, assembly, or treatment of articles of merchandise from the following previously prepared materials: cellophane, canvas, cloth, cork, rope, cord and twine, plastics, natural and synthetic rubber, feathers, felt, fiber, plaster, metals, precious or semi-precious stone, shell, tobacco, textiles, wood (excluding planing mill), yarns.

C. The manufacture of ceramic products, using only previously pulverized clay.

D. Printing, publishing, lithographing, binding, and kindred arts.

E. Central heating plant.

F. Offices and office record storage.

G. Electric transforming, substations, rail freight stations, or other necessary public service and public transportation uses.

H. Parking garage for pleasure or commercial vehicles.

I. Manufacture of musical instruments, toys, novelties, and metal stampings.

J. Storage buildings and warehouses.

K. Manufacture and assembly of electrical or electronic devices, home, commercial, and industrial appliances and instruments, including the manufacture of accessory parts or assemblies.

L. Laboratories: experimental, manufacturing, and research, excluding laboratories using animals.

M. Manufacture of paper or cardboard boxes, containers, and novelties from previously prepared paper or cardboard.

N. Cinema, radio, radar, and television production.

O. The above uses are permitted only when meeting the following conditions:

(1) No individual load capacity of a production kiln shall exceed 200 cubic feet.

(2) No blast or reverberatory furnaces or foundries are used.

(3) No punch or stamping presses are used until the type, size, and use is first approved, authorized, and permitted as a special exception by the Zoning Hearing Board.

(4) No drop hammers are used.

(Ord. 761, 8/26/1985, §1401)

### **§27-1403. Outdoor Storage and Waste Disposal.**

1. All outdoor storage facilities, raw materials, products, and fuel stored outdoors shall be enclosed by a fence adequate to conceal these items from any adjacent properties.

2. No materials or wastes shall be deposited upon a lot in such form or manner that they could be transferred off the lot by natural causes or forces.

3. The following items shall be stored outdoors only in closed containers:

A. All materials or wastes which could cause fumes or dust, or which are a fire hazard.

B. All materials which are edible or otherwise attractive to birds, animals, or insects.

(Ord. 761, 8/26/1985, §1402)

### **§27-1404. Electric, Diesel, Gas, or Other Power.**

Every use requiring power shall be operated that the facilities conform to the most acceptable safety requirements recognized by the Pennsylvania Bureau of Labor and Industry; and shall be so constructed to be an integral part of the architectural features of the plant, or if visible for abutting residential areas, shall be concealed by coniferous planting.

(Ord. 761, 8/26/1985, §1403)

### **§27-1405. Industrial Waste and Sewage.**

No use shall be conducted in such a way as to discharge any treated or untreated sewage or industrial waste except as shall be approved by sanitary engineers or other qualified persons employed by the Borough of Hatboro at the expense of the owner of

the premises. Where the sanitary sewers of the Upper Moreland-Hatboro Joint Sewer Authority are involved, approval of the Authority Board shall be required.

(Ord. 761, 8/26/1985, §1404)

**§27-1406. Area, Width, and Yard Regulations.**

1. *Lot Area and Width.* No individual lot shall be less than 20,000 square feet with a minimum width of 75 feet measured at the building line.

2. *Front Yard.* A front yard of not less than 25 feet measured from the right-of-way line to the building foundation wall nearest to the right-of-way line. A front yard shall be that yard that extends from the right-of-way line to the nearest wall of the principal building.

3. *Rear Yard.* A rear yard of not less than 25 feet measured from the building foundation wall at the nearest point to the rear property line, subject to the exceptions set forth in §27-1408 and except where a lot abuts railroad trackage. A rear yard is that yard directly opposite the front yard.

4. *Side Yards.* No building or structure shall be erected nearer than 10 feet to any side property line measured from the nearest foundation wall to the property line, subject to the exceptions hereinafter set forth in §27-1408.

5. *Building Coverage.* Not more than 75 percent of the total lot area may be occupied by buildings.

(Ord. 761, 8/26/1985, §1405)

**§27-1407. Exceptions for Side and Rear Yards.**

In no case shall any building or structure be erected closer than 75 feet to any residential district. The area within 25 feet of the property line shall be a buffer area consisting of well-maintained lawns, evergreens, and suitable tree and shrub plantings.

A. Where a railroad separates a residential district from an LI Limited Industrial District, the required yard area parallel to such railroad shall be not less than 25 feet and this area may be used for parking.

B. In the case of corner lots, the required distance between the right-of-way line and the building line as shown on the zoning plan shall be considered a side yard, and in the case where a lot is bounded on its side or rear by a permanent right-of-way not less than 15 feet wide, such right-of-way shall count as a part of the side or rear yard.

(Ord. 761, 8/26/1985, §1406)

**§27-1408. Height Restrictions.**

The maximum height of any building or structure erected or enlarged in this district shall be 45 feet, with the following exceptions:

A. The height of any building or structure may be increased to a maximum of 60 feet, when approved by the Zoning Hearing Board.

B. The height of any water tower, chimney, stacks, communications antennae, and transmission towers may be increased as warranted, with the approval of the Zoning Hearing Board, provided that for every foot of height in

excess of 35 feet there shall be added 1 foot to each yard requirement.  
(*Ord. 761, 8/26/1985, §1407*)

**Part 15****HI Heavy Industrial District****§27-1501. Declaration of Legislative Intent.**

In expansion of the “Declaration of Legislative Intent” contained in §27-103 of this Chapter and the “Community Development Objectives” contained in §27-105 of this Chapter, it is hereby declared to be the intent of the HI Heavy Industrial District to provide for a variety of manufacturing, fabricating, and processing plants with adjunctive office facilities in the Borough of Hatboro.

(Ord. 761, 8/26/1985, §1500)

**§27-1502. Use Regulations.**

The specific uses permitted in this district shall be the erection, construction, alteration, or use of buildings or premises for the following uses and no other, to be conducted wholly within a building, or in a court enclosed on all sides by buildings, except for on-site parking and loading incidental thereto, and where approved by the Zoning Hearing Board, public utility facilities not normally enclosed within a building.

**A. Permitted Uses.**

(1) All uses permitted in LI Light Industrial Districts.

(2) Manufacture of textiles or textile products, including spinning and weaving hosiery and knitting mills but not including wool pulling or scouring, or jute or burlap processing or reconditioning.

(3) Manufacture of concrete and concrete products.

(4) Machine shops, except no drop hammers may be used.

(5) Automotive and allied sales and services, service stations, repair shops, used car and truck sales, automotive parts and accessories; new car and truck sales, boat and marine sales, trailer sales, heavy equipment and/or farm implement sales, bicycle and motorcycle shops, motorcycles.

(6) Accessory use on the lot with, and customarily incidental to any of the permitted uses or conditional uses; provided, that off-street parking spaces incidental to a mixed use development may be located on the principal lot, and/or on a lot adjacent to, and/or directly across a street from, a mixed use development pursuant to §27-2002.6. [Ord. 967]

**B. Any of the following uses shall be permitted only by a special exception:**

(1) Municipal incinerator.

(2) Manufacture, processing, or commercial storage of paint, petroleum, or gas.

(3) Manufacture, storage, and/or sale of approved building materials, including, but not limited to, lumber, masonry materials, and roofing.

(4) Storage and/or sale of coal.

(5) Nonferrous foundries, processing of rubber, and plastic products.

(6) Any other use which is, or may be in comparable degree to any of the foregoing, noxious or offensive by reason of dust, odor, fumes, smoke, gas, vibrations, illumination, or noise, or which is or may be dangerous to the public health, welfare, or safety, or which constitutes a public hazard, whether by fire, explosion, or otherwise.

(7) Dwelling quarters for watchmen and caretakers employed on the premises shall be permitted in connection with any industrial establishment.

C. *Prohibited Uses.*

(1) Hotel, tourist home, rooming house, motel, or motor court. [Ord. 967]

(2) Refining of oils or rendering of fats, bones, or oils.

(3) Manufacture of sauerkraut, vinegar, or yeast.

(4) Roasting of coffee, spices, or soybeans.

(5) Milling of flour.

(6) Drying, smoking, pickling, preserving, or curing of meats or fish.

(7) Automotive and allied sales and services. Service stations, repair shops, used car and truck sales, automotive parts and accessories, new car and truck sales, boat and marine sales, trailer sales, heavy equipment, and/or farm implement sales, bicycle and motorcycle shop. [Ord. 967]

D. Any applicant for special exception for any of the uses specified in subsection .B shall have the burden of showing to the satisfaction of the Zoning Hearing Board that provision is made to reduce or minimize the noxious, offensive, dangerous, or hazardous feature or features thereof to the point where they are not offensive or dangerous to public health, safety, and welfare.

E. The following use shall be permitted as a conditional use:

(1) Mixed use development, subject to the standards and procedures set forth in §27-1506. Each mixed use development shall consist of at least two of the following uses:

(a) Multi-family dwellings, and at least any one of the following uses:

1) Any of the following uses permitted in the RC-1 Retail Commercial District, which shall not exceed in the aggregate 15 percent of the total floor area of the building or buildings, excluding basements and garages.

a) Retail sale of dry goods, general merchandise, clothing, food, flowers, beverages, pharmaceuticals, household supplies, or furnishings. Any retail uses shall be limited to the ground floor.

b) Restaurant, tearoom, café, or similar establishment serving food and beverage, and having facilities for the indoor seating of their patrons, but without drive-in or drive-through service. Any restaurant uses shall be limited to the ground floor.

c) Business or professional office, studio, bank, and financial institution.

2) Parks, playground, tot lots, and open space.

3) Indoor recreation facility, provided that its use is solely for

the residents of the development.

4) Child day care center when authorized as a special exception.

(2) The development shall consist of at least 85 percent residential use of the floor area and no more than 95 percent residential use of the floor area. Floor area shall be measured from the interior faces of the perimeter wall. Floor area shall include lavatories, closets, stairwells, access halls, fully enclosed porches and basement or cellar or attic space that is potentially habitable and has a minimum head clearance of at least 7 feet. There shall be no more than five nonresidential uses.

[Ord. 967]

(Ord. 761, 8/26/1985, §1501; as amended by Ord. 967, 5/22/2006, §§4, 5, and 6)

### **§27-1503. Area, Width, and Yard Regulations.**

1. *Lot Area and Width.* No individual lot shall be less than 20,000 square feet with a minimum width of 75 feet measured at the building line.

2. *Front Yard and Yards on All Street Frontages.* Except as otherwise provided in §§27-1504 and 27-1505, the required front yard and yard on all street frontages shall be 25 feet measured from the right-of-way line to the building foundation wall nearest to the right-of-way line. A front yard shall be that yard that extends from a right-of-way line to the nearest wall of the principal building.

3. *Side Yards.* Except as otherwise provided in subsection .2 and in §§27-1504 and 27-1505, there shall be two side yards each of which shall be not less than 10 feet in width.

4. *Rear Yard.* Except as otherwise provided in §§27-1504 and 27-1505, the required rear yard shall be 25 feet measured from the building foundation wall at the nearest point to the rear property line. A rear yard is that yard directly opposite the front yard.

5. *Building Coverage.* No more than 75 percent of the total lot area may be occupied by buildings.

(Ord. 761, 8/26/1985, §1502)

### **§27-1504. Exceptions for Side and Rear Yards.**

1. In no case shall any building or structure be erected closer than 150 feet to any residential district. The area within 25 feet of the property line shall be maintained as green area; and shall be planted with evergreens which will screen the property from the residential area.

2. Where a railroad separates a residential district from an HI Heavy Industrial District, the required yard area parallel to such railroad shall be not less than 25 feet and this area may be used for parking.

(Ord. 761, 8/26/1985, §1503)

### **§27-1505. Height Restrictions.**

1. The maximum height of any building or structure erected or enlarged in this district shall be 45 feet, and for every foot in height over 35 feet there shall be added to

each yard requirement 1 foot.

2. The Zoning Hearing Board may by special exception allow the height of any building or structure to be increased to 60 feet, or the height of conveyors, water towers, chimneys, stacks, communication antennae, and transmission towers to be increased to such height as may be warranted.

(Ord. 761, 8/26/1985, §1504)

### **§27-1506. Mixed Use Development Regulations.**

1. *Declaration of Legislative Intent.* In expansion of the “Declaration of Legislative Intent” contained in §27-103 of the Chapter and the “Community Development Objectives” contained in §27-105 of this Chapter, it is hereby declared to be the intent of this Section with respect to mixed use development regulations to establish reasonable incentives to encourage the redevelopment of buildings into safe and adequate multi-family housing and limited commercial uses when applied for as a conditional use to the Borough Council, solely in the HI Heavy Industrial District. The development of a variety of residential, commercial, and recreational uses in the aforementioned district shall serve to replace economically and socially outdated industrial land uses with mixed uses beneficial to the public health, safety, and welfare. Furthermore, it is the intent of this Section to set forth those standards which will ensure that mixed use development in the Borough of Hatboro will provide appropriate safety features, as well as ancillary recreational and community facilities as an integral part of the development concept. Finally, it is the intent of this Section to provide for different standards of dwelling unit density, parking space requirements, and open space areas to increase the opportunity for the development of such mixed uses in the Borough through private, public, or semi-public means, while providing necessary standards and controls to ensure that the mixed use development and accessory uses will not exert an adverse impact on surrounding neighborhoods or the Borough of Hatboro.

2. *Development Standards.* The following development standards for mixed use development shall apply:

A. *Minimum Acreage.* A minimum lot area of 4 acres shall be required.

B. *Maximum Density.* A maximum density of 20 dwelling units per acre shall be permitted, provided that a maximum density of 35 dwelling units per acre shall be permitted for any reuse and conversion of an existing building.

C. *Building Coverage.* Not more than 60 percent of the lot area of each mixed use development may be occupied by buildings.

D. *Impervious Coverage.* Not more than 85 percent of the lot area of each mixed use development may be occupied by impervious surfaces.

E. *Setbacks from Public Streets, Highways, and Property Lines.* Setbacks from any applicable street lines or property lines which adjoin the mixed use development, measured from the nearest foundation wall to the applicable property line or street lines, shall be as specified in §27-411 and §27-1503, except:

(1) Existing nonconforming buildings and structures, which may be continued as specified in §27-2101.1.

(2) For any use listed in §27-1502.E.1(a)(1), a terrace, deck, platform, or

landing and its associated roof or canopy covering which does not extend above the level of the first floor of the building, may be located within the front yard but shall be not less than 5 feet measured from the right-of-way line.

F. *Distance Between Buildings.* Except in the case of existing nonconforming buildings and structures, which may be continued as specified in §27-2101.1, the horizontal distance between any two buildings, measured from the building foundation wall at the nearest point to the nearest adjoining building foundation wall, shall not be less than twice the height of the taller building, except:

(1) For any two exterior facing walls, neither of which have any windows serving a dwelling unit, the minimum distance between the buildings shall be at least one-half the height of the taller building.

G. *Height of Buildings.* Except in the case of existing nonconforming buildings and structures, which may be continued as specified in §27-2101.1, no building in a mixed use development shall exceed 40 feet in height and no more than three stories, not including the basement.

H. *Buffer Area.* The mixed use development shall be effectively screened from any adjoining nonresidential uses from view, through the proper use and layout of walls, fences, or permanent landscaping as approved by Borough Council. Except in the case of the reuse and conversion of an existing building, the buffer area shall have a minimum width of 20 feet.

I. *Recreation and Open Space; Amenities.* The developer shall be required to maintain not less than 20 percent of the tract in usable open space for the provision of recreational and leisure time activities and facilities for the benefit of the residents.

(1) Usable open space shall include all land used for recreation, resource protection, amenities, or buffers, which is freely accessible to all residents of the mixed use development.

(2) Any area of useable open space shall have a minimum area of 1,000 square feet and a minimum dimension of 30 feet; provided, that in the case of the reuse and conversion of an existing one building, any area of useable open space shall have a minimum area of 500 square feet and a minimum dimension of 10 feet

(3) Such open space may include improvements and impervious surface coverage to the extent that such is an element of the particular open space use and serves a related function, whether as courtyards or pedestrian walkways.

(4) Landscaped areas within off-street parking areas (and public rights-of-way) are specifically excluded as useable open space.

(5) *Streetscaping.* Applicant will provide a plan and narrative on how the applicant will conform to the Elm Street Plan for streetscape improvements.

J. *Other Development Standards.* The mixed use development shall provide public improvements, such as sidewalks, shade trees, fences, hedges, walls, streetlights, benches, and other streetscape features which are in accordance with the design standards of the Comprehensive Plan and Revitalization Study, as approved by Borough Council. The proposed mixed use development shall also be developed in accordance with the requirements specified in §§27-1205.I through 27-

1205.L and §27-1205.O of this Chapter, to the extent not inconsistent with the requirements of this Section.

3. *Procedures.* Applications for approval of a conditional use under this Section shall be made to Borough Council, which shall apply the standards and requirements set forth in this Section, after first holding a public hearing, at which a full opportunity to be heard shall be given to any citizen and all parties in interest. The burden of proof shall, at all times, be on the applicant. The application for conditional use shall, in addition to all other information required, provide the information required by §27-2503 and shall comply with the special exception standards of 53 P.S. §10912 and §27-2310 of this Chapter. In addition to seeking the opinion and advice of the Borough Planning Commission, the Borough Council shall, at least 60 days prior to the public hearing on the conditional use application, seek the opinion and advice on the merits of the proposal of the Montgomery County Planning Commission, the Montgomery County Housing Authority and other technical and professional advisory agencies knowledgeable on the subject, in order to more effectively evaluate the adequacy of the proposed development. Upon the request of Borough Council, the applicant shall submit:

A. A traffic impact and/or off-street parking study by a qualified traffic engineer and/or transportation planner with previous traffic impact and off-street parking study experience.

B. A Phase I Environmental Site Assessment (ESA) conducted in accordance with current ASTM 1527 standards or standards promulgated by Federal or State authority (e.g., EPA All Appropriate Inquiry standards).

C. Phase II Environmental Site Assessment(s) and any similar additional environmental studies, work plans, remediation plans, environmental data, etc., as required by the Borough Engineer pursuant to commonly accepted standards to characterize the site's environmental condition considering the proposed reuse.

4. *Plan Submission Requirements.* The following information shall be shown on the plans submitted for approval as part of the conditional use application, in addition to the information required to be submitted under the Land Development and Subdivision Ordinance [Chapter 22] for a major subdivision:

A. Floor area (in square feet) of all multi family dwelling units.

B. Number of bedrooms per dwelling unit.

C. Total number of dwelling units.

D. Total number of acres in the proposed plan.

E. Total number of off-street parking spaces.

F. Exterior vertical and horizontal building dimensions.

G. Total ground area of each building.

H. All safety features included in each building required by this Chapter, other ordinances of the Borough, and by other governmental agencies.

I. Preliminary architectural designs of principal buildings.

J. Landscape design standards and streetscape improvements.

K. Feasibility of required utility services.

I. Location of employee parking for secondary uses.

(*Ord. 761, 7/26/1985; as added by Ord. 967, 5/22/2006, §7*)



**Part 16****HE Housing for the Elderly Development Regulations****§27-1601. Declaration of Legislative Intent.**

In expansion of the “Declaration of Legislative Intent” contained in §27-103 of this Chapter and the “Community Development Objectives” contained in §27-105 of this Chapter, it is hereby declared to be the intent of this Part with respect to HE Housing for the Elderly development regulations to establish reasonable benefits which will follow the development of safe and adequate housing for the elderly, as defined in this Chapter, when applied for as a conditional use to the Borough Council, solely in the R-4 Residential and RC-2 Retail Commercial Districts. The development of such units in the aforementioned Districts shall ensure that the proposed housing for the elderly will be so located in the Borough as to provide the accessibility to necessary public transportation and community facilities and services that will enhance the lives of elderly residents. Furthermore, it is the intent of this Part to set forth those standards which will ensure that the development of housing for the elderly in the Borough of Hatboro will provide appropriate safety features pertinent to the needs of elderly residents, as well as ancillary recreational and community facilities as an integral part of the development concept. Furthermore, in order to ensure that the intent of this Chapter is fulfilled, the developer of such housing units in the Borough of Hatboro must guarantee through the appropriate legal and administrative means, that such units will be occupied solely by elderly residents as defined in this Chapter. Finally, it is the intent of this Part to provide for different standards of dwelling unit density, parking space requirements and open space areas to increase the opportunity for the development of such housing in the Borough through private, public, or semi-public means, while providing necessary, standards and controls to ensure that such housing for the elderly will not exert an adverse impact on surrounding neighborhoods or the Borough of Hatboro.

(Ord. 761, 8/26/1985, §1600)

**§27-1602. Development Standards.**

The following development standards shall be used to guide the Borough Council in determining the merits of a proposal for housing for the elderly. The application of the standards for garden apartment housing for the elderly shall apply only as a conditional use in an R-4 Residential District, while the standards for mid-rise apartment development shall apply only as a conditional use in the RC-2 Retail Commercial Districts.

A. *Garden Apartment Housing for the Elderly.* The following standards shall apply to housing for the elderly as a conditional use in the R-4 Residential District.

(1) *Minimum Acreage.* A minimum size of 3 acres shall be required.

(2) *Maximum Density.* A maximum permitted density of 25 dwelling units per acre.

(3) *Building Coverage.* Not more than 30 percent of the area of each housing for the elderly development may be occupied by buildings.

(4) *Parking.* Not less than one off-street parking space shall be required for each dwelling unit. Such parking spaces shall be placed so as not to interfere with any recreation or service area, and shall not be less than 25 feet from property lines or street right-of-way lines.

(5) *Recreation and Open Space; Amenities.* The developer shall be required to maintain not less than 25 percent of the tract in usable open space for the provision of recreational and leisure time activities and facilities for the benefit of the elderly residents. A community room, indoor recreation area or similar facility shall also be required within each residential building.

(6) *Other Development Standards.* The proposed development of housing for the elderly shall also be developed in accordance with the requirements specified in requirements specified in Part 9, §27-904 of this Chapter, to the extent not inconsistent with the requirements of this Part.

B. *Mid-rise Housing for the Elderly.* The following standards shall apply to housing for the elderly as a conditional use in the R-4 Residential and RC-2 Retail Commercial Districts.

(1) *Minimum Acreage.* A minimum tract size of 2 acres shall be required.

(2) *Maximum Density.* A maximum permitted density of 50 dwelling units per acre.

(3) *Building Coverage.* Not more than 20 percent of the area of each housing for the elderly development may be occupied by buildings.

(4) *Parking.* Not less than one half off-street parking space shall be required for each dwelling unit. Such parking spaces shall be placed so as not to interfere with any recreation or service area, and shall not be less than 25 feet from property lines or street right-of-way lines.

(5) *Recreation and Open Space; Amenities.* The developer shall be required to maintain not less than 30 percent of the tract in usable open space for the provision of recreational and leisure time activities and facilities for the benefit of the elderly residents. A community room, indoor recreation area or similar facility shall also be required within each residential building.

(6) *Other Development Standards.* The proposed development of housing for the elderly shall also be developed in accordance with the Part 12, §27-1205 of this Chapter, to the extent not inconsistent with the requirements of this Part.

(Ord. 761, 8/26/1985, §1601)

### **§27-1603. Safety Features.**

The Borough Council and the Borough Planning Commission shall ensure that the proposed development contains at least the following safety features:

A. At least one elevator. All elevators shall be at least 7 feet deep in order to accommodate a litter horizontally.

B. Nonskid floors.

C. Doors of sufficient width to accommodate wheelchairs for all rooms.

D. Electric cooking stoves.

- E. Showers in place of tubs for more than 50 percent of the dwelling units.
- F. Electric outlets at levels at least 24 inches above the floor.
- G. Grab bars around tubs (where tubs are provided), shower stalls and toilets.
- H. Central heating.
- I. Handle-type spigots and doorknobs.
- J. Emergency signals which can be activated within each apartment and which ring in adjoining apartments and at a central location.
- K. Ramps wherever necessary for wheelchairs as an alternative to steps.

(Ord. 761, 8/26/1985, §1602)

**§27-1604. Procedures.**

Applications for approval of a conditional use under this Part shall be made to Borough Council, which shall apply the standards and requirements set forth in this Part, after first holding a public hearing, at which a full opportunity to be heard shall be given to any citizen and all parties in interest. The application for conditional use shall, in addition to all other information required, provide the information required by §27-2503 in addition to seeking the opinion and advice of the Borough Planning Commission, the Borough Council shall, at least 60 days prior to the public hearing on the conditional use application, seek the opinion and advice on the merits of the proposal of the Montgomery County Planning Commission, the Montgomery County Housing Authority and other technical and professional advisory agencies knowledgeable on the subject, in order more effectively to evaluate the adequacy of the proposed development.

(Ord. 761, 8/26/1985, §1603)

**§27-1605. Plan Submission Requirements.**

The following information shall be shown on the plans submitted for approval as part of the conditional use application, in addition to the information required to be submitted under the Land Subdivision Ordinance [Chapter 22] for a major subdivision:

- A. Floor area (in square feet) of all apartment dwelling units.
- B. Number of bedrooms per dwelling unit.
- C. Total number of dwelling units.
- D. Total number of acres in the proposed plan.
- E. Total number of off-street parking spaces.
- F. Exterior vertical and horizontal building dimensions.
- G. Total ground area of each building.
- H. All safety features included in each building required by this Chapter, other ordinances of the Borough, and by other governmental agencies.

(Ord. 761, 8/26/1985, §1604)

**§27-1606. Guaranteed Occupancy.**

The developer shall file with the Borough a covenant, in form suitable for recording, approved as to form by the Borough Solicitor, in which the owner of the property and

the developer covenant on behalf of themselves, their heirs, executors, administrators, successors, and assigns, not to subdivide the ownership of the property nor to use the property for any other use than housing for the elderly.

*(Ord. 761, 8/26/1985, §1605)*

**§27-1607. Modification Procedures.**

Should the Borough Council, in their review of the merits of the proposed development, feel that a literal interpretation of the requirements of this district will serve to discourage the development of safe and adequate housing for the elderly and/or the other purposes of this Part, as specified in §27-1601, they may modify such standards at their discretion, provided that the resultant modifications do not conflict with the declaration of legislative intent and community development objectives contained in §§27-103 and 27-105 of this Chapter.

*(Ord. 761, 8/26/1985, §1606)*

**Part 17****Wireless Telecommunications Towers and Facilities Overlay District****§27-1701. Purpose and Legislative Intent.**

The Telecommunications Act of 1996 affirmed the Borough's authority concerning the placement, construction and modification of wireless telecommunications facilities. The Borough finds that wireless telecommunications facilities may pose significant concerns to the health, safety, public welfare, character and environment of the Borough and its inhabitants. The Borough also recognizes that facilitating the development of wireless service technology can be an economic development asset to the Borough and of significant benefit to the Borough and its residents. In order to insure that the placement, construction or modification of wireless telecommunications facilities is consistent with the Borough's land use policies, the Borough is adopting a single, comprehensive, wireless telecommunications facilities application and permit process. The intent of this Part is to minimize impact of wireless telecommunications facilities, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of the visual and environmental impacts of such facilities, and protect the health, safety and welfare of the Borough of Hatboro. (*Ord. 761, 8/26/1985; as added by Ord. 1005, 5/23/2011*)

**§27-1702. Definitions.**

For purposes of this Part, and where not inconsistent with the context of a particular Section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this Section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number.

*Accessory facility or structure*—an accessory facility or structure serving or being used in conjunction with wireless telecommunications facilities, and located on the same property or lot as the wireless telecommunications facilities including, but not limited to, utility or transmission equipment storage sheds or cabinets.

*Applicant*—any wireless service provider submitting an application for a permit for wireless telecommunications facilities.

*Application*—all necessary and appropriate documentation that an applicant submits in order to receive a permit for wireless telecommunications facilities.

*Antenna*—a system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.

*Camouflage*—disguising a tower or wireless telecommunications facility so as to make it less visually obtrusive and not recognizable to the average person as a wireless telecommunications facility.

*Co-location*—the use of an existing tower or structure to support antenna for the provision of wireless services.

*Commercial impracticability or commercially impracticable*—the inability to

perform an act on terms that are reasonable in commerce; the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be “commercially impracticable” and shall not render an act or the terms of an agreement “commercially impracticable.”

*Commonwealth*—the Commonwealth of Pennsylvania.

*Completed application*—an application that contains all information and/or data required by this Part and necessary to enable an informed decision to be made with respect to an application.

*Commission*—the Borough Council of Hatboro.

*DAS or distributive access system*—a technology using antenna combining technology allowing for multiple carriers or wireless service providers to use the same set of antennas.

*FAA*—the Federal Aviation Administration, or its duly designated and authorized successor agency.

*FCC*—the Federal Communications Commission, or its duly designated and authorized successor agency.

*Height*—when referring to a tower or structure, the distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightning protection device.

*Modification or modify*—the addition, removal or change of any of the physical and visually discernable components or aspects of a wireless facility, such as antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernable components, vehicular access, parking and/or an upgrade or change-out of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to a telecommunications tower or telecommunications site as a co-location is a modification. A modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything.

*Need*—anything that is technically required for the wireless service to be provided primarily and essentially within the Borough of Hatboro and creates the least physical and visual impact. This does not necessarily mean the internal design standards of the applicant, as companies’ standards can vary greatly and normally reflect preferences. Rather, need relates to the ability of the user-equipment to function as designed.

*NIER*—nonionizing electromagnetic radiation.

*Permit*—the official document by which an applicant is allowed to file for a building permit to construct and use wireless telecommunications facilities as granted or issued by the Borough of Hatboro. A permit issued under authority of this Part shall constitute a conditional use permit and shall be subject to the permit requirements specified in Part 22 of this Chapter.

*Person*—any individual, corporation, estate, trust, partnership, joint stock

company, association of two or more persons having a joint common interest, or any other entity.

*Personal wireless facility*—see definition for “wireless telecommunications facilities.”

*Personal wireless services or PWS or personal telecommunications service or PTS*—the same meaning as defined and used in the 1996 Telecommunications Act.

*Repairs and maintenance*—the replacement or repair of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without the addition, removal or change of any of the physical or visually discernable components or aspects of a wireless facility that will add to the visible appearance of the facility as originally permitted.

*Stealth technology*—to minimize adverse aesthetic and visual impacts on the land, property, buildings and other facilities adjacent to, surrounding, and in generally the same area as the requested location of a wireless telecommunications facility, which shall mean using the least visually and physically intrusive facility that is not technologically impracticable under the facts and circumstances. Stealth technology expressly includes such technology as DAS or its functional equivalent.

*Telecommunications*—the transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

*Telecommunication site*—see definition for “wireless telecommunications facilities.”

*Telecommunications structure*—means a structure used in the provision of services described in the definition of “wireless telecommunications facilities.”

*Temporary*—temporary in relation to all aspects and components of this Part, something intended to, or that does, exist for fewer than 90 days.

*Tower*—any structure designed primarily to support an antenna for receiving and/or transmitting a wireless signal.

*Wireless telecommunications facilities*—includes a “telecommunications site” and “personal wireless facility.” It means a structure, facility or location designed, or intended to be used as, or used to support antennas or other transmitting or receiving devices. This includes without limit, towers of all types, kinds and structures, including, but not limited to, buildings, church steeples, silos, water towers, signs or other structures that can be used as a support structure for antennas or the functional equivalent of such. It further includes all related facilities and equipment such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, SMR, paging, 911, personal communications services (PCS), commercial satellite services, microwave services and any commercial wireless telecommunication service not licensed by the FCC.

(Ord. 761, 8/26/1985; as added by Ord. 1005, 5/23/2011)

### **§27-1703. Overall Policy and Desired Goals for Permits for Wireless Telecommunications Facilities.**

In order to ensure that the placement, construction, and modification of wireless telecommunications facilities protects the Borough's health, safety, public welfare, environmental features, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in this Part, the Borough hereby adopts an overall policy with respect to any permit issued for wireless telecommunications facilities for the express purpose of achieving the following goals:

- A. Requiring a conditional use permit for any new, co-location or modification of a wireless telecommunications facility.
- B. Implementing an application process for person(s) or entities seeking a permit for wireless telecommunications facilities.
- C. Establishing a policy for examining an application and issuing a permit for wireless telecommunications facilities that is both fair and consistent.
- D. Promoting and encouraging, wherever possible, the sharing and/or co-location of wireless telecommunications facilities among service providers.
- E. Requiring, promoting and encouraging, wherever possible, the placement, height and quantity of wireless telecommunications facilities in such a manner including, but not limited to, the use of stealth technology, as to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities.
- F. In granting a permit, the Borough has found that the facility shall be the most appropriate site as regards being the least visually intrusive among those available in the Borough.

(*Ord. 761, 8/26/1985; as added by Ord. 1005, 5/23/2011*)

**§27-1704. Exceptions from a Permit for Wireless Telecommunications Facilities.**

1. No person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of a wireless telecommunications facility as of the effective date of this Part without having first obtained a permit for a wireless telecommunications facility as defined in §27-1702 of this Chapter. Notwithstanding anything to the contrary in this section, no permit shall be required for those noncommercial exceptions noted in this Section, unless deemed in the public interest by the Borough of Hatboro.
2. If constructed as required by a permit, all legally permitted wireless telecommunications facilities that existed on or before the effective date of this Part shall be allowed to continue as they presently exist; provided, however, that any visible modification of an existing wireless telecommunications facility will require the complete facility and any new installation to comply with this Part, as will anything changing the structural load.
3. Any repair and/or maintenance of a wireless facility shall not require an application for a permit. However, no additional construction or site modification shall be permitted.
4. Notwithstanding any other provisions of this Section and all subparts thereof, the co-location and/or shared use of antennas on existing telecommunication towers or

other tall structures or compatible use structures, such as utility poles, water towers, and other towers, shall be exempt from the public hearing requirement otherwise required for a tower, and shall be subject only to an administrative review process by the Borough and its designee.

(*Ord. 761, 8/26/1985; as added by Ord. 1005, 5/23/2011*)

**§27-1705. Exclusions.**

The following shall be exempt from this Part:

A. The Borough's fire or other public service facilities owned and operated by the Borough.

B. Any facilities expressly exempt from the Borough's siting, building and permitting authority.

C. Over-the-air reception devices including the reception antennas for direct broadcast satellites (DBS), multi-channel multipoint distribution (wireless cable) providers (MMDS), television broadcast stations (TVBS) and other customer-end antennas that receive and transmit fixed wireless signals that are primarily used for reception, but not including microwave dishes.

D. Facilities used exclusively for private, noncommercial radio and television reception and private citizen's bands, licensed amateur radio and other similar noncommercial telecommunications.

E. Facilities used exclusively for providing very low powered unlicensed spread spectrum technologies, such as IEEE 802.11a, b, g services (e.g., Bluetooth) where the facility does not require a new tower, but not including facilities used commercially.

(*Ord. 761, 8/26/1985; as added by Ord. 1005, 5/23/2011*)

**§27-1706. Location of Wireless Telecommunications Facilities.**

1. Applicants for wireless telecommunications facilities shall locate, site and erect said wireless telecommunications facilities in accordance with the following priorities, one being the highest priority and five being the lowest priority:

A. On existing towers or other structures on Borough-owned property or Borough-owned facilities that already contain fewer than five existing antenna arrays or other wireless facilities and without increasing the height.

B. On existing towers that already contain fewer than five existing antenna arrays or other wireless facilities and without increasing the height.

C. On existing structures in areas zoned HI, HI-MU or LI that already contain fewer than five existing antenna arrays or other wireless facilities without increasing the height of the structure.

D. On new towers or structures in areas zoned HI, HI-MU or LI.

E. On existing utility poles in any area of the Borough without surpassing the existing height of the pole by more than 6 feet.

2. If the proposed site is not proposed for the highest priority listed above, then a detailed explanation and justification must be provided as to why a site of all higher priority designations was not selected.

3. An applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected or because there is an existing lease with a landowner. An application shall address co-location as an option. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of hardship.

4. Notwithstanding the above, the Borough may approve any site located within an area in the above list of priorities, provided that the Borough finds that the proposed site is in the best interest of the health, safety and welfare of the Borough and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood. Conversely, the Borough may direct that the proposed location be changed to another location that is more in keeping with the goals of this Part and the public interest as determined by the Borough.

5. The applicant shall submit to the Borough a detailed written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection.

6. Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Borough may disapprove an application for any of the following reasons:

- A. Conflict with safety and safety-related codes and requirements.
- B. Conflict with the historic nature or character of a neighborhood or district.
- C. The use or construction of wireless telecommunications facilities that is contrary to an already stated purpose of a specific zoning or land use designation.
- D. The placement and location of wireless telecommunications facilities that would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the Borough, or employees of the service provider or other service providers.
- E. The placement and location of a wireless telecommunications facility that would result in a conflict with or compromise in or change the nature or character of the surrounding area.
- F. Conflict with the provisions of this Part or other applicable laws, ordinances, codes and regulations.
- G. Failure to submit a complete application as required under this Part.
- H. Conflict with the health, safety and welfare of the Borough and its inhabitants.

7. The Borough may require the relocation of a proposed site, or may require the use of more than one site to provide substantially the same service if the relocation would result in a less intrusive facility or facilities, singly or in combination.

(*Ord. 761, 8/26/1985; as added by Ord. 1005, 5/23/2011*)

#### **§27-1707. Shared Use of Wireless Telecommunications Facilities and Other Structures.**

1. The Borough requires wireless facilities to be located on existing towers or other suitable structures without increasing the height of the Tower or structure, as opposed to the construction of a new tower. The applicant shall submit a comprehensive

report inventorying all existing towers and other suitable structures within 1 mile of the location of any proposed new tower.

2. An applicant intending to locate on an existing tower or other suitable structure shall be required to submit proof of an agreement with the existing owner to permit its use by the applicant.

3. To minimize the profile of the array, such shared use shall consist only of the minimum antenna array, including the minimum size technologically required to provide service within the Borough.

(*Ord. 761, 8/26/1985; as added by Ord. 1005, 5/23/2011*)

**§27-1708. Height of Telecommunications Tower(s).**

1. All new towers shall be of the monopole type. No new towers of a lattice or guyed type shall be permitted, unless relief is otherwise expressly granted.

2. The applicant shall submit documentation justifying the technical need by the service provider for the total height of any tower, facility or antenna requested and the basis therefor. To enable verification of the need for the requested height, documentation in the form of propagation studies shall include all data used to produce the studies at the height requested and at a minimum of 10 feet lower height. Such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the Borough.

3. The maximum permitted total height of a new tower shall be 80 feet above pre-construction ground level, unless it can be proven that such height would prohibit the provision of service in the intended service area. The maximum permitted height is not as-of-right height, but rather the maximum permitted height, absent proof of the technological need for a greater height.

4. Notwithstanding the 80 feet maximum permitted height, telecommunications towers and facilities shall be no taller than the minimum height technologically necessary to enable the provision of wireless service coverage or capacity as needed primarily and substantially within the Borough.

5. Spacing or the distance between towers shall be such that the service may be provided without exceeding the maximum permitted height.

(*Ord. 761, 8/26/1985; as added by Ord. 1005, 5/23/2011*)

**§27-1709. Visibility of Wireless Telecommunications Facilities.**

1. Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by applicable federal rules and regulations.

2. *Camouflage.* To the extent not commercially impracticable, all new wireless telecommunications facilities including, but not limited to, towers, shall utilize camouflage techniques and technology.

3. *Dual Mode.* In order to minimize the number of antenna arrays and their visual impact, the Borough may require the use of dual mode antennas.

4. *Tower Finish/Color.* Towers shall be galvanized or painted with a rust-preventive paint of an appropriate color to be determined by the Borough and shall be maintained in accordance with the requirements of this Part and, if applicable, Federal

rules and regulations.

5. *Flush Mounting.* All new or replacement antennas, except omni-directional whip antennas, shall be flush-mounted on any tower or other structure or as close to flush-mounted as is technically feasible.

6. *Placement on Building–Facie.* If attached to a building, all antennas shall be mounted on the facade of the building and camouflaged so as to match the color and, if possible, texture of the building, or in a manner so as to make the antennas as visually innocuous and undetectable as is possible.

7. *Lighting.* If lighting is required, the applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under Commonwealth of Pennsylvania and Federal regulations. For any wireless facility for which lighting is required under the FAA's regulations, or that for any reason has lights attached, all such lighting shall be affixed with technology that enables the light to be seen as intended from the air, but that prevents the ground scatter effect so that it is not able to be seen from the ground to a height of at least 12 degrees vertical for a distance of at least 1 mile in a level terrain situation.

8. In the event a tower that is lighted is modified, at the time of the modification the Borough may require that the tower be retrofitted with the technology set forth in the preceding subsection .7.

9. Existing towers that are lighted shall comply with the requirements of this Section upon any modification to the tower.

(Ord. 761, 8/26/1985; as added by Ord. 1005, 5/23/2011)

#### **§27-1710. Security of Wireless Telecommunications Facilities.**

All wireless telecommunications facilities and antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

A. All antennas, towers and other supporting structures, including guy anchor points and wires, shall be made inaccessible to the public.

B. Transmitters and telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

(Ord. 761, 8/26/1985; as added by Ord. 1005, 5/23/2011)

#### **§27-1711. Signage.**

Notwithstanding the provisions of Part 19 of this Chapter, wireless telecommunications facilities shall contain a sign no larger than 4 square feet in order to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. A sign of the same size is also to be installed to contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC registration shall also be installed. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted.

(*Ord. 761, 8/26/1985; as added by Ord. 1005, 5/23/2011*)

**§27-1712. Lot Size and Setbacks.**

1. All proposed towers and any other proposed wireless telecommunications facility attachment structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the following distances: A distance equal to the height of the proposed tower or wireless telecommunications facility structure plus 10 percent of the height of the tower or structure, otherwise known as the fall zone, or the existing setback requirement of the underlying zoning district, whichever is greater. Any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated. The fall zone or setback shall be measured from the nearest portion of the right-of-way of any public road or thoroughfare and any occupied building or domicile.

2. There shall be no development of habitable buildings within the fall zone or setback area set forth in the preceding subsection .1.

(*Ord. 761, 8/26/1985; as added by Ord. 1005, 5/23/2011*)

**§27-1713. Retention of Expert Assistance and Reimbursement by Applicant.**

1. Applicant shall deposit with the Borough funds (the “escrow account”) as set forth in the fee schedule of the Borough. If at any time the escrow account falls below the required amount, all work shall immediately cease until the applicant is authorized by the Borough to continue. Any unused balance in the escrow account, as determined by the Borough, shall be refunded to applicant at the conclusion of the project.

2. The Borough may hire any consultant or expert necessary to assist the Borough in reviewing and evaluating the application, including the construction and modification of the site, once permitted, and any site inspections.

3. A 10 percent administrative charge shall be added to all applicable fees and deducted from the escrow account. The initial deposit shall be as set forth in the Borough’s fee schedule but shall be no less than \$6,500. Submission of the initial escrow to the Borough shall precede the pre-application meeting or any work being done.

4. The Borough’s consultants/experts shall invoice the Borough for their services in relation to the application. If at any time during the process the escrow account has a balance less than one-third of the initial deposit, and the Borough determines that costs may run in excess of the unused portion, the applicant shall immediately, upon notification by the Borough, replenish said escrow account so that it has a balance of at least two-thirds of the initial deposit. Upon notification to the applicant of the need to replenish the escrow account, such additional escrow funds shall be deposited with the Borough before any further action or consideration is taken on the application. In the event that the amount held in the escrow account is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant upon request.

(*Ord. 761, 8/26/1985; as added by Ord. 1005, 5/23/2011*)

**§27-1714. Public Hearing and Notification Requirements.**

1. Prior to the approval of any application for a permit for a new tower or for any facility that increases the height of the structure to which it is to be attached, a public

hearing shall be held by the Borough, and public notice shall be given in accordance with the provisions of Part 22 of this Chapter and applicable provisions of the Municipalities Planning Code, 53 P.S. §10101 *et seq.* In addition to the notice requirements of Part 22, the applicant shall notify all landowners within 1,000 feet of any property line of the lot or parcel on which the new wireless telecommunications facilities are proposed to be located and the application shall contain the names and address of all such landowners. Such notification shall be by U.S. Mail no less than 30 calendar days prior to the scheduled date of the public hearing. In addition, the applicant shall post the public notice at the subject property no less than 30 calendar days prior to the scheduled date of the public hearing, indicating the date, time and location of the public hearing.

2. The Borough shall not schedule the public hearing referred to in subsection .1 of this Section until it determines the application is complete.

(*Ord. 761, 8/26/1985; as added by Ord. 1005, 5/23/2011*)

**§27-1715. Action on an Application for a Permit for Wireless Telecommunications Facilities.**

1. The Borough may refer any application or part thereof to any advisory or other committee for a nonbinding recommendation.

2. After the public hearing and after formally considering the application, the Borough may approve, approve with conditions, or deny a permit. Its decision shall be in writing and shall comply with the requirements of the Municipalities Planning Code, 53 P.S. §10101 *et seq.* The burden of proof for the grant of the permit shall always be upon the applicant.

3. If the Borough approves the permit for a wireless telecommunications facility, then the applicant shall be notified of such approval in writing in accordance with the Municipalities Planning Code, 53 P.S. §10101 *et seq.*, and the permit shall be issued within 30 days after such approval. Except for necessary building permits, and subsequent certificates of compliance, once a permit has been granted hereunder, no additional permits or approvals from the Borough, such as site plan approvals, shall be required by the Borough for the wireless telecommunications facilities covered by the permit.

4. If the Borough denies the permit for wireless telecommunications facilities, then the applicant shall be notified of such denial in writing in accordance with the Municipalities Planning Code, 53 P.S. §10101 *et seq.*

(*Ord. 761, 8/26/1985; as added by Ord. 1005, 5/23/2011*)

**§27-1716. Extent and Parameters of Permit for Wireless Telecommunications Facilities.**

The extent and parameters of a permit for wireless telecommunications facilities shall be as follows:

A. Such permit shall not be assigned, transferred or conveyed without the express prior written notification to the Borough, such to be received at least 30 calendar days prior to the assignment, transfer or conveyance.

B. The permit may be revoked, canceled, or terminated for a violation of the

conditions and provisions of the permit, or for a material violation of this Part or other applicable law, rule or regulation, in accordance with the provisions of this Chapter and the Municipalities Planning Code, 53 P.S. §10101 *et seq.*

C. Notice of a violation shall be provided to the last known address of the holder of the permit and in accordance with this Chapter and the Municipalities Planning Code, 53 P.S. §10101 *et seq.*

(*Ord. 761, 8/26/1985; as added by Ord. 1005, 5/23/2011*)

**§27-1717. Application Fee.**

At the time that a person submits an application for a wireless telecommunications permit, such person shall pay a nonrefundable application fee set forth in the Borough's fee schedule as may be amended or changed from time to time.

(*Ord. 761, 8/26/1985; as added by Ord. 1005, 5/23/2011*)

**§27-1718. Permit Application and Other Requirements for a New Tower or for Increasing the Height of the Structure to Which a Wireless Telecommunications Facility Shall Be Attached.**

1. The nonrefundable application fee for attaching to an existing tower or other structure without increasing the height shall be as set forth in the Borough's schedule of fees but no less than \$6,500.

2. An application for a new tower or to increase the height of an existing tower may not be made solely by the owner or manager of the structure. Such an application must be made jointly with a carrier who can prove the need for the new tower or the need to increase the height of an existing tower and the technical need for the height requested based on the technical requirements of the equipment and not necessarily the design criteria established by the applicant.

3. All applicants for a permit for wireless telecommunications facilities or any modification of such facility shall comply with the requirements set forth in this Part. The Borough Council is the officially designated agency or body of the Borough to whom applications for a permit for wireless telecommunications facilities must be made, and that is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting or revoking permits for wireless telecommunications facilities. The Borough may at its discretion delegate or designate the Borough Planning Commission or other official agencies or officials of the Borough or expert consultants to accept, review, analyze, evaluate and make recommendations to the Borough Council with respect to the granting or not granting or revoking permits for wireless telecommunications facilities.

4. All applicants shall follow the instructions for preparing an application that shall be provided prior to the submittal of an application, or at any time upon request. Not following the instructions without permission to deviate from such may result in the application being returned without action and forfeiting the application fee, but not the escrow deposit.

5. When placing wireless facilities on government-owned property or facilities, only noncommercial wireless carriers and users are exempt from the permitting requirements of this Part.

6. The Borough may reject applications not meeting the requirements stated herein or which are otherwise not complete.

7. No wireless telecommunications facilities shall be installed, constructed or modified until the application is reviewed and approved by the Borough, and the conditional use permit and building permit have been issued.

8. An application for a permit for wireless telecommunications facility shall be signed on behalf of the applicant by the person preparing the same or otherwise authorized to sign the application on the applicant's behalf, and with knowledge of the contents and representations made therein and attesting to the truthfulness and completeness of the information.

9. The applicant must provide documentation to verify it has the right to proceed as proposed on the site. This requires an executed copy of the lease with the landowner or landlord or a signed letter of agency acknowledging authorization. If the applicant owns the site, a copy of the deed shall be provided with the application.

10. The applicant shall include a statement in writing:

A. That the applicant's proposed wireless telecommunications facilities shall be maintained in a safe manner, and in compliance with all conditions of the permit, without exception, unless specifically granted relief by the Borough in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable Borough, Commonwealth and Federal laws, rules, and regulations.

B. That the construction of the wireless telecommunications facilities is legally permissible including, but not limited to, the fact that the applicant is authorized to do business in the Commonwealth of Pennsylvania.

11. Where a certification is called for in this Part, such certification shall bear the signature and seal of a professional engineer licensed in the Commonwealth of Pennsylvania.

12. In addition to all other required information as stated in this Part, all applications for the construction or installation of new wireless telecommunications facilities or modification of an existing facility shall contain the following information.

13. The applicant shall provide proof of need for the proposed facility, as follows:

A. A detailed narrative description and explanation of the specific objective(s) for the new facility, or the modification of an existing wireless facility, expressly including and explaining the purpose and need for the facility, such as coverage and/or capacity needs or requirements, and the specific geographic area of intended coverage.

B. Technical documentation that proves the need for the wireless telecommunications facility to provide service primarily and essentially within the Borough. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed or existing sites, that demonstrates a significant gap in coverage and/or, if a capacity issue is involved the application shall include an analysis of the current and projected usage (traffic studies) using generally accepted industry methods and standards so as to conclusively prove the need for what is proposed. A desire to change, upgrade, or improve the technology or the service shall not be deemed a need in the context of this Part.

C. All of the modeling information (i.e., data) inputted into the software used to produce propagation studies including, but not limited to, any assumptions made, such as ambient tree height as represented by a propagation study data form provided by the Borough or its designee.

D. If necessary to prove the need for the proposed facility, e.g., a disagreement between the Borough and the applicant, a drive test or actual call tests as prescribed by the Borough using accepted methodology may be required.

E. A copy of the FCC license applicable for the intended use of the wireless telecommunications facility, as well as a copy of the 5- and 10-year build-out plan required by and filed with the FCC.

F. The frequency, modulation and class of service of radio or other transmitting equipment.

G. The maximum transmission power capability of all radios, as designed, if the applicant is a cellular or functional equivalent carrier, or the maximum transmission power capability, as designed, of all transmission facilities if the applicant is not a cellular or functional equivalent carrier.

H. The actual intended transmission power stated as the maximum effective radiated power (ERP) both in dBm's and watts.

14. The applicant shall provide the following information regarding ownership and management:

A. The name, address and phone number of the person preparing the application.

B. The name, address, and phone number of the property owner and the applicant, including the legal name of the applicant. If the owner of the structure is different from the applicant, the name, all necessary contact information and a copy of a lease or contractual agreement shall be provided.

C. The postal address and tax map parcel number of the property.

15. The applicant shall provide the following information regarding zoning and planning issues:

A. The Zoning District or designation in which the property is situated.

B. The size of the property on which the structure to be attached to is located, stated both in square feet and lot line dimensions, and a survey showing the location of all lot lines.

C. The location, size and height of all existing and proposed structures on the property on which the structure is located and that is the subject of the application.

D. If attaching to an existing tower, a site plan showing the vertical rendition of the tower identifying all users and attachments to the tower and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting.

E. If attaching to a building or other structure, a site plan showing the proposed attachments and all related fixtures, structures, appurtenances and apparatus, including height above the roof or balustrade, whichever is appropriate.

F. The azimuth, size and center line height location of all proposed and existing antennas on the supporting structure.

G. The number, type and model of the antenna(s) proposed, along with a copy of the specification sheet(s) for the antennas.

H. The type, locations and dimensions of all proposed and existing landscaping, and fencing.

I. The number, type and design of the telecommunications tower(s) and antenna(s) proposed and the basis for the calculations of the telecommunications tower's capacity to accommodate multiple users.

J. The applicant shall disclose in writing any agreement in existence prior to submission of the application that would limit or preclude the ability of the applicant to share any new telecommunication tower that it constructs.

16. The applicant shall provide the following information relating to safety:

A. If attaching to an existing tower, the age of the tower in years, including the date of the grant of the original permit or authorization for the tower.

B. If attaching to an existing tower, a description of the type of tower, e.g., guyed, self-supporting lattice or monopole.

C. If attaching to an existing tower, the make, model, type and manufacturer of the tower and the structural design calculations, certified by a professional engineer licensed in the Commonwealth of Pennsylvania, proving the tower's capability to safely accommodate the facilities of the applicant without change or modification.

D. If any change or modification of the tower or other structure to be attached to is needed, a detailed narrative explaining what changes are needed, why they are needed and who will be responsible to assure that the changes are made.

E. If the structure proposed to be attached to is a tower that has not previously been permitted under this Law, or unless the applicant can provide proof that this was provided at the time of the initial application for the tower or other structure, the applicant shall provide a copy, certified by a professional engineer licensed to do business in the Commonwealth of Pennsylvania and bearing that engineer's currently valid stamp, of the installed foundation design, as well as a geotechnical sub-surface soils investigation, evaluation report and foundation recommendation for the tower site or other structure.

F. For a guyed tower that is 5 years old or older, or for a nonguyed tower that is 3 years old or older, a copy of the latest ANSI report done pursuant to the latest edition of ANSI-EIA/TIA 222F-Annex E for any self-supporting tower. If an ANSI report has not been done or cannot be provided pursuant to the preceding schedule, an ANSI inspection and report shall be done and submitted as part of the application. No building permit shall be applied for or issued for any wireless facility where the structure being attached to is in need of remediation, unless and until all remediation work needed has been completed or a schedule for the remediation work has been approved by the Borough.

G. If not attaching to an existing tower, but to a different type of structure, a structural report signed by a professional engineer licensed to do business in the Commonwealth of Pennsylvania and bearing that engineer's currently valid stamp, showing the structural adequacy of the structure to accommodate the proposed wireless facility(s). This report shall include any equipment shelter, unless the

equipment shelter is located on the lowest floor of a building.

H. If attaching to a structure other than a tower, or to which the public has or could reasonably have or gain access to, documentation shall be provided, including all calculations, proving that the potential exposure to RF radiation (i.e., NIER or nonion emitting radiation), will be in compliance with the most recent Federal Communications Commission regulations governing RF radiation and exposure thereto, and further denoting the minimum distance from any antennas an individual may safely stand without being exposed to RF radiation in excess of the FCC's permitted standards and any portion(s) of the structure that would be exposed to RF radiation in excess of the FCC's permitted standards. In compliance with the FCC's regulations, in such an instance the RF Radiation from all wireless facilities at that location shall be included in the calculations to show the cumulative effect on any area of the building or structure deemed accessible by the public or workers, including the area directly below the antennas for any structure less than 33 feet above ground level. Such report or analysis shall be signed and sealed by a professional engineer licensed in the Commonwealth of Pennsylvania.

I. In an instance involving a tower where the new wireless facilities will be 33 feet or more above ground level, the FCC's "checklist to determine whether a facility may be categorically excluded" shall be provided to verify that the wireless telecommunication facility with the proposed installation will be in full compliance with the current FCC's RF emissions regulations. A complete RF emissions study is required to enable verification of compliance, including providing all calculations so that such may be verified.

J. The Borough may deem it appropriate to have an RF survey of the facility done after the construction or modification and activation of the facility, with such to be done under the direction of the Borough or its designee, and a copy of the survey provided, along with all calculations.

K. If any section or portion of the structure to be attached to is not in compliance with the FCC's regulations regarding RF radiation, that section or portion must be barricaded with a suitable barrier to discourage approaching into the area in excess of the FCC's regulations, and with yellow plastic chain and striped warning tape, as well as signs appropriate to warn individuals of the potential danger.

L. A signed statement that the applicant will expeditiously remedy any physical or RF interference with other telecommunications or wireless devices or services.

17. The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the proposed new tower or existing structure intended to support wireless facilities is in compliance with Federal Aviation Administration Regulation Part 77, as amended, and if it requires lighting. If this analysis determines that an FAA determination is required, then all filings with the FAA, all responses from the FAA and any related correspondence and other documents shall be provided with the application.

18. Application for new tower versus co-location that increases the height or any other dimensions of the structure:

A. In the case of a new tower, the applicant shall be required to submit a

written report documenting efforts used to secure shared use of existing tower(s) or the use of alternative buildings or other structures that are at or above the surrounding tree height or the tallest obstruction and are within 1 mile of the proposed tower. Copies of written requests and responses for shared use shall be provided to the Borough in the application, along with any letters of rejection stating the reason for rejection.

B. In order to better inform the public, in the case of a new telecommunication tower, the applicant shall hold a “balloon test” prior to the initial public hearing on the application, in accordance with the following provisions:

(1) The applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a 10-foot in length brightly colored balloon at the maximum height of the proposed new tower.

(2) At least 14 days prior to the conduct of the balloon test, a sign shall be erected so as to be clearly visible from the road nearest the proposed site and shall be removed no later than 14 days after the conduct of the balloon test. The sign shall be at least 4 feet by 8 feet in size and shall be readable from the road by a person with 20/20 vision.

(3) Such sign shall be placed off, but as near to, the public right-of-way as is possible.

(4) Such sign shall contain the times and date(s) of the balloon test and the date, time and location of the required public hearing, as well as a copy of the proposed site plan.

(5) The date (including an alternate date, in case of poor visibility or wind in excess of 15 mph on the initial date), times and location of this balloon test shall be advertised by the applicant 7 and 14 days in advance of the primary test date in a newspaper with a general circulation in the Borough and as agreed to by the Borough. The applicant shall inform the Borough in writing, of the dates and times of the test, at least 14 days in advance. The balloon shall be flown for at least 4 consecutive hours between 10 a.m. and 4 p.m. on the date chosen. The test shall be conducted on a weekend. A report with pictures from various locations of the balloon shall be provided with the application. The applicant shall provide proof of publication of the notice to the Borough at the time of the public hearing.

(6) In addition to the advertisement required by the preceding Section, the applicant shall notify all property owners and residents located within 1,500 of the applicant’s property of the proposed construction of the tower and wireless facility and of the date(s) and time(s) of the balloon test. Such notice shall be in writing and shall be provided at least 14 days prior to the conduct of the balloon test and shall be delivered by U.S. Certified Mail. The applicant shall provide evidence at the public hearing that the required notice was received by all property owners and residents entitled to such notice.

C. The tower shall be structurally designed to accommodate at least five additional antenna arrays equivalent to those of the applicant as regards the load and stress created on the tower, and located as close to the applicant’s antenna as possible without causing interference. A claim of interference because of a need to have greater than 6 feet of vertical clearance between facilities, measured from the

vertical centerline of one array to the vertical centerline of another, must be proven by technical data and not merely verbal or written assertions. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower is not technologically feasible, based upon:

- (1) The kind of wireless telecommunications facilities site and structure proposed.
- (2) Available space on existing and approved towers.
- (3) The need for more than 6 feet of vertical clearance between antenna arrays, measured from the vertical centerline of one array to the vertical centerline of another, such that there would not be adequate vertical space to accommodate a total of four carriers.

D. The owner of a proposed new tower, and his/her successors in interest, shall negotiate in good faith for the shared use of the proposed tower by other wireless service providers in the future, and shall:

- (1) Respond in writing, with a copy to the Borough, within 60 days to a written request for information from a potential shared-use applicant.
- (2) Negotiate in good faith with a copy to the Borough concerning future requests for shared use of the new tower by other telecommunications providers.
- (3) Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges based upon current market rate. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.
- (4) Failure to abide by the conditions outlined above may be grounds for revocation of the permit or other appropriate action.

19. The applicant shall provide certification with documentation (i.e., structural analysis) including calculations that the telecommunication facility tower and foundation and attachments, rooftop support structure, water tank structure, or any other supporting structure as proposed to be utilized are designed and will be constructed to meet all local, State and Federal structural requirements for loads, including wind and ice loads and including, but not limited to, all applicable ANSI (American National Standards Institute) guidelines.

20. All applications for proposed wireless telecommunications facilities shall contain a demonstration that the facility be sited so as to create the least visual intrusiveness reasonably possible given the facts and circumstances involved, and thereby have the least adverse visual effect on the environment and its character, on existing vegetation, and on the residences and their value in the area of the wireless telecommunications facility. The borough expressly reserves the right to require the use of camouflage technology and such shall be subject to approval by the Borough of Hatboro.

21. If the application is for a new tower, or a new antenna attachment to an

existing structure other than a tower, or for a modification that noticeably changes the appearance or profile of the structure, the applicant shall furnish a visual impact assessment, which shall include:

A. For a new tower, a computer generated “Zone of Visibility Map” may be required at a minimum of 1 mile radius from the proposed structure shall be provided to illustrate locations from which the proposed installation may be seen, with and without foliage.

B. Pictorial representations (photo simulations) of “before and after” views from key viewpoints inside of the Borough including, but not limited to, State highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. The applicant shall provide a map showing the locations of where the pictures were taken and the distance(s) of each location from the proposed structure.

C. A written description of the visual impact of the proposed facility, including, as applicable, the tower base, guy wires, fencing and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.

22. The applicant shall demonstrate and provide in writing and by drawing how it shall effectively screen from view the base and all related equipment and structures of the proposed wireless telecommunications facility.

23. The wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and to harmonize with the natural surroundings. This shall include the utilization of camouflage technology as may be required by the Borough of Hatboro.

24. All utilities at a wireless telecommunications facilities site shall be installed underground.

25. At a wireless telecommunications facilities site an access road, turn around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.

26. All wireless telecommunications facilities shall be constructed, operated, maintained, repaired, provided for removal of, modified or restored in strict compliance with all current applicable technical, safety and safety-related codes adopted by the Borough, Commonwealth of Pennsylvania, or United States including, but not limited to, the most recent editions of the ANSI Code, National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. In the event of a conflict between or among any of the preceding the more stringent shall apply.

27. A holder of a permit granted under this Part shall obtain, at its own expense, all permits and licenses required by applicable law, ordinance, rule, regulation or code,

and must maintain the same, in full force and effect, for as long as required by the Borough or other governmental entity or agency having jurisdiction over the applicant.

28. There shall be a pre-application meeting for all applications. The purpose of the pre-application meeting will be to address issues that will expedite the review and permitting process and certain issues or concerns the Borough may have. A pre-application meeting shall also include a site visit, if there has not been a prior site visit for the requested facility. Costs of Borough consultants including, but not limited to, engineering, legal, and wireless consultants, to prepare for and attend the pre-application meeting will be borne by the applicant and paid for out of the required escrow account.

29. An applicant shall submit to the Borough the number of draft applications determined to be needed at the pre-application meeting.

30. The holder of a permit shall notify the Borough of any intended modification of a wireless telecommunication facility and shall apply to the Borough to modify, relocate or rebuild a wireless telecommunications facility.

(*Ord. 761, 8/26/1985; as added by Ord. 1005, 5/23/2011*)

**§27-1719. Requirements for an Application to Attach to an Existing Tower or Other Structure Without Increasing the Height of the Tower or Structure to Which the Wireless Telecommunications Facility Is to Be Attached.**

1. The nonrefundable application fee for attaching to an existing tower or other structure without increasing the height shall be as set forth in the Borough's schedule of fees but no less than \$6,500.

2. An application to increase the height of a tower or other structure shall be deemed a new tower and shall not qualify for treatment as an attachment to an existing tower or other structure under this Section.

3. An application for a permit for attaching wireless telecommunications facilities to an existing structure including, but not limited to, cellular or PCS facilities and microwave facilities, shall contain the following information and comply with the following requirements:

A. Documentation shall be provided proving that the applicant has the legal right to proceed as proposed on the site, including an executed copy of the lease with the owner of the facility to which the proposed wireless telecommunications facility will be attached, or a letter of agency, showing the right of the applicant to attach to the structure.

4. An application for attaching to an existing structure or for modifying an existing facility without increasing the height or any other dimensions of the structure shall contain the following information:

A. With regard to proof of need for the proposed facility:

(1) A detailed narrative description and explanation of the specific objective(s) for the new facility, or the modification of an existing wireless facility, expressly including and explaining the purpose and need for the facility, such as coverage and capacity needs or requirements, and the specific geographic area of intended coverage.

(2) At the Borough's discretion, technical documentation that proves the

need for the wireless telecommunications facility to provide service primarily within the Borough. Such documentation shall include a propagation study of the proposed site and all adjoining planned, proposed or existing sites, that demonstrates a significant gap in coverage and, if a capacity issue is involved, to include an analysis of the current and projected usage (traffic studies) using generally accepted industry methods and standards so as to conclusively prove the need for what is proposed. The Borough shall require the provision of all technical or engineering data and information used by the applicant to make its determination regarding the need for the facility or the change to the existing facility.

(3) At the Borough's discretion, all of the modeling information (i.e., data) inputted into the software used to produce the propagation studies, including, but not limited to, any assumptions made, such as ambient tree height.

(4) At the Borough's discretion, if necessary to prove the need for what is requested, e.g., a disagreement between the Borough and the applicant, a drive test or actual call tests as prescribed by the Borough using accepted methodology may be required.

(5) A copy of the FCC license applicable for the intended use of the wireless telecommunications facility, as well as a copy of the 5- and 10-year build-out plan required by the FCC.

(6) The frequency, modulation and class of service of radio or other transmitting equipment.

(7) The maximum transmission power capability of all radios, as designed, if the applicant is a cellular or functional equivalent carrier, or the maximum transmission power capability, as designed, of all transmission facilities if the applicant is not a cellular or functional equivalent carrier.

(8) The actual intended transmission power stated as the maximum effective radiated power (ERP), both in dBm's and watts.

B. With regard to ownership and management:

(1) The name, address and phone number of the person preparing the application.

(2) The name, address, and phone number of the property owner and the applicant, including the legal name, address and phone number of the applicant. If the owner of the structure is different than the applicant, the name shall be provided.

(3) The postal address and tax map parcel number of the property.

C. With regard to issues relating to zoning and planning:

(1) Zoning district in which the property is situated.

(2) The size of the property on which the structure to be attached to is located, stated both in square feet and lot line dimensions, and a survey showing the location of all lot lines.

(3) The location, size and height of all existing and proposed structures on the property on which the structure is located and that is the subject of the application.

(4) If attaching to an existing tower, a site plan showing the vertical rendition of the tower identifying all users and attachments to the tower and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting.

(5) If attaching to a building or other structure, a site plan showing the proposed attachments and all related fixtures, structures, appurtenances and apparatus, including height above the roof or balustrade, whichever is appropriate.

(6) The azimuth, size and center line height location of all proposed and existing antennae on the supporting structure.

(7) The number, type and model of the antenna(s) proposed, along with a copy of the specification sheet(s) for the antennas.

D. With regard to safety issues:

(1) If attaching to an existing tower, the age of the tower in years, including the date of the grant of the original permit or authorization for the tower.

(2) If attaching to an existing tower, a description of the type of tower, e.g., guyed, self-supporting lattice or monopole.

(3) If attaching to an existing tower, the make, model, type and manufacturer of the tower and the structural design calculations, certified by a professional engineer licensed in the Commonwealth of Pennsylvania, proving the tower's capability to safely accommodate the facilities of the applicant without change or modification, taking into account the geotechnical situation and the foundation design.

(4) If any change or modification of the tower or other structure to be attached to is needed, a detailed narrative explaining what changes are needed, why they are needed and who will be responsible to assure that the changes are made.

(5) If the structure proposed to be attached to is a tower that has not previously been permitted under this law, or unless the applicant can provide proof that this was provided at the time of the initial application for the tower or other structure, the applicant shall provide a copy of the installed foundation design, as well as a geotechnical sub-surface soils investigation, evaluation report and foundation recommendation for the tower site or other structure.

(6) If attaching to an existing tower, a copy of the latest ANSI inspection report done pursuant to the latest edition of ANSI-EIA/TIA 222F-Annex E for any self-supporting tower that is 5 years old or older or for any guyed tower that is 3 years old or older. If an ANSI inspection report has not been done pursuant to the preceding schedule, an ANSI report shall be done and submitted as part of the application.

(7) If not attaching to an existing tower, a structural report signed by a professional engineer licensed to do business in the Commonwealth of Pennsylvania and bearing that engineer's currently valid stamp, showing the structural adequacy of the structure to accommodate the proposed wireless facility(s), including any equipment shelter, unless the equipment shelter is

located on the ground or on the lowest floor of a building.

(8) If attaching to a structure, other than a tower, to which the public has or could reasonably have or gain access to, documentation, including all calculations, proving that the potential exposure to RF radiation (i.e., NIER or nonion emitting radiation), will be in compliance with the most recent Federal Communications Commission regulations governing RF radiation and exposure thereto, and further denoting the minimum distance from any antennas an individual may safely stand without being exposed to RF radiation in excess of the FCC's permitted standards and any portion(s) of the structure that would be exposed to RF radiation in excess of the FCC's permitted standards. In compliance with the FCC's regulations, in such an instance the RF radiation from all wireless facilities shall be included in the calculations to show the cumulative effect on any area of the building or structure deemed accessible by the public. Such report or analysis shall be signed and sealed by a professional engineer licensed in the Commonwealth of Pennsylvania.

(9) In an instance on a tower where the new wireless facilities will be 30 feet or more above ground level, signed documentation such as the FCC's "checklist to determine whether a facility may categorically excluded" shall be provided to verify that the wireless telecommunication facility with the proposed installation will be in full compliance with the current FCC's RF emissions regulations. If not categorically excluded, a complete RF emissions study is required to enable verification of compliance, including providing all calculations, so that such may be verified.

(10) If any section or portion of the structure to be attached to is not in compliance with the FCC's regulations regarding RF radiation, that section or portion must be barricaded with a suitable barrier and suitably marked.

(11) A signed statement that the applicant will expeditiously remedy any physical or RF interference with other telecommunications or wireless devices or services.

E. To protect the nature and character of the area and create the least visually intrusive impact reasonably possible under the facts and circumstances, any attachment to a building or other structure with a facade, the antennas shall be mounted on the facade, unless it can be proven that such will prohibit the provision of service, and all such attachments and exposed cabling shall use camouflage techniques to match as closely as possible the color and texture of the structure attached to.

F. If attaching to a water tank, mounting on the top of the tank or the use of a corral shall only be permitted if the applicant can prove that to locate elsewhere will prohibit the provision of service or creates an unresolvable safety threat, and all such attachments and exposed cabling shall use camouflage techniques to match as closely as possible the color and texture of the structure attached to.

G. The applicant shall provide a certification by a professional engineer licensed in the Commonwealth of Pennsylvania, along with documentation (a structural analysis), including calculations, that prove that the tower or other structure and its foundation as proposed to be utilized are designed and con-

structed to meet all local, Borough, Commonwealth, Federal and ANSI structural requirements for loads, including wind and ice loads and the placement of any equipment on the roof a building after the addition of the proposed new facilities.

H. If the application is to attach to or modify existing facilities on a tower, the applicant shall provide signed documentation of the tower condition; specifically this shall mean a report done pursuant to the latest edition of ANSI-EIA/TIA 222F–Annex E for any self-supporting tower that is 5 years old or older or for a guyed tower that is 3 years old or older. Any deficiencies, other than strictly cosmetic ones, must be completed or remedied prior to the issuance of a building permit for the attachment of any component of the proposed wireless telecommunications facilities.

I. To have the least adverse visual effect, all antennas attached to a tower or other structure shall be flush mounted or as near to flush mounted as is possible without prohibiting the provision of service, or prove technically, with data and a detailed narrative, that flush mounting shall not be used.

J. The applicant shall demonstrate and provide in writing and by drawing how it shall effectively screen from view the base and all related equipment and structures of the proposed wireless telecommunications facility up to a height of 10 feet.

K. The wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and to harmonize with the natural surroundings. This shall include the utilization of camouflage as may be required by the Borough.

L. All utilities installed for a new wireless telecommunications facility shall be installed underground.

M. If needed, an access road, turn around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable.

N. The applicant, and the owner of record of any structure or tower to which a wireless telecommunications facility will be attached, shall, jointly or separately, at its cost and expense, be required to place with the Borough financial security acceptable to the Borough as to type of security and the form and manner of execution, in an amount required by the Borough's current fee schedule for attaching to an existing structure or existing tower and with such sureties as are deemed sufficient by the Borough to assure the faithful performance of the terms and conditions of this Chapter and conditions of any permit issued pursuant to this Chapter. Said security shall also serve as a removal security in the event of the abandonment or cessation of use for more than 90 consecutive days. The full amount of the security shall remain in full force and effect throughout the term of the permit and until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original permit.

(*Ord. 761, 8/26/1985; as added by Ord. 1005, 5/23/2011*)

**§27-1720. Removal and Performance Security.**

The applicant and the owner of record of any proposed tower or other new support structure, shall, at its sole cost and expense, be required to execute and file with the Borough financial security acceptable to the Borough in an amount as determined by the Township Engineer, but not to exceed 110 percent of the combined estimated cost of removal of the tower or other support structure and restoration of the site to its pre-construction condition. The surety must be acceptable to the Township Solicitor as to type of security and the form and manner of execution. Such surety is to assure the faithful performance of the terms and conditions of this Chapter and conditions of any permit issued pursuant to this Chapter, as well as removal of the tower or other support structure, and restoration of the site, if abandoned. The full amount of the security shall remain in full force and effect throughout the term of the permit and until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original permit.

(*Ord. 761, 8/26/1985; as added by Ord. 1005, 5/23/2011*)

**§27-1721. Reservation of Authority to Inspect Wireless Telecommunications Facilities.**

In order to verify that the holder of a permit for wireless telecommunications facilities and any and all lessees, renters, or licensees of wireless telecommunications facilities, place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, ordinances and regulations and other applicable requirements, the Borough may, annually, inspect or have inspected by a party of its choice all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, towers, antennas and buildings or other structures constructed or located on the permitted site. The Borough shall charge an annual inspection/registration/review fee. The amount of the fee shall be established by the fee schedule of the Borough.

(*Ord. 761, 8/26/1985; as added by Ord. 1005, 5/23/2011*)

**§27-1722. Liability Insurance.**

1. A holder of a permit for a wireless telecommunications facility shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the permit in amounts as set forth the Borough schedule of fees but no less than \$2,000,000. For a wireless telecommunications facility on Borough property, the commercial general liability insurance policy shall specifically include the Borough and its officers, Councils members, employees, committee members, attorneys, agents and consultants as additional insureds.

2. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the Commonwealth of Pennsylvania.

3. The insurance policies shall contain an endorsement obligating the insurance company to furnish the Borough with at least 30 days prior written notice in advance of the cancellation of the insurance.

4. Renewal or replacement policies or certificates shall be delivered to the Borough at least 15 days before the expiration of the insurance that such policies are

to renew or replace.

5. Before construction of a permitted wireless telecommunications facility is initiated, but in no case later than 15 days after the grant of the permit, the holder of the permit shall deliver to the Borough a copy of each of the policies or certificates representing the insurance in the required amounts.

6. A certificate of insurance that states that it is for informational purposes only and does not confer rights upon the Borough shall not be deemed to comply with this Section.

(*Ord. 761, 8/26/1985; as added by Ord. 1005, 5/23/2011*)

**§27-1723. Indemnification.**

1. Any application for wireless telecommunication facilities that is proposed for Borough property shall contain a provision with respect to indemnification of the Borough. Such provision shall require the applicant, to the extent permitted by this Part and applicable law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the Borough, and its officers, Councils members, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or be caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the grossly negligent or intentional acts or omissions of the Borough, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorney's fees, consultant's fees, and expert witness fees are included in those costs that are recoverable by the Borough.

2. Notwithstanding the requirements noted in subsection .1 of this Section, an indemnification provision will not be required in those instances where the Borough itself applies for and secures a permit for wireless telecommunications facilities.

(*Ord. 761, 8/26/1985; as added by Ord. 1005, 5/23/2011*)

**§27-1724. Fines.**

1. In the event of a violation of this Part or any permit issued pursuant to this Part, the Borough may impose and collect, and the holder of the permit for wireless telecommunications facilities shall pay to the Borough, fines or penalties as set forth in Part 24 of this Chapter.

2. Notwithstanding anything in this Part, the holder of the permit for wireless telecommunications facilities may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this Part or any section of this Part. An attempt to do so shall subject the holder of the permit to termination and revocation of the permit. The Borough may also seek injunctive relief to prevent the continued violation of this Part, without limiting other remedies available to the Borough.

(*Ord. 761, 8/26/1985; as added by Ord. 1005, 5/23/2011*)

**§27-1725. Default and/or Revocation.**

If a wireless telecommunications facility is repaired, rebuilt, placed, moved, re-located, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this Part or of the permit, then the Borough shall notify the holder of the permit in writing of such violation. A permit holder in violation may be considered in default and subject to fines as in Part 24 and if a violation is not corrected to the satisfaction of the Borough within 30 days, the permit may be subject to revocation.

(*Ord. 761, 8/26/1985; as added by Ord. 1005, 5/23/2011*)

**§27-1726. Removal of Wireless Telecommunications Facilities.**

1. The owner of any tower or wireless telecommunications facility shall be required to provide a minimum of 30 days written notice to the Borough Manager via Certified Mail-return receipt requested prior to abandoning any tower or wireless telecommunications facility.

2. Under the following circumstances, the Borough may determine that the health, safety, and welfare interests of the Borough warrant and require the removal of wireless telecommunications facilities:

A. Wireless telecommunications facilities with a permit that have been abandoned (i.e., not used as wireless telecommunications facilities) for a period exceeding 90 consecutive days or a total of 180 days in any 365-day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall commence within 90 days.

B. Permitted wireless telecommunications facilities that fall into such a state of disrepair that a health or safety hazard is created including, but not limited to, becoming an attractive nuisance.

C. Wireless telecommunications facilities have been located, constructed, or modified without first obtaining, or used or maintained in a manner not authorized by the required permit, or any other necessary authorization and the permit may be revoked.

3. If the Borough makes such a determination as noted in subsection .2 of this Section, then within 10 days the Borough may notify the holder of the permit for the wireless telecommunications facilities that said wireless telecommunications facilities are to be removed. To prevent a loss of service to the public and to enable the sale of the wireless telecommunications facilities, the Borough may approve an interim temporary use agreement/permit.

4. The holder of the permit, or its successors or assigns, shall dismantle and remove such wireless telecommunications facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible within 90 days of receipt of written notice from the Borough.

5. If wireless telecommunications facilities are not removed or substantial progress has not been made to remove the wireless telecommunications facilities within 90 days after the permit holder has received notice, then the Borough may remove the wireless telecommunications facilities at the sole expense of the owner or permit holder.

6. If the Borough removes, or causes to be removed, wireless telecommunications facilities, and the owner of the wireless telecommunications facilities does not claim and

remove it from the site to a lawful location within 10 days, then the Borough may take steps to declare the wireless telecommunications facilities abandoned, and sell them and their components.

7. Notwithstanding anything in this Section to the contrary, the Borough may approve a temporary use permit/agreement for the wireless telecommunications facilities, during which time a suitable plan for removal, conversion, or re-location of the affected wireless telecommunications facilities shall be developed by the holder of the permit, subject to the approval of the Borough, and an agreement to such plan shall be executed by the holder of the permit and the Borough. If such a plan is not developed, approved and executed within the 90-day time period, then the Borough may take possession of and dispose of the affected wireless telecommunications facilities in the manner provided in this Section and utilize the security required in §27-1720.

*(Ord. 761, 8/26/1985; as added by Ord. 1005, 5/23/2011)*

**§27-1727. Conflict with Other Laws.**

Where this Part differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by the Borough, Commonwealth of Pennsylvania or Federal government, this Part shall apply.

*(Ord. 761, 8/26/1985; as added by Ord. 1005, 5/23/2011)*



**Part 18****Active Adult Communities****§27-1801. Declaration of Legislative Intent of an Active Adult Community.**

To establish reasonable guidelines for the development of adult restricted housing complexes that are safe and adequate when approved as a conditional use by Borough Council solely in the O Office District. The development of such units shall ensure the availability of support facilities by including a small percentage of uses delineated in §27-202. Finally, it is the intent of this Part to provide for differing standards of acreage, dwelling unit density, building height, parking, and open space without undue adverse impact on the surrounding neighborhoods or the Borough in general.

(Ord. 761, 8/26/1985, §2500; as added by Ord. 971, 12/18/2006, §6)

**§27-1802. Active Adult Community Development Standards.**

The following development standards shall be used to guide the Borough Council in determining the merits of any proposed active adult community.

A. *Minimum Area.* The lot area must be at least 8 acres. Floodway areas shall not to be included in the lot area when determining minimum acreage.

B. *Maximum Density.* Maximum permitted density of 20 residential dwelling units per acre. Floodway areas shall not to be included in the lot area when determining density.

C. *Maximum Floors.* No building shall have more than four stories or floors above grade.

D. *Height Restrictions.* The maximum height of any building of this “use” shall be 35 feet, except as otherwise permitted below.

(1) *Accessories.* Chimneys, spires, towers, skylights, or any structure for similar use shall not be included in calculating the height where such structures are customary vertical projections of a permitted building.

(2) *Height Exception.* The prescribed basic height limit may be exceeded by 1 foot, up to a maximum of 10 feet for each 1½ foot by which the width of each side yard and the depth of the rear yard is increased beyond the minimum requirements.

E. *Distance Between Buildings.* In the case of two or more buildings in an Active Adult Community, the horizontal distance between any two buildings measured from the building foundation wall at the nearest point to the adjoining building foundation wall shall not be less than one and one half times the “wall height” of the taller of the two buildings. The term “wall height” shall be determined by the vertical measurement from the top of the foundation wall to the highest point of that same wall. In the case of a gable end wall, the “wall height” shall be measured to the peak of said gable end wall.

F. *Building Coverage.* Not more than 30 percent of the lot area may be occupied by residential dwellings, professional offices, and/or retail sales and service buildings. Borough Council may exempt open recreational structures and

open assembly structures, during the conditional use process. Not more than 5 percent of the total interior building floor area may be designated for nonresidential uses. No single nonresidential use shall occupy less than 1,000 or more than 3,000 square feet. Floor areas specifically intended for the support of the residential dwellings shall be considered residential in nature. Examples include: common hallways, foyers, recreational, and assembly halls for the exclusive use of the residents and their guests, utility rooms, and private offices or maintenance shops for the exclusive use of any agents or service personnel within the complex.

G. *Minimum Yard Setbacks for Active Adult Community Development Perimeters:*

(1) *Front Yard.* Active adult communities shall provide a front yard setback of not less than 35 feet as measured from the right-of-way line to the building foundation wall nearest to the right-of-way line.

(2) *Rear Yard.* Active adult communities shall provide a rear yard setback of at least 20 feet, but no less than one and one half times the setback requirements of an abutting yard along the same property line where that yard abuts the active adult community, as measured from the building foundation wall at the point nearest to the property line.

(3) *Side Yard.* Active adult communities shall provide a side yard setback of at least 20 feet, but no less than one and one half times the setback requirements of an abutting yard along the same property line where that yard abuts the active adult community, as measured from the building foundation wall at the point nearest to the property line.

H. *Parking.* See §27-2001 for all residential and nonresidential parking requirements.

I. *Lanes and Interior Access Roads.* All parking, lanes, alleys, and interior access roads shall remain the property of the active adult community. Maintenance, construction, and snow removal shall be the responsibility of the association within the active adult community.

(1) *Design Standards.* All driveways, lanes, and access roads must comply with the standards as in the Subdivision and Land Development Ordinance [Chapter 22] of the Borough of Hatboro. The applicant shall demonstrate that all interior intersections comply with acceptable line-of-sight triangles and emergency services turning radii.

J. *Refuse and Recycle Materials.* All waste generated within any active adult community shall be the responsibility of the property owner and addressed in the association or condominium declaration. These materials shall be the sole responsibility of the owner(s) or their association and its membership.

(1) *Setback.* All trash facilities shall be at least 50 feet from any property line.

(2) *Screening.* All trash facilities shall be screened with a 6-foot high solid fence (not chain link) or screen wall each to be accompanied by a 6-foot wide evergreen landscape buffer to provide a year round visual screen. The evergreen screen shall have a minimum 3-foot plant material height at installation.

K. *Open Space.* The owner shall be required to establish and the owners and their association shall maintain not less than 20 percent of the total lot area of an active adult community in usable open space. This area shall be for the provision of aesthetic, recreational, and leisure activities and/or facilities. Areas such as landscape buffers and/or areas containing walkways, seating, sculptures, fountains, permanent bodies of water, and recreational fixtures shall be included in the calculation of “usable open space.” Open areas such as minor parking lot islands, open-air stormwater detention basins, and paved areas such as parking lots and lanes shall not be included in “usable open space” calculations. Perpetual maintenance of said open space shall be the sole responsibility of the owner(s) and their association and its membership.

L. *Aesthetic Standards.*

(1) *Historic Revival Buildings.* The exterior facade of any adult restricted housing and accompanying limited nonresidential structures shall adhere to an architectural theme from the following periods: Colonial, Federal, and/or Victorian.

(2) *Site Elements and Details.* The themes in the above Section shall be carried throughout the exterior signage, lighting, fencing, rails, paving, sidewalks, curbs, and landscape details. This subsection shall place an emphasis on pedestrian-friendly movements within and through the complex, and provide safe and efficient linkages to nearby facilities and open space.

(3) *Facade.* All facades shall be divided into units of no more than 50 horizontal feet. A break in depth of at least 3 to 5 feet shall be required for every 50 feet of facade. Such breaks may be met through the use of bay windows, porches, porticos, building extensions, towers, recessed doorways, and other similar architectural treatments. Blank walls are prohibited.

(4) *Materials.* Natural building materials shall be used wherever practicable.

(5) *Roof.* Pitched roofs with a minimum pitch of 1½ inches of vertical rise per 12 inches of horizontal run shall be required.

(6) *Lighting.* In addition to the requirements of §27-2005.E and all other applicable Sections of this Chapter and Subdivision and Land Development [Chapter 22] (as amended), ordinances of the Borough of Hatboro, all lighting fixtures shall be limited in height to 15 feet or less with lenses that focus light directly beneath the fixture. There shall be no spillover of more than 0.1 foot-candles (1.0764 lux) at ground level onto any property.

M. *Public Utilities and Service Requirements.*

(1) *Water and Sewer.* All dwellings shall be connected to and served by both public water and public sewer facilities.

(2) *Underground Utilities.* All utility lines within an active adult community shall be located underground within public right-of-ways or easements. Existing utility lines which are located at the perimeter of the active adult community shall not be required to be located underground. All upgrades and/or improvements to existing utilities shall be placed underground. Any required utility structures, buildings, pump stations, or other

similar devices shall be screened from adjoining properties and roads, as appropriate.

(a) *Screening.* All required utility structures, buildings, pump stations, or other similar devices shall be screened with a 6-foot high solid fence (not chain link) or screen wall each to be accompanied by a 6-foot wide evergreen landscape buffer to provide a year round visual screen. The evergreen screen shall have a minimum 3-foot plant material height at Installation.

N. *Walking Paths.* All walking paths shall be constructed with all-weather materials providing a hard, durable surface, and shall be a minimum of 6 feet wide. Where such paths intersect blacktop and/or concrete surfaces ADA approved transitions shall be installed. A path crossing a cartway shall be of distinct materials (e.g., cobblestone, pressed concrete, or pressed macadam) and color to present a visual and tire rumble indication that the pathway is present. Raised platforms (speed tables) may be used to meet these requirements. All walking paths shall be depicted on the approved recorded site plan. These walking paths shall foster social interaction, between Borough residents accomplished by targeting the spatial relationship between open spaces, walking trails, and neighboring sidewalks and streets. The walking path network shall connect to sidewalks on neighboring tracts. The goal is to promote integration with surrounding community and the Borough at large.

O. *Perpetual Use Guarantee.*

(1) *Conversion.* A property, which has been developed to the special standards of an active adult community “use,” shall not, at any time in the future, change from an active adult community “use” unless all of the Subdivision and Land Development [Chapter 22] and zoning standards are met for the proposed new “use.” A statement as to this perpetual “use” shall be placed on the site plan prior to approval and recording.

(2) *Restriction.* An applicant for an age-restricted active adult community shall provide at the time of final plan approval proof of deed restrictions or other documentation satisfactory to the Borough Solicitor that limits the residential use of the property to one where the residents are restricted by age in compliance with the Federal Fair Housing Act. This documentation shall be recorded prior to the release of any final plan for recording.

(3) *By-Law Inclusions.* Any homeowners association agreement, condominium declaration, or planned residential unit owners association associated with an active adult community shall include, in its condominium agreement by-laws and declaration, provisions to restrict and enforce the restriction of the residents by age in compliance with the Federal Fair Housing Act and the provisions of applicable Borough regulations. Such provisions may not be amended unless approved by the Borough.

(4) *Enforcement.* Should the management, homeowners, condominium, or planned residential unit owners association fail to enforce the age restrictions, the Borough shall have the right to do so by any lawful means, including the imposition of fines on the violating residents and/or the management, homeowners, condominium, or planned unit owners or renters associations,

and/or by seeking injunctive relief.

P. *Other Development Standards.* Active adult communities shall be developed in accordance with this Chapter and Subdivision and Land Development Ordinances [Chapter 22] (as amended) of the Borough of Hatboro. To the extent the regulations within this Section differ (are more or less restrictive) from the other Sections of this Chapter, those regulations within this Section shall govern. However, all other provisions of this and other ordinances of the Borough of Hatboro shall remain in full force.

(*Ord. 761, 7/26/1985; as added by Ord. 971, 12/18/2006, §7*)



**Part 19****Signs****§27-1901. Declaration of Legislative Intent.**

This Section shall be known as the “Sign Ordinance of the Borough of Hatboro.” In expansion of the “Declaration of Legislative Intent” contained in §27-103 of this Chapter and the “Community Development Objectives” contained in §27-105 of this Chapter, It is recognized that signs perform important functions in identifying residences and businesses. However, the control of signs is necessary to promote the health, safety, and general welfare by lessening hazards to pedestrian and vehicular traffic; by preserving property values; by preventing unsightly and detrimental development which has a blighting influence upon residential, business, and industrial uses; by preventing signs from reaching such excessive size that they obscure one another to the detriment of all concerned; and, in certain instances, by limiting the length of time a sign may be erected on a property and providing for its removal.

(Ord. 761, 8/26/1985, §1700; as amended by Ord. 937, 11/27/2000)

**§27-1902. Definitions.**

The following terms as used herein shall mean:

*Area of sign—*

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

(2) Where a sign consists of individual letters or symbols attached to a building wall or structure, the area shall be considered to be that of the smallest rectangle or other regular geometric shape which encompasses all of the letters and symbols.

(3) In computing square foot area of a double-faced sign, only one side shall be counted, provided that both sides are identical. If the interior angle formed by the two double faces of the double-faced sign is greater than 45 degrees, then both sides of such sign shall be considered in calculating the sign area.

*Illumination of signs—*

*Direct illumination*—a sign designed to give forth artificial light directly (or through translucent material) from a source of light within the sign, including, but not limited to, neon and exposed lamp signs.

*Indirect illumination*—a sign illuminated by an outside light source, including, but not limited to, spotlights and fluorescent tubes.

*Flashing illumination*—an illuminated sign on which the artificial light is not maintained stationary and constant in intensity and color at all times when in use.

*Festoon lighting*—a group of incandescent light bulbs hung or strung

overhead or on a building or structure, or light bulbs not shaded or hooded or otherwise screened to prevent the direct rays of the light from shining on and adjacent property or right-of-way.

*Nonilluminated sign*—a sign which is not illuminated by any type of artificial light source.

*Permanent sign*—any sign as defined above which has been erected or placed with the intention that it remain in place for more than 30 days. The determination shall be made as to the structure or device itself and not the content of the message which may or may not be changeable.

*Sign*—any permanent or temporary structure or part thereof, or any device attached, painted, or represented directly or indirectly on a structure or other surface that shall display or include any letter, artwork, insignia, flag, banner, or representation used as, or which is designed to attract the eye or bring attention of the public. The word “sign” as used herein shall include signs which are affixed to the inside of windows and glass doors and are intended to be seen from a street or public thoroughfare. No other indoor sign shall be deemed a sign within these regulations.

*Temporary sign*—any sign as defined above with or without a structural frame, erected or placed with the intention that the display shall be for a limited duration, usually not to exceed 30 days.

*Types of signs*—

*Freestanding sign*—a self supporting sign resting on or supported by means of poles or standards, or any other type of structure or erected for the purpose of supporting a sign, either on the ground or on the roof of a building. [Ord. 940]

*Movable sign*—a sign which is not fixed to a permanent supporting structure or building and is displayed on either a temporary or long term basis.

*Nonstationary sign*—a sign which by means of some mechanical device changes its position constantly or at regular intervals by rotating around an axis or shifting in horizontal or vertical alignment.

*Parallel sign*—a sign mounted parallel to a building wall, lower upright portion of a mansard roof or other decorative roof, or other vertical building surface. Parallel signs shall not extend beyond the edge of any building wall or other building surface to which they are mounted, and shall not project more than 10 inches from the building wall or building surface to which it is affixed. [Ord. 940]

*Projecting sign*—a sign mounted perpendicular to a building wall, upright surface of a mansard roof or other decorative roof, or other vertical building surface. The leading edge of a projecting sign shall not extend more than 2 feet from the wall or surface to which the sign is affixed, nor in any way shall the projecting sign interfere with normal pedestrian or vehicular traffic. [Ord. 940]

*Vehicular sign*—a vehicle to which a sign is affixed or painted and which is used or parked in such a manner that the carrying of such sign or signs is no longer incidental to the vehicle’s primary purpose, but becomes a primary purpose in itself.

(*Ord. 761, 8/26/1985, §1701; as amended by Ord. 940, 9/17/2001*)

**§27-1903. General Permanent Sign Regulations.**

1. Any sign required by law; or, any sign erected by a duly constituted governmental body, including but not limited to street and traffic signs and signs displayed strictly for the convenience, safety, and direction of the public, including signs which identify restrooms, telephone booths, parking area entrances and exits, loading zones, and the like, shall be permitted in all zoning districts.

2. No sign shall be erected or placed in the Borough of Hatboro which shall interfere with traffic through glare, through blocking of reasonable sight lines for streets, sidewalks, and driveways, through confusion with traffic control devices by reason of color, location, shape, or other characteristic.

3. Signs erected by a duly constituted governmental body including traffic signs and similar regulatory notices shall be allowed within the right-of-way. No other sign shall be permitted within rights-of-way.

4. No sign shall overhang any walkway or public right-of-way, except as provided elsewhere in this Part. No projecting sign shall be permitted to rotate or swing.

5. All permanent signs permitted by this Part shall be constructed of durable materials and shall be kept in good condition and repair. All construction and electrical wiring shall conform to all applicable codes and ordinances. Freestanding permanent signs erected on the ground shall have all electrical and mechanical accessories safely enclosed, and all such equipment whenever possible shall be concealed by appropriate architectural design or landscaping.

6. No person shall erect or place any sign to identify advertise or otherwise direct attention to a commodity, political activity, public event, industry, home occupation, or other similar activity which is sold, offered, or conducted elsewhere than on the lot to which the sign is located. Except that the Zoning Hearing Board by authorized the same as a special exception, after giving consideration to the sign regulations for the district affected and to the general sign regulations contained in this Part, with such other conditions as the Zoning Hearing Board shall reasonably require.

7. Signs erected to advertise the sale or development of the premises on which they are erected, when erected by a builder, contractor, developer, or other person interested in such sale or development, may be erected and maintained; provided, that:

A. The area of any sign shall not exceed 15 feet.

B. Not more than one sign shall be permitted upon any lot, unless the lot fronts on more than one street or highway right-of-way line, in which event one sign may be erected facing each street or highway.

C. Any such sign must be removed within 30 days after final sale of the property.

8. If any permanent sign should become dilapidated to the extent that it becomes a safety hazard or an unsightly blight, the Zoning Officer shall notify the owner or lessees of the dilapidated condition of the sign, and give the owner 24 hours to 30 days to repair or remove the sign. The time allowed shall be determined by the Zoning Officer based on the immediacy of the danger posed to life or property. If the sign is not removed or repaired within the time allowed by the Zoning Officer, he may have the

sign removed at the expense of the owner or lessee of the property on which the sign is located.

9. Permanent directly illuminated or indirectly illuminated signs that identify any permitted institutional use in any zoning district shall be permitted. Such permitted signs shall include church, school, or similar institution bulletin boards. Signs shall be permitted on each street or highway frontage.

10. Signs existing at the time of adoption of this Chapter, which do not conform to the requirements of this Part shall be considered nonconforming signs. Once removed for repair, replacement, or any other reason, for a period in excess of 30 days, a nonconforming sign shall not be replaced unless with a conforming sign.

(Ord. 761, 8/26/1985, §1702)

#### **§27-1904. General Temporary Sign Regulations.**

1. No temporary sign shall exceed 12 square feet in area. If there are other existing permanent signs on the premises, the total allowable sign area permitted by this Part may be increased by 25 percent for temporary signs.

2. No temporary sign may be illuminated.

3. Temporary signs announcing events sponsored by civic or other nonprofit organizations and which do not exceed 4 square feet in area are not included in the calculation of permitted square foot sign area in any district.

4. Banners which announce a community event or promote the community in general, and which do not exceed 100 square feet in area, may be permitted to span major thoroughfares in the Retail Commercial District as long as the banner does not impede the normal flow of traffic. Such banners may be permitted to be displayed as long as they remain intact in good physical condition.

5. No temporary sign shall be permitted on public property except as follows:

A. Temporary signs erected by duly constituted governmental bodies for the safety, health, welfare, or direction of the public.

B. Political signs within 50 feet of a polling place on duly constituted election days.

6. All temporary signs must be removed within 30 days of their erection except as follows:

A. Real estate sale or rental signs and artisan signs may be displayed for a period not to exceed 15 days after lease of premises, settlement of real estate sale or completion of work by the artisan.

B. Political campaign signs on private property may be erected no more than 90 days prior to Election Day and must be removed within 10 days after the Election Day.

C. Any other sign as specifically provided for in this Part.

7. Any person wishing to erect or post a temporary sign on private property within the public right-of-way must obtain a permit from the Zoning Officer. Such permit shall be issued without charge upon applicant's posting of funds in escrow as shall be determined from time to time by resolution of Borough Council, and the registering of the proposed signs with the Zoning Officer.

A. Failure to remove temporary signs on private property within the public right-of-way within 30 days of their erection shall cause their removal by the Borough of Hatboro, and the cost of removal shall be deducted from the escrow funds. Such remedy shall be in addition to any other remedies or provisions provided by this Chapter. Removal of the signs by the Borough of Hatboro and charge to the person or persons responsible shall in no way absolve the person or persons responsible from prosecution under the terms of this Chapter.

(Ord. 761, 8/26/1985, §1703)

**§27-1905. Additional Sign Regulations by Zoning District.**

In addition to the foregoing regulations concerning signs in the Borough of Hatboro, the following additional regulations shall apply to all signs within the specific zoning district.

A. *FP Floodplain Conservation District.* No permanent or temporary sign may be erected in any floodplain without prior approval of Borough Council, except:

(1) Permanent nonilluminated signs indicating private ownership of property or prohibiting trespassing, provided that such sign area shall not exceed 2 square feet per sign, such signs shall not be nearer than 25 feet from any right-of-way or property line, and the sign height shall not exceed 6 feet. The number of signs of this type allowed on any single lot shall be unlimited, but all signs must be at least 25 feet apart.

(2) Signs erected by government or any government agency.

B. *R-1 and R-2 Residential Districts.* The following types of signs, and no others, shall be permitted in the R-1 and R-2 Residential Districts. All permitted permanent and temporary signs shall comply with the general regulations of this Part, and shall be subject to the following additional restrictions: [Ord. 940]

(1) Temporary or permanent nonilluminated signs indicating private ownership of property or prohibiting trespassing, provided that such sign area shall not exceed 2 square feet per sign. Signs shall not be nearer, than 25 feet from any right-of-way or property line, and the height shall not exceed 6 feet. The number of signs of this type allowed on any single lot shall be unlimited but all signs must be at least 25 feet apart.

(2) Nonilluminated permanent parallel signs indicating the name and/or address of the occupant provided such sign area shall not exceed 2 square feet. There shall be no more than one such sign per dwelling unit. No such sign shall be erected above the first floor ceiling level of the primary building on the lot.

C. *R-3 and R-4 Residential Districts.* The following types of signs, and no others, shall be permitted in the R-3 and R-4 Residential Districts. All permitted permanent and temporary signs shall comply with the general regulations of this Part, and shall be subject to the following additional restrictions: [Ord. 940]

(1) Temporary or permanent nonilluminated signs indicating private ownership of property or prohibiting trespassing, provided that such sign area shall not exceed 2 square feet per sign. Signs shall not be nearer than 25 feet from any right-of-way or property line, and the height shall not exceed 6 feet.

The number of signs of this type allowed on any single lot shall be unlimited but all signs must be at least 25 feet apart. [Ord. 940]

(2) One permanent parallel sign or one permanent freestanding sign erected on the ground per lot to identify a permitted use of the premises, the name of the complex, or the name of the apartment building or condominium. No sign shall exceed 15 square feet in area. The top of a sign affixed to a building shall not be located higher than 12 feet measured from the first or main floor level. The top of a freestanding sign shall not exceed 6 feet in height from the ground on which the sign is erected. [Ord. 940]

(3) A special exception is required to illuminate a permitted sign.

(4) Freestanding roof signs shall not be permitted.

(5) Freestanding signs located in any required yard area shall require a zoning variance.

D. *O Office District.* The following types of signs, and no others, shall be permitted in the O Office District. All permitted permanent and temporary signs shall comply with the general regulations of this Part, and shall be subject to the following additional restrictions: [Ord. 940]

(1) Temporary or permanent nonilluminated signs indicating private ownership of property or prohibiting trespassing, provided that such sign area shall not exceed 2 square feet per sign. Signs shall not be nearer than 25 feet from any right-of-way or property line, and the height shall not exceed 6 feet. The number of signs of this type allowed on any single lot shall be unlimited but all signs must be at least 25 feet apart. [Ord. 940]

(2) One permanent parallel sign or one permanent freestanding sign erected on the ground per lot. The sign shall identify the name and address of the building, or the name and address of the occupant and/or the type of permitted occupation or business use of the premises. Such sign may be directly or indirectly illuminated. A parallel sign may not extend above the top of the wall on which it is located. A freestanding sign erected on the ground shall not exceed 20 feet in height measured from the ground to the topmost part of the sign structure. [Ord. 940]

(3) One nonilluminated sign to identify building number or name, or identify occupant of office suite. Such signs shall not exceed 4 square feet per sign.

(4) The total sign area permitted for all permitted signs erected on any one lot shall be 3 square feet for each lineal foot of street line, except where a lot abuts two or more street lines, in which case the total sign area shall be computed at one and one-half times the total sign area permitted for the longest street line. No single permitted sign may exceed 25 square feet.

E. *RC-1 and RC-2 Commercial Districts.* The following types of signs, and no others, shall be permitted in the RC-1 and RC-2 Commercial Districts. All permitted permanent and temporary signs shall comply with the general regulations of this Part, and shall be subject to the following additional restrictions: [Ord. 940]

(1) Temporary or permanent nonilluminated signs indicating private

ownership of property or prohibiting trespassing, provided that such sign area shall not exceed 2 square feet per sign. Signs shall not be nearer than 25 feet from any right-of-way or property line, and the height shall not exceed 6 feet. The number of signs of this type allowed on any single lot shall be unlimited but all signs must be at least 25 feet apart. [Ord. 940]

(2) Any permitted sign allowed in the Residential or Office District shall be permitted in the RC-1 and RC-2 Commercial Districts subject to modifications and expanded regulations in this subsection. [Ord. 940]

(3) The total sign area allowable for all permitted signs erected on any one lot shall be 3 square feet for each lineal foot of street frontage. When a lot has frontage on two or more streets the total allowable sign area may be increased by one and one-half times the total allowable area calculated for the longest frontage. [Ord. 940]

(4) All permitted permanent signs in Retail Commercial Districts may be directly or indirectly illuminated. [Ord. 940]

(5) Permanent freestanding signs erected on the ground shall not exceed 20 feet in height measured from the average ground level of the lot to the top of the sign. Freestanding signs erected on the ground shall not exceed 40 square feet in sign area. Not more than one permanent freestanding sign shall be permitted on any one lot. Freestanding signs erected in any required yard area shall require a zoning variance from the Zoning Hearing Board. [Ord. 940]

(6) Permanent freestanding signs erected on the roof of a building shall not exceed 12 feet in height, measured from the point on the roof where the sign or structure supporting the sign is affixed to the roof to the topmost part of the sign structure. The sign shall not exceed 50 percent of the total allowable sign area for the lot. Roof signs shall not project beyond the wall of the building on which they are mounted or obstruct emergency access to the roof area. Not more than one freestanding roof sign shall be permitted on any building, and not more than one freestanding sign of any type shall be permitted on any one lot. [Ord. 940]

(7) Permanent parallel and permanent projecting signs shall be permitted in accordance with the provisions of §27-1902.F of this Part. Permanent projecting signs shall not project more than 18 inches into any required yard area or over any pedestrian right-of-way.

(8) Awnings, canopies, or marquees may be permitted to extend over any pedestrian walkway or into any required yard or over any vehicular traffic driveway or into any parking lot by variance by the Zoning Hearing Board. When considering the application for variance, the Zoning Hearing Board shall insure that the awning, canopy or marquee is at least 10 feet above the surface of any pedestrian walkway and at least 14 feet above the surface of any driveway over which it is extended and does not impede normal pedestrian or vehicular traffic.

(9) Movable signs shall not be permitted in any required yard area or in any public right-of-way except that nonilluminated movable signs, less than 6 square feet per side which are designed to advertise sales, daily specials, or

menus shall be permitted on public sidewalks, provided that the sign is displayed only during the hours the business is open and is completely removed from the sidewalk when the business is closed. The sign must be on the sidewalk in front of the business for which the advertisement is intended. Signs shall not be permitted to obstruct pedestrian traffic and shall be maintained in good repair so as not to present a safety hazard to pedestrians. All permitted movable sign area shall be included when calculating the total permissible sign area for any lot.

(10) No sign of any type shall be permitted to be affixed in any fashion to any utility pole, street light standard, tree or any pole, post, or other structure within the public right-of-way in the Commercial Districts, except those signs required by law or erected by a duly constituted governmental body in accordance with §27-1903.1 of this Part.

F. *HB-Highway Business District.* The following types of signs, and no others, shall be permitted in the HB-Highway Business District. All permitted permanent and temporary signs shall comply with the general regulations of this Part, and shall be subject to the following additional restrictions: [Ord. 940]

(1) Temporary or permanent nonilluminated signs indicating private ownership of property or prohibiting trespassing, provided that such sign area shall not exceed 2 square feet per sign. Signs shall not be nearer than 25 feet from any right-of-way or property line, and the height shall not exceed 6 feet. The number of signs of this type allowed on any single lot shall be unlimited but all signs must be at least 25 feet apart. [Ord. 940]

(2) Any permitted sign or use as allowed in the Retail Commercial Districts shall be permitted in the HB-Highway Business District except freestanding roof signs. All permitted signs shall be subject to modifications and expanded regulations of this subsection. [Ord. 940]

(3) Festoon lighting and nonstationary permanent signs may be permitted in the HB-Highway Business District by special exception granted by the Zoning Hearing Board, after approval of the Borough Planning Commission.

(4) A vehicular sign may be permitted by special exception granted by the Zoning Hearing Board, after approval by the Borough Planning Commission, provided that such sign shall not be illuminated and must be affixed to an operable vehicle with current state inspection sticker. Only one such sign per lot shall be permitted and the sign must be located in designated parking areas. Vehicular signs must not remain in the same position for more than 60 days.

(5) One freestanding sign per lot may be erected on the ground in a required yard area provided that the sign is at least 15 feet from any right-of-way or property line. If the lot abuts a Residential District, the sign may not be less than 25 feet from the property line.

G. *LI and HI Industrial Districts.* The following types of signs, and no others, shall be permitted in the LI and HI Industrial Districts. All permitted permanent and temporary signs shall comply with the general regulations of this Part, and shall be subject to the following additional restrictions: [Ord. 1005]

(1) Temporary or permanent nonilluminated signs indicating private

ownership of property or prohibiting trespassing, provided that such sign area shall not exceed 2 square feet per sign. Signs shall not be nearer than 25 feet from any right-of-way or property line, and the height shall not exceed 6 feet. The number of signs of this type allowed on any single lot shall be unlimited but all signs must be at least 25 feet apart.

(2) Any permitted sign as allowed in the Highway Business District shall be permitted in the Industrial Districts. [*Ord. 1005*]

(3) Sign area for signs permitted in the industrial districts may exceed the total sign area restrictions of the Highway Business District by 50 percent. [*Ord. 1005*]

(4) Any permitted sign or use as allowed in the R-3 and R-4 Residential Districts shall be permitted in a mixed use development. [*Ord. 967*]

(*Ord. 761, 8/26/1985, §1704; as amended by Ord. 937, 11/27/2000; by Ord. 940, 9/17/2001; by Ord. 967, 5/22/2006, §8; and by Ord. 1005, 5/23/2011*)

#### **§27-1906. Application for and Procedures to Erect a Sign.**

After the effective date of this Chapter no person shall erect or maintain a permanent sign without a permit issued by the Borough of Hatboro. Application for a permit shall be made to the Borough Zoning Officer on the form provided by the Borough. All applications shall be accompanied by a fee as determined from time to time by resolution of Borough Council. Temporary signs shall not require a permit, except temporary signs erected on private property in the public right-of-way.

A. If the proposed sign conforms to all requirements of this Part, the Zoning Officer shall approve the application and issue a permit to the applicant to erect the sign. If the permitted sign is not erected within 6 months from the date the permit is issued, the permit shall expire. However, if the permitted sign is erected within 6 months, the permit shall be renewable on an annual basis.

B. If the proposed sign does not conform to the requirements of this Part, the Zoning Officer shall return the application to the applicant with notation of the nonconformance. The applicant may then take action to bring the proposed sign into conformance and re-file the application within 3 months of the original date of filing of the application with no additional fee.

C. If the applicant has received a special exception or variance from the Zoning Hearing Board, written proof of such exception or variance must be submitted with the application. Regardless of action by Zoning Hearing Board, no sign may be erected before a permit has been issued by the Zoning Officer.

D. Application to erect temporary signs on private property in a public right-of-way shall be accompanied by the required escrow funds. All funds held in escrow to insure the timely removal of all posted signs, less any amount expended by the Borough of Hatboro to remove any such signs which have exceeded the permitted 30-day limit.

E. All signs erected by churches, schools, similar institutions, and nonprofit charitable organizations shall be exempt from payment of fees under this Part, but applications must be filed. All signs must conform to all requirements of this Part and a permit must be issued before any sign may be erected.

F. Applications and permits are not required for signs, erected by a duly constituted governmental body.

G. All permits for all permanent signs are renewable upon payment of an annual sign inspection fee to the Borough of Hatboro. Inspection fee rates shall be set from time to time by Resolution of Borough Council and shall be due and payable as established by Borough Council. It shall be the responsibility of the sign owner or lessee to notify the Borough Zoning Officer in writing whenever a permanent sign has been dismantled. Otherwise the annual inspection fee shall be due.

(Ord. 761, 8/26/1985, §1705)

**§27-1907. Violations and Penalties.**

*Responsibility.* The persons responsible for compliance with the provisions of this Part regarding permanent and temporary signs shall be as follows:

- A. The occupant of the premises upon which the sign is located.
- B. The owner of the premises upon which the sign is located.
- C. The individual directing the erection of the sign.

D. In the case of political signs, the candidate or any member of the candidate's campaign committee.

(Ord. 761, 8/26/1985, §1706)

**Part 20****Off-Street Parking and Loading and Outdoor Storage Areas****§27-2001. Required Off-Street Parking Facilities.**

Any building or other structure erected, altered, used, or occupied, or any lot used or occupied for any of the following purposes shall be provided with minimum off-street parking spaces as set forth below, together with adequate passageways, driveways, or other means of circulation and access to a street or way. Such spaces shall have a minimum area of 162 square feet, shall measure 9 feet wide by 18 feet in length and shall be surfaced so as to be usable for parking. Except in the case of one- and two-family dwellings, no parking area shall be established with less than three spaces.

(Ord. 761, 8/26/1985, §1800)

**§27-2002. Residential Uses.**

1. For single-family detached homes, two all-weather parking spaces per dwelling on the lot therewith (including garage space or spaces as part of the required number of spaces).

2. For two-family homes, two all-weather parking spaces per dwelling unit on the lot therewith (including garage space or spaces as part of the required number of spaces).

3. For townhouses, garden apartments, mid-rise apartments, or multi-family dwellings, two all-weather parking spaces per dwelling unit subject to additional parking requirements of Part 8 of this Chapter.

4. For a rooming house two all-weather parking spaces (including garage space or spaces as part of the required number of spaces) plus one additional parking space for each room for rent.

5. For any permitted accessory use under §27-408.B(6) of this Chapter, there shall be required one parking space for each 200 square feet of floor space used for the permitted accessory use, plus one parking space for each employee. These parking spaces shall be in addition to the required two spaces for residential use.

6. For mixed use development involving the reuse and conversion of an existing building the total number of off-street parking spaces shall not be less than the sum of the following requirements:

A. Two off-street parking spaces shall be required for each dwelling unit with two bedrooms and two and one-half spaces for three or more bedrooms.

B. Two off-street parking spaces shall be required for each dwelling unit with one bedroom.

C. One and one-half off-street parking spaces shall be required for each studio type dwelling unit.

D. No additional parking shall be required for indoor recreation facilities or other accessory uses, provided that its use is solely for the residents of the development.

E. The off-street parking requirement may be satisfied by:

(1) Off-street parking spaces located on any lot within 100 feet of the mixed use development. Any off-lot parking areas shall either be owned by the owner of the mixed use development lot or reserved by perpetual easement in favor of the owner of the mixed use development lot.

(2) Any on-street parking spaces immediately adjacent to the lot on which the mixed use development is permitted.

7. *Parking for Active Adult Community.* Two off-street spaces per dwelling unit must be available within the complex. In addition one space shall be mandated for each staff member of this housing complex. Spaces within an on site garage shall be included in the total of available spaces. Parking shall be arranged so as to limit through traffic. [Ord. 971]

(Ord. 761, 8/26/1985, §1801; as amended by Ord. 798, 6/27/1988; by Ord. 967, 5/22/2006, §9; and by Ord. 971, 12/18/2006, §4)

### §27-2003. Nonresidential Uses.

Off-street parking space, with proper access from a street or alley, shall be provided in the amounts indicated below. Parking areas shall be arranged so that any vehicle exiting therefrom may do so without backing onto a public street.

A. For any of the following primary uses, the required parking spaces shall be all-weather and shall be located on the same lot therewith.

(1) Church, school, public, auditorium, assembly, or meeting room, or other similar place of public or private assembly: one parking space for every four seats provided for public assembly.

(2) Stadium or other similar place of assembly: one parking space for every four seats.

(3) Hospital, convalescent home, or health care facility: one parking space for every four beds.

(4) Community center; library, museum, or other similar place: one parking space for every 800 square feet of floor area in public use.

(5) Institutional home: one parking space for every 10 occupants.

(6) Club or fraternal organization: one parking space for every two occupants and one parking space for each employee on the largest work shift, plus 10 parking spaces for every 1,000 square feet of floor area in public use.

B. For any of the following primary uses, the required parking spaces shall be all-weather, shall be paved and shall be located on the lot therewith.

(1) Retail store or shop: one parking space for every 100 square feet of store sales floor space.

(2) Department store or supermarket: one parking space for every 50 square feet of store sales floor space.

(3) Indoor theater: one parking space for every four seats, plus one space for each employee on the largest work shift.

(4) Bowling alley or similar recreational establishment: one space for

every four seats plus one space for each employee on the largest work shift.

(5) Hotel, motel or tourist home: one and one-quarter spaces for each rental unit.

(6) All office use shall require one parking space for each 250 square feet of floor area. Square feet will include all floor space devoted to office use including lavatories, closets, stairwells, and access halls. Basements used for storage, utility rooms, and attics used for storage may be excluded from the calculated floor space. In addition to these requirements, when office use is permitted as an accessory use in a residential district, an additional parking space shall be required for each permitted employee. [Ord. 798]

(7) Restaurant, café, or tea room: one space for each four seats provided, plus one space for each employee on the largest work shift.

(8) Laboratory, industrial establishments, or other commercial buildings: one space for every 400 square feet of gross building area, plus 10 percent additional spaces, which shall be not less than two additional spaces.

(9) Open areas used for commercial purposes: one parking space for every 1,500 square feet of area or fraction.

(Ord. 761, 8/26/1985, §1802; as amended by Ord. 798, 6/27/1988)

**§27-2004. Reduction of Nonresidential Parking Requirements by Special Exception.**

Required off-street parking spaces shall be on the same lot with the principal use served. Where this requirement cannot be met, the Zoning Hearing Board may authorize, as a special exception, the use of land located within 300 feet of the lot on which the principal use is located; provided, however, that such off lot parking shall be permitted only to the extent that parking cannot be reasonably provided on the lot on which the principal use is located. This special exception shall be subject to the following conditions and standards:

A. No more than four off-lot parking spaces shall be permitted in conjunction with any principal use served to satisfy the off-street parking requirements of this Chapter.

B. No land located in any Residential Zoning District shall be used for off-lot parking purposes.

C. Direct pedestrian access to and from the off-lot parking area via public accessways wherever possible.

D. Adequate security lighting shall be provided for all off-lot parking areas and pedestrian accessways.

E. Wherever off-lot parking is proposed in combination with on-lot parking, the on-lot parking shall be reserved for customer/client use to the greatest extent possible. Signage shall be provided to direct employee and additional customer/client parking to the off-lot parking spaces.

F. Off-lot parking areas shall either be owned by the owner of the principal use lot, or leased by said owner for a term equivalent to the life expectancy of the principal use or the principal use building or 20 years whichever is greater, or

reserved by perpetual easement in favor of the owner of the principal use lot.

G. Upon application of special exception, proof shall be submitted, in form and substance satisfactory to the Zoning Officer that the proposed off-lot parking spaces are not obligated or subject to the use of other parties and are fully available for total utilization by the clients, customers, or employees associated with the principal use lot.

H. Once established, the off-lot parking area and number of parking spaces provided shall not be reduced, modified, abandoned, or sold separately from the principal use lot. Any change which effects any of the conditions or standards imposed by this Section or any other conditions imposed by the Zoning Hearing Board in granting the special exception provided for herein shall be immediately reported to the Zoning Officer. Any change which results in the loss or reduction of off-lot parking permitted hereunder, shall immediately require a proportionate discontinuation of a corresponding portion of the principal use area.

I. All applications for special exception under this Section shall be reviewed by the Hatboro Planning Commission and the Borough Engineer before consideration by the Zoning Hearing Board.

[*Ord. 798*]

(*Ord. 761, 8/26/1985, §1803; as amended by Ord. 798, 6/27/1988*)

**§27-2005. Additional Design Requirements for Nonresidential Parking Lots, and Parking Lots Required in Residential Districts under Permitted Accessory Use.**

All nonresidential parking lots and parking lots required in residential districts for permitted accessory use, shall be operated and maintained in accordance with all the following conditions. [*Ord. 798*]

A. They shall not be used for the sale, repair, or dismantling of any vehicles, equipment, materials, or supplies.

B. They shall be properly graded for drainage; surfaced with concrete, asphaltic concrete, or asphalt or crushed stone; and maintained in good condition, free of weeds, dust, trash, and debris.

C. They shall be provided with entrances and exits so located as to minimize traffic congestion and the effect of headlight glare.

D. They shall be provided with wheel or bumper guards so located and arranged that no part of any parked vehicles will extend beyond the boundaries of the parking lot.

E. Lighting facilities shall be so arranged that they do not disturb occupants of adjacent residential properties or interfere with traffic, either by reason of location or glare.

F. A planting strip shall be provided along each property line which is opposite or adjacent to a residential district, on which shall be planted hedge, evergreens or other suitable shrubbery, so arranged as to minimize noise, glare, and dust.

G. There shall be no more than one attendant shelter building containing not more than 50 square feet of floor area, which building shall be set back a distance

of not less than 20 feet from any boundary of the parking lot which abuts a residential district.

(*Ord. 761, 8/26/1985, §1804; as amended by Ord. 798, 6/27/1988*)

**§27-2006. Reduction of Facilities.**

Off-street parking facilities existing at the effective date of this Chapter shall not subsequently be reduced to an amount less than required hereunder for a similar new building or new use. Off-street parking facilities provided to comply with the provisions of this Chapter shall not subsequently be reduced below the requirements of this Chapter.

(*Ord. 761, 8/26/1985, §1805*)

**§27-2007. Mixed or Multiple Uses.**

In the case of mixed or multiple uses within a single structure or building or in the use of land, the amount of off-street parking required shall be determined by the sum of the requirements of the various uses computed separately in accordance with §§27-2002 and 27-2003.

(*Ord. 761, 8/26/1985, §1806*)

**§27-2008. Required Off-Street Loading and Unloading Space.**

In any district off-street loading berths shall be provided on the same lot as the building, and shall be so arranged that they may be used without blocking or interfering with the use of accessways or vehicle parking facilities, in accordance with the following schedule:

A. *Off-Street Loading Berth Requirements.*

(1) Schools of 15,000 square feet or more—one loading berth.

(2) Offices of 10,000 square feet or more—one loading berth.

(3) Retail, commercial, industrial, and research and development uses: one loading berth for the first 5,000 square feet, to a maximum of 10,000 square feet; and one additional loading berth for each additional 10,000 square feet or fraction thereof.

(4) Each loading berth shall be not less than 12 feet wide, 56 feet long, and 14 feet high or larger if necessary to contain completely the vehicles. Using them, and may occupy all or any part of any required side or rear yard, except that portion which is required to be used for buffer area.

B. *Outdoor Storage Areas.* Areas used for outdoor storage shall not abut existing residential areas, a residential street or any residential district.

(*Ord. 761, 8/26/1985, §1807*)

**§27-2009. Mixed Use Development.**

1. The parking requirements for a Mixed Use Development may be satisfied by utilizing reserve parking upon approval by Borough Council as a conditional use. A designated area or areas may be reserved for additional parking. The area or areas shall be reserved on terms and conditions approved by Borough Council as set forth in

a written agreement executed by the owner and Borough Council and shall be a covenant running with the land. The agreement shall include the number, location, and the date for completion of the construction of the additional reserved parking spaces. In order to guarantee the completion of the necessary parking spaces, the developer or owner shall establish an escrow account with the Borough. The terms of the escrow, including the amount necessary to fund the account, the terms and conditions including the time limits, the partial and full release of the escrow, and the location of the reserved parking spaces shall be decided by Borough Council as part of the conditional use process.

2. The escrow fund shall be funded within 30 days of the final approval of the plan by Borough Council. This fund shall remain in escrow and used as needed for a period of 5 years after the issuance of the final certificate of occupancy of the last dwelling within the Mixed Use Development.

(*Ord. 761, 7/26/1985; as added by Ord. 967, 5/22/2006, §10*)

**Part 21****Nonconforming Buildings, Structures, Uses, and Lots****§27-2101. Nonconforming Buildings, Structures, and Uses.**

1. *Continuation.* Any lawful building or other structure, any lawful use of a building or other structure or land, existing on the effective date of this Chapter, which does not conform with the provisions of this Chapter, shall be considered a lawful nonconforming building, structure, or use, and may be continued except as otherwise herein provided.

2. *Extension.* Any lawful nonconforming use of a portion of a building may be extended throughout the building and any lawful nonconforming building or any building of which a lawful nonconforming use is made may be extended upon the lot occupied by such building and held in single and separate ownership on the effective date of this Chapter, provided that the area of building coverage of such building existing on the date it first became a lawful nonconforming building or a building of which a lawful nonconforming use is made; and, provided further, that any structural alteration, extension, or addition shall conform with all height, floor area, width, yard, and building coverage requirements for the district in which it is located, except in the case of a dwelling when permitted by special exception granted by the Zoning Hearing Board after hearing held.

3. *Restoration.* Any lawful nonconforming building or other structure which has been involuntarily damaged or destroyed by fire, explosion, flooding, windstorm, or other similar cause, to the extent of not more than 75 percent of its fair market value may be reconstructed in the same location, provided that (A) the reconstructed building or structure shall not exceed the height, floor area, width, yard and building coverage of the damaged or destroyed building or structure, except as provided in subsection .2 of this Section, and (B) reconstruction shall begin within 1 year from the date of damage or destruction and shall be carried on without interruption.

4. *Cost Determination.* In determining the fair market value of any building or structure devoted to a nonconforming use or of a nonconforming building or structure, there shall not be included in such value the fair market value of land or any factors other than the fair market value of the building or structure itself.

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

6. *Building Condemned.* A nonconforming building or structure which has been legally condemned shall not be rebuilt or used unless it is brought into conformance with this Chapter.

7. *Nonconforming Signs.* Every lawful nonconforming sign shall be discontinued or removed or changed to a conforming sign within a period of 2 years from the effective date of this Chapter, provided that nonconforming signs at the effective date of this Chapter which are properly maintained and repaired replaced with signs similar in size

and character may remain in use.

(*Ord. 761, 8/26/1985, §1900*)

**§27-2102. Certain Lots Nonconforming as to Area and Width.**

Where two or more contiguous undeveloped lots held in single ownership within a subdivision which has been duly recorded prior to the effective date of this Chapter, which lots are individually not of the required minimum area or width for the district in which they are situated, no variance shall be required for the issuance of building permits, provided that such lots shall be developed in groups or fractions thereof as single lots so as to provide the minimum lot frontage required for each building or structure.

(*Ord. 761, 8/26/1985, §1901*)

**§27-2103. Subdivision Plan Previously Approved.**

In the case of a plot of land, a plan for the subdivision of which into two or more parcels or lots for the purpose of development and sale has, prior to the effective date of this Chapter, been duly approved and recorded as required by law, which plan does not make provision for full adherence to the regulations of this Chapter governing minimum lot areas or widths, front, side, or rear yards, or building coverage, but was in conformity with such regulations as were effective at the time such plan was approved and recorded, the development and sale contemplated by the plan may be proceeded with when authorized as a variance, or the subdivision approval was secured within 5 years of the effective date of this Chapter. The Zoning Hearing Board shall have power to grant such variance with respect to the whole of such plan only.

(*Ord. 761, 8/26/1985, §1902*)

**§27-2104. Temporary Nonconforming Use.**

A temporary nonconforming use which will benefit the public health or welfare or promote proper development of a district in conformity with the intent of this Chapter, may be permitted for a period of not more than 1 month, on the approval of the Zoning Hearing Board, but any such use to be permitted for a longer period shall require a public hearing thereon, after which a Zoning Hearing Board certificate may be issued for a period not exceeding 1 year.

(*Ord. 761, 8/26/1985, §1903*)

**§27-2105. Mapping and Recording of Nonconforming Uses.**

The Zoning Officer shall perform a survey of the Borough and record and map all uses nonconforming to the district requirements set forth in this Chapter. Such record and map shall be available for inspection at the Borough Officer.

(*Ord. 761, 8/26/1985, §1904*)

**Part 22****Administration****§27-2201. Zoning Officer.**

The provisions of this Chapter shall be enforced by a Zoning Officer appointed by Borough Council. The Zoning Officer shall be appointed at the first meeting of Borough Council following the adoption of this Chapter, to serve until the first day of January next following, and shall thereafter be appointed for a term of 1 year and until his successor is appointed. The Zoning Officer may succeed himself. He shall receive such fees or compensation as Borough Council may by resolution provide.

(*Ord. 761, 8/26/1985, §2000*)

**§27-2202. Duties and Powers of Zoning Officer.**

It shall be the duty of the Zoning Officer and he shall have power to:

A. Keep a record of all plans and applications for permits, and all permits issued with notations as to special conditions attached thereto. All records of the Zoning Officer shall be open to public inspection.

B. Review applications for permits for erection or alteration of buildings or structures, or for a use or change of use, to determine whether such erection, alteration or use is in conformance with all the requirements of this Chapter, all other ordinances and regulations of the Borough of Hatboro and all laws and regulations of the Commonwealth of Pennsylvania. The Zoning Officer shall issue no permit unless it conforms to all applicable ordinances and regulations of the Borough of Hatboro and all laws and regulations of the Commonwealth of Pennsylvania. [*Ord. 1005*]

C. Conduct inspections and surveys to determine compliance and noncompliance with the provisions of this Chapter. In carrying out such inspections and surveys, the Zoning Officer or his representative may enter upon any land, building, or structure within the Borough of Hatboro.

D. Issue written orders requiring compliance with the provisions of this Chapter, to be served personally or by certified mail.

E. Institute proceedings in courts of proper jurisdiction to enforce the provisions of this Chapter.

F. Maintain a map showing the current zoning classification of all land within the Borough of Hatboro.

G. Maintain a map and register showing the registration, identity, location and type of all nonconforming uses within the Borough of Hatboro.

H. Participate in all proceedings before the Zoning Hearing Board, and present facts and information to assist the Board in reaching decisions in accordance with this Chapter and take all other actions necessary to enforce this Chapter.

(*Ord. 761, 8/26/1985, §2001; as amended by Ord. 1005, 5/23/2011*)

**§27-2203. Zoning Permits.**

No building or structure shall be erected or altered in the Borough of Hatboro, or use of any building or structure changed, until a zoning permit shall have been issued by the Zoning Officer. The applicant shall notify the Zoning Officer of completion of the work for which the permit was issued. No permit shall be final until the Zoning Officer has inspected the work, approved the work as being in conformity with all ordinances and regulations of the Borough of Hatboro and all laws and regulations of the Commonwealth of Pennsylvania, and noted such approval on the zoning permit.

*(Ord. 761, 8/26/1985, §2002)*

**§27-2204. Application for Zoning Permits.**

All applications for zoning permits shall be made in writing to the Zoning Officer by the landowner or his authorized agent on a form provided by the Zoning Officer. The application (A) shall include a statement as to the proposed use of the building or structure; (B) shall be accompanied by a plan, drawn to scale, showing the location of the building or structure in relation to property and street lines; (C) shall include a statement that the boundary lines of all streets shown on the plan have been located and staked on the premises by a registered land surveyor competent to give such location; when required by the Zoning Officer; and (D) shall give the name and address of the person who has so located and staked the street lines. In the case of signs, size, location and construction shall be shown on the application.

*(Ord. 761, 8/26/1985, §2003)*

**§27-2205. Expiration of Zoning Permits.**

A zoning permit issued under authority of this Chapter shall expire 6 months after the date of issuance unless the permittee shall have commenced substantial construction or use of the property which is the subject of the permit in accordance with the terms of the permit within such 6-month period.

*(Ord. 761, 8/26/1985, §2004)*

**§27-2206. Appeals and Applications to the Zoning Hearing Board.**

Applications for special exceptions and variances from the terms of this Chapter, appeals from decisions of the Zoning Officer and all other applications properly taken to the Zoning Hearing Board shall be filed with the Secretary of the Zoning Hearing Board and shall state:

- A. The name and address of applicant and his attorney, if any.
- B. The name and address of the owner of the real property affected by the proposed use, special exception, or variance.
- C. A brief description and the location of the real property affected by the proposed change.
- D. A statement of the present zoning classification of the real property in question, the improvements thereon and the present use thereof.
- E. A statement of the sections of this Chapter under which the special exception, variance, or use requested may be allowed and the reasons why it should be granted; and the nature of the special exception, variance, or use requested.

F. A statement of the improvements intended to be made and the dimensions of such improvements. A plot plan shall be attached of the real property affected, indicating thereon the location and dimensions of the lot, the dimensions of the present improvements and the dimensions of the proposed improvements.

(Ord. 761, 8/26/1985, §2005)

**§27-2207. Time for Appeals.**

An appeal from the decision of the Zoning Officer shall be taken within 30 days from the date of the decision.

(Ord. 761, 8/26/1985, §2006)

**§27-2208. Fees.**

The applicant for a zoning permit shall, at the time of making the application, pay to the Zoning Officer for the use of the Borough of Hatboro, a fee in accordance with a fee schedule adopted from time to time by resolution of Borough Council.

(Ord. 761, 8/26/1985, §2007)

**§27-2209. Conditional Use Process.**

1. *Purpose.* The conditional use approval process is designed to allow Borough Council the opportunity to review and render a decision upon certain activities and uses that could have a significant impact upon the Borough.

2. *Procedure.* Applications for conditional use approvals shall meet all requirements in the Sections of this Chapter, which authorize such conditional use. Borough Council shall consider the conditional use application and render its decision in accordance with the requirements of the Municipalities Planning Code, 53 P.S. §10101 *et seq.*

3. *Consideration of Conditional Use Application.* When a conditional use is provided for in this Chapter, Borough Council shall hear and decide requests for such conditional uses in accordance with stated standards and criteria for the use and the following standards. The burden of proof shall rest with the applicant, who shall be required to provide substantial credible evidence.

A. *Compliance.* The applicant shall establish that the use will comply with all requirements established by this Chapter. The applicant shall provide the Borough Council with sufficient plans, studies, or other data to demonstrate compliance with all applicable regulations.

(1) *Documents.* In addition to any documents required by any other sections of this Chapter, the applicant shall supply rendered elevations and perspective sketches as part of the plan review process.

B. *Conflict.* The applicant shall establish that the use will clearly not be in conflict with other Borough ordinances or State or Federal laws or regulations known to the Borough Council. The Council may condition zoning approval upon future proof of compliance with another ordinance, law, or regulation.

C. *Traffic Impact.* The applicant shall establish that the traffic generated by the use will be accommodated in a safe and efficient manner, after considering any improvements that the applicant commits to complete or fund. The applicant shall

show that the use will not result in or substantially add to a significant traffic hazard, significant traffic congestion, or a significant pedestrian safety hazard.

D. *Neighborhood Impact.* The applicant shall establish that the proposed use will not significantly negatively impact upon the desirable character of an adjacent established residential neighborhood, such as causing substantial amounts of heavy truck traffic to travel through a residential neighborhood, or a significant odor or noise nuisance or very late night/early morning hours of operation, without proper safeguards.

E. *Internal Traffic Circulation.* The applicant shall establish that the proposed use will be properly designed with regard to internal circulation, driveway access, site layout, parking layout, buffering, and all other elements of proper site design.

F. *Public Health and Safety.* The applicant shall establish that the proposed use will not create a significant hazard to the public health and safety, such as fire, toxic or explosive hazards.

G. *Stormwater Management.* All requirements contained within this Chapter, Subdivision and Land Development [Chapter 22] (as amended), and Stormwater Management Ordinances [Chapter 23] (as amended) of the Borough of Hatboro as well as all applicable State and County regulations shall apply. Stormwater management facilities must address volume reduction, groundwater recharge, peak rate control, and water quality. Designs must incorporate features that provide aesthetic and wildlife benefits while controlling vectors and other nuisances, including mosquitoes. Stormwater facilities shall be designed based on accepted standards such as those provided in the *Pennsylvania Storm Water Best Management Practices Manual*, as amended.

H. *Architectural Impact.* The applicant shall establish that the proposed “use” will not have a negative impact upon any historically or architecturally significant structure. Adjacent properties and structures that are historically or architecturally significant shall be considered and protected.

4. *Process.* As part of the process of conditional use, Borough Council may propose design changes as a condition of approval to consider the following elements:

A. Buildings, driveways, parking areas, loading areas, outdoor activity areas, light sources, trash areas, and potential nuisances, which shall be located and designed to minimize adverse impacts on abutting properties. Borough Council may require alternate site layouts in order to limit the adverse impact of any proposed conditional use.

B. Driveway intersections with streets and traffic circulation patterns within lots shall be located and designed to minimize congestion and safety problems on abutting streets and nearby intersections. Borough Council may require alternate driveway locations and site design in order to alleviate potential congestion or safety problems.

5. *Conditions.* Borough Council, in approving conditional use applications, may attach conditions necessary to protect the public health, safety, morals, and welfare. These conditions shall be listed on the recorded plan and shall be enforced by the Borough of Hatboro. Failure to comply with such conditions shall constitute a violation of this Chapter and the owners shall be subject to the penalties set forth in this Chapter

and as allowed by law.

(*Ord. 761, 7/26/1985; as added by Ord. 971, 12/18/2006, §5*)



**Part 23****Zoning Hearing Board****§27-2301. Appointments.**

The Borough Council shall appoint a Zoning Hearing Board consisting of three members. The Borough Council shall designate one such member to serve until the first day of January following the effective date of this Chapter, one until the first day of the second January thereafter and one until the first day of the third January thereafter; and shall appoint three successors on the expiration of their respective terms to serve 3 years, and shall fill any vacancy for the unexpired terms of any member whose term becomes vacant. The members of the Zoning Hearing Board shall be removable for cause by Borough Council upon written charges and after a public hearing. The word "Board" when used in this Part shall mean the Zoning Hearing Board.

(Ord. 761, 8/26/1985, §2100)

**§27-2302. Powers and Duties.**

The Board shall have the following powers and duties:

A. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Officer or other administrative official in the enforcement of the Municipalities Planning Code, as amended, 53 P.S. §10101 *et seq.*, or this Chapter.

B. To hear and decide requests for special exceptions provided for by this Chapter.

C. To hear and decide requests for variances from the provisions of this Chapter where a literal enforcement of such provisions will inflict an unnecessary hardship.

(Ord. 761, 8/26/1985, §2101)

**§27-2303. Authority of the Board.**

In exercising its powers and duties, the Board shall have the powers authorized for such boards by the Municipalities Planning Code, 53 P.S. §10101 *et seq.*, as amended; and may reverse or affirm, wholly or in part, and may modify the order, requirement, decision, or determination appealed from; and may make such order, requirement, decision, or determination as ought to be made and to that end, shall have all the powers of the officer from whom the appeal is taken.

(Ord. 761, 8/26/1985, §2102)

**§27-2304. Rules of Procedure.**

The Board may adopt rules of procedure consistent with the powers and duties granted to it by the Municipalities Planning Code, 53 P.S. §10101 *et seq.*, and the provisions of this Chapter with respect to the filing of appeals and applications to the Board and as to the conduct of the business of the Board.

(Ord. 761, 8/26/1985, §2103)

**§27-2305. Meetings.**

Meetings of the Board shall be held at the call of the Chairman and at such times as the Board may determine. The Chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

(*Ord. 761, 8/26/1985, §2104*)

**§27-2306. Notice of Hearings.**

Upon filing with the Board of an appeal or application, the Board shall fix a reasonable time and place for a public hearing thereon and shall give 10 days notice as follows:

A. By publishing a notice thereof once a week for 2 successive weeks in a newspaper of general circulation published or circulated in the Borough of Hatboro.

B. By mailing or serving due notice thereof to the applicant and other parties in interest.

C. By mailing or serving due notice thereof to the Manager of Borough Council, the Zoning Officer and the Secretary of the Planning Commission.

D. By mailing due notice thereof to every resident or association of residents of the Borough of Hatboro or other interested party who shall have formally registered their names and addresses for this purpose with the Board subsequent to the date of this Chapter.

E. By mailing or serving due notice thereof to the owner or owners, if their residence is known, or to the occupier or occupiers of every lot on the same street within 500 feet of the lot or building in question and of every lot not on the same street within 150 feet of the said lot or building; provided, that failure to give the notice required by this paragraph shall not invalidate any action taken by the Board.

F. The notices herein required shall state the location of the building, structure or lot and the general nature of the question involved.

(*Ord. 761, 8/26/1985, §2105*)

**§27-2307. Decision of the Zoning Hearing Board.**

The Zoning Hearing Board shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after last hearing before the Board. When the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*, 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.

A. A copy of the final decision, or where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later

than the day following its date.

B. To all other persons who have filed their name and address with the Board not later than the last day before the hearing, the Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

(Ord. 761, 8/26/1985, §2106)

**§27-2308. Standards for Zoning Hearing Board Review of Application for Variance.**

In any instance where the Zoning Hearing Board is required to consider a variance from this Chapter or Zoning Map, the Board may grant a variance provided the following findings are made where relevant in a given case:

A. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of this Chapter, 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 applicant.

D. That the variance, if authorized, will not alter the essential character of the neighborhood, or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

E. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

(Ord. 761, 8/26/1985, §2107)

**§27-2309. Conditions and Safeguards Attached to Variances.**

In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Municipalities Planning Code, 53 P.S. §10101 *et seq.*, as amended, and this Chapter.

(Ord. 761, 8/26/1985, §2108)

**§27-2310. Applications for Grant of a Special Exception.**

In any instance where the Zoning Hearing Board is required to consider a special exception from this Chapter or Zoning Map the Board shall make the following findings:

A. That the property is suitable for the use desired, and that the proposed change is consistent with the spirit, purpose and intent of this Chapter.

B. That the proposed change will not substantially injure or detract from the

use of neighboring property or from the character of the neighborhood; and, that the use of the property adjacent to the area included in the proposed change or plan can be adequately safeguarded.

C. That the proposed change will serve the best interests of the Borough of Hatboro, the convenience of the community and the public welfare.

D. That the proposed change will not have an adverse effect on the efficient, logical and economic extension of public services and facilities, including without limitation public water, public sewer, police and fire protection, and public schools.

E. That the proposed use will not have an adverse effect on the use of the Borough streets, and will not cause undue congestion or hazard to the users thereof.

F. In addition to the foregoing required findings by the Zoning Hearing Board, the following additional findings shall also be required for a special exception to use the property for a child day care center, a family day care home or a group day care home. [Ord. 859]

(1) The applicant shall demonstrate to the Zoning Hearing Board that the property meets all current regulations of the Department of Public Welfare of the Commonwealth of Pennsylvania for the type of child day care operation proposed.

(2) At all types of child care facilities there shall be a driveway designed to provide a safe off street area for the dropping off and picking up of children and provisions for all vehicles to be turned around on the property to avoid the backing of vehicles onto any street or highway.

(3) There shall be one parking space for each employee of a group day care home located in a residence in an R-1 or R-2 Zoning District in addition to the two off street parking spaces required for residential use and the requirements of paragraph .F.2.

(4) At all types of child care facilities there shall be sufficient outdoor lighting fixtures to ensure a well lit driveway at the times of darkness during the hours of operation of the day care facility.

(5) Family day care homes and group day care shall have a minimum of 40 square feet of floor space for each child on the first floor of the building, measured interior wall to interior wall, inclusive of space occupied by cupboards, shelves, furniture, and equipment but exclusive of halls, bathrooms, offices, kitchens, closets, and related areas. A finished room or rooms in a basement may be used, provided there is a direct exit to the outdoors at grade level. The minimum required square footage must be all on one level with bathroom facilities on the same level.

(6) Family day care homes and group day care homes shall have a minimum of 65 square feet of space of outside play area for each child, which shall be located within the rear or side yards of the property. Play area must be reasonably level and fully enclosed with a safety fence at least 4 feet in height and equipped with self-closing and self-latching gates. The play area shall not include driveways or parking areas which are in use during the hours of operation, and shall not include any swimming or ornamental pool. Required

fence shall be constructed of masonry, wire mesh, or chain-link fencing of a minimum of 9-gauge wire, or wood with at least ¾-inch thickness. There shall be no gap or opening in such fence in excess of 3 inches in width.

(7) Group day care centers shall fully meet the layout and square footage requirements for both indoor child care spaces and outdoor play area spaces as set by the Department of Public Welfare of the Commonwealth of Pennsylvania for a license to operate a group day care center.

(8) In addition to the Department of Welfare requirements for a fenced in outdoor play area, additional fencing or natural screening may be required to protect the peace and privacy of abutting property owners.

(Ord. 761, 8/26/1985, §2109; as amended by Ord. 859, 9/30/1991)

**§27-2311. Conditions and Safeguards Attached to Special Exceptions.**

In granting any special exception, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Municipalities Planning Code, 53 P.S. §10101 *et seq.*, as amended, and this Chapter.

(Ord. 761, 8/26/1985, §2110)

**§27-2312. Standards for Zoning Hearing Board Review of Institutional Uses.**

In reviewing an application for a special exception to construct or modify for an institutional use in any residential or commercial district, as described in this Chapter, the Zoning Hearing Board shall use the following standards:

A. *Area.* The minimum lot size for an institutional use shall be 40,000 square feet.

B. *Building Coverage.* The total area covered by buildings shall not exceed 60 percent of the total lot area. The remaining area shall be used for, and maintained as, landscaped open space, recreational area, woodlands, or similar nonintensive use. No more than 20 percent of this remaining area may be covered by blacktop, concrete or similar impervious material for use as parking areas, walkways, or vehicular accessways.

C. *Height.* The maximum height of any building shall be 65 feet except that such height may be increased when approved by the Zoning Hearing Board for such structures as water towers, chimneys, steeples, and communication antennae, provided that for every foot of height in excess of 65 feet there shall be added to each yard requirement 1 corresponding foot of width or depth.

D. *Yard Requirements.*

(1) *Frontage.* The minimum frontage on a public road or highway shall be 125 feet measured along the street line.

(2) *Front Yard.* A front yard depth of not less than 75 feet measured from the right-of-way line to the building foundation wall nearest to the right-of-way line. A front yard shall be that yard that extends from the right-of-way line to the nearest wall of the principal building.

(3) *Side Yard.* There shall be two side yards of not less than 25 feet in width on each side of every building measured from the side property line to

the building foundation wall nearest to the side property line.

(4) *Rear Yard.* A rear yard depth of not less than 40 feet measured from the rear property line to the building foundation wall nearest to the rear property line. A rear yard is that yard directly opposite the front yard.

*E. Required Documents for Zoning Hearing Board Review.*

(1) A plot plan of the lot showing the location of all present and proposed buildings, drives, parking lots, and other constructional features of the lot; and, all buildings, streets, alleys highways, streams, and other topographical features of the lot and adjoining lots within 200 feet on any lot line.

(2) Architectural plans for any proposed building.

(3) A description of the institutional operations proposed in sufficient detail to indicate the effects of these operations in producing traffic congestion, noise, glare, or safety and environmental hazards.

(4) Engineering and architectural plans for the treating and disposal of sewage and the delivery of water to the site.

(5) Engineering and architectural plans for the handling of any excess traffic congestion, noise, glare, or safety and environmental hazards.

(6) Any other pertinent data that the Zoning Hearing Board may require.

*F. Nuisance Controls.* The applicant for institutional use shall make provisions for each of the following:

(1) A planned system of efficient access, egress, and internal circulation of traffic which shall insure minimum interference with traffic on nearby public streets or highways. The plan shall include the required off-street loading and unloading space as set forth in §27-2008 of this Chapter.

(2) Outdoor lighting shall be arranged in a manner which will protect adjacent public streets and highways, and neighboring properties from unreasonable glare.

(3) A satisfactory plan for disposal of solid waste material. All solid waste shall be stored in covered containers. No solid waste shall be stored closer than 50 feet to any property line, unless a variance is obtained from the Zoning Hearing Board.

(4) No operations creating an unreasonable amount of noise outside the property lines shall be allowed.

(*Ord. 761, 8/26/1985, §2111*)

**§27-2313. Burden of Proof.**

In all matters before the Zoning Hearing Board, the burden of proof in all instances and as to all matters shall be on the applicant.

(*Ord. 761, 8/26/1985, §2112*)

**§27-2314. Advisory Review by the Planning Commission.**

At least 10 days before the date of a hearing required by law for an application for special exception or variance before the Zoning Hearing Board, the Secretary of the

Board shall transmit to the Borough Planning Commission a copy of the notice of hearing and such other information as may have been furnished by the applicant or the Zoning Officer, for the advisory review of such Commission, but such review shall not be a condition for proceeding with such hearing.

*(Ord. 761, 8/26/1985, §2113)*

**§27-2315. Technical Assistance.**

The Zoning Hearing Board in considering any matter within its jurisdiction may consult with the Borough Planning Commission, the Montgomery County Planning Commission or any other consultant or group having expert knowledge of the matter under consideration. The results of such consultation shall be made part of the record before the Board and shall be provided promptly to all parties before the Board, any of which shall have the right to call such experts as witnesses for examination on the record.

*(Ord. 761, 8/26/1985, §2114)*

**§27-2316. Expiration of Special Exceptions and Variances.**

Unless otherwise specified by the Board in its decision, a special exception or variance shall expire if the applicant fails to obtain a building permit within 6 months from the date of authorization thereof.

*(Ord. 761, 8/26/1985, §2115)*

**§27-2317. Fees.**

All applications before the Zoning Hearing Board shall be accompanied by a cash payment to the Borough of Hatboro in accordance with a fee schedule adopted by resolution from time to time by Borough Council.

*(Ord. 761, 8/26/1985, §2116)*



**Part 24****Violations, Fines, Remedies and Charges****§27-2401. Violation for Failure to Secure Zoning Permit.**

Failure to secure a zoning permit when required under this Chapter shall be a violation of this Chapter.

(*Ord. 761, 8/26/1985, §2200*)

**§27-2402. Notice of Violation.**

When written notice of a violation of any of the provisions of this Chapter has been served by the Zoning Officer or his representative, on the owner, agent, occupant, contractor, builder or other person, partnership or corporation violating the provisions of this Chapter, such violation shall be discontinued immediately.

(*Ord. 761, 8/26/1985, §2201*)

**§27-2403. Penalties.**

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. 761, 8/26/1985, §2202; as added by Ord. 1005, 5/23/2011*)

**§27-2404. Enforcement Remedies.**

In case any building, structure, or land is, or is proposed to be, erected, constructed,

reconstructed, altered, converted, maintained or used in violation of this Chapter, the Borough of Hatboro or, with the approval of the Borough Council, an officer of the Borough of Hatboro, in addition to other remedies, may institute in the name of the Borough of Hatboro any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation of this Chapter.

*(Ord. 761, 8/26/1985, §2203)*

**§27-2405. Charges.**

The charges for permits, applications for conditional uses, special exceptions and variances, appeals, zoning certificates and other applications to the Zoning Hearing Board shall be established from time to time by resolution of Borough Council. Applicants shall also be responsible for costs incurred by the Borough as a result of any required hearing, including stenographic fees, advertising charges and any other fee or charge. The Borough may require a deposit to cover any such fees or charges.

*(Ord. 761, 8/26/1985, §2204)*

**Part 25****Amendments****§27-2501. Power of Amendment.**

The Borough Council of the Borough of Hatboro from time to time may amend and repeal this Chapter, including the Zoning Map, by the procedures set forth in this Part. (Ord. 761, 8/26/1985, §2300)

**§27-2502. Amendment by Borough Council.**

The Borough Council by resolution adopted at a regular or special meeting shall fix the time and place of a public hearing on the proposed amendment and cause 30 days notice thereof to be given as follows:

A. By publishing a notice thereof once a week for 2 consecutive weeks in one newspaper of general circulation in Borough of Hatboro.

B. The notice shall state either the full text of the proposed amendment or a brief summary setting forth the principal provisions in reasonable detail, a reference to a place within the Borough of Hatboro where copies of the proposed amendment may be examined, and the time and place of hearing.

C. Whenever a proposed amendment affects a particular property, there shall be posted upon said property at such place or places as the Zoning Officer may direct, notice of the proposed amendment.

(Ord. 761, 8/26/1985, §2301)

**§27-2503. Application for Amendment.**

Every application for amendment of this Chapter shall first be presented to the Zoning Officer and shall contain the following:

A. The applicant's name, address and telephone number and that of his representative and attorney, if any; and the interest of every person, partnership or corporation represented in the application.

B. A plan showing the extent of the area to be rezoned, streets bounding and intersecting the area, the land use and zoning classification of abutting districts, and photographs of the area to be rezoned and of the abutting areas.

C. A statement of the circumstances in the proposed district and the abutting districts and any other factors on which the applicant relies in support of the proposed rezoning.

D. The approximate time schedule for the beginning and completion of the proposed development of the area to be rezoned.

E. A site plan to scale of 1 inch equals 100 feet, indicating the locations of buildings, structures, uses, and areas for off-street parking and loading,

F. If the use proposed is a nonresidential use, a detailed statement as to the market area to be served by the proposed use and the demand for the proposed use.

(*Ord. 761, 8/26/1985, §2302*)

**§27-2504. Curative Amendments.**

The procedure to be followed by the Borough of Hatboro or a landowner seeking a curative amendment to this Chapter shall be the procedure set forth in the Municipalities Planning Code, as amended; Act of July 31, 1968, P.L. 805, as amended.

(*Ord. 761, 8/26/1985, §2303*)

**§27-2505. Opportunity to Be Heard.**

At any public hearing concerning this Chapter or any amendment thereto, full opportunity to be heard shall be given to any citizen and all parties in interest.

(*Ord. 761, 8/26/1985, §2304*)

**§27-2506. Referral to the Borough Planning Commission.**

The Borough Council shall refer each request for amendment to the Borough Planning Commission for review and recommendation prior to taking final action on such request. The Planning Commission shall consider whether or not the proposed amendment would be consistent with, desirable and in furtherance of the Borough of Hatboro Comprehensive Plan.

(*Ord. 761, 8/26/1985, §2305*)

**§27-2507. Fees.**

Application fees for amendments and curative amendments shall be set from time to time by resolution of Borough Council. Applicants shall also be responsible for costs incurred by the Borough as a result of any required hearing, including stenographic fees, advertising charges, and any other fee or charge. The Borough may require a deposit to cover any such fees or charges.

(*Ord. 761, 8/26/1985, §2306*)

## Zoning Map Amendments

<b>Ord./Res.</b>	<b>Date</b>	<b>Subject</b>
Ord. 783	6/1/1987	Revision of the metes and bounds of a parcel of ground zoned Highway Business
Ord. 786	6/1/1987	Change the zoning classification on a parcel of ground from R-2 Residential to O-Office classification
Ord. 787	6/1/1987	Zoning Map amendment re: Floodplain Data
Ord. 861	9/30/1991	Change the zoning classification on a parcel of ground from O-Office to R-3 Residential classification
Ord. 939A	--/2001	Change the zoning classification of the premises located at North York Road in from R-1 Residential to O-Office
Ord. 967	5/22/2006	Zoning District HI is divided into two separate districts; one area is classified as HI-MU and the other area is classified as HI.

