

ARTICLE VIII

CONDITIONAL ZONING PERMITS

Section 801 PURPOSE

Rather than assign all uses to individual and limited zoning districts, it is important to provide a controllable and reasonable flexibility in requirements for certain kinds of uses that will allow practicable latitude for the investor, but that will at the same time maintain adequate provision for the security of the health, safety, convenience, and general welfare of the community's inhabitants as reflected in the Homer Township Comprehensive Plan.

In order to accomplish such a dual objective, provision is made in this Resolution for a more detailed consideration of each of certain specified activities as may relate to proposed conditions of location, design, size, operation, intensity of use, generation of traffic and traffic movement and concentration of population.

Land and structure uses possessing these particularly unique characteristics are designed as Conditionally Permissible Uses and are permitted through the issuance of a Conditional Zoning Permit with such conditions and safeguards attached as may be deemed necessary for the protection of the public welfare.

The Board of Zoning Appeals, as hereinafter created, may authorize the issuance of such conditional zoning permit for any of the uses listed as Conditionally Permissible Uses. The procedure outlined below shall be followed in submitting a request for such a permit.

Section 801-1 PROCEDURE FOR MAKING AN APPLICATION

A. Submission

Any application shall be submitted through the Zoning Inspector to the Board of Zoning Appeals on a special form for that purpose. Each application shall be accompanied by the payment of a fee as indicated in Section 901-5.

B. Data Required with Application

1. Form supplied by Zoning Inspector, completed by applicant.
2. Site plan, plot plan or development plan of the entire property being considered, drawn to the indicated scale and showing the location of all

abutting streets, and proposed structures, the type of buildings and their uses. (Amended 6/27/14)

3. Completed plans and specifications for all proposed developments and construction.
4. A statement supported by substantiating evidence regarding the requirements enumerated in Section 801-2.
5. The Board of Zoning Appeals may require further documentation from the applicant to ensure compliance with the provisions of this code as the Board deems necessary. (Added 6/27/14)

C. Review by Board of Zoning Appeals

The Board of Zoning Appeals shall review the proposed development as presented on the submitted plans and specifications in terms of the standards established in the Homer Township Zoning Resolution.

D. Hearing

After adequate review and study of any application, the Board of Zoning Appeals shall hold a public hearing or hearings upon every application after at least one (1) publication in a newspaper of general circulation in the township at least ten (10) days prior to the date of the hearing. Such notice shall indicate the place, time and subject of the hearing.

E. Issuance and Revocation of Conditional Zoning Permits.

Only upon conclusion of hearing procedures relative to a particular application, may the Board of Zoning Appeals issue a Conditional Zoning Permit. The breach of any condition, safeguard or requirement may be grounds for invalidating the permit granted. (Amended 6/27/14)

F. Re-application

No application for a Conditional Zoning Permit which has been denied wholly or in part by the Board of Zoning Appeals of the Township shall be resubmitted except on grounds of newly discovered evidence or proof of changed conditions which would be sufficient to justify reconsideration by the Board of Zoning Appeals. (Amended 6/27/14)

Section 801-2 BASIS OF DETERMINATION

The Board of Zoning Appeals shall establish that the general standards and the specific standards pertinent to each use and indicated herein shall be satisfied by the completion and operation of the proposed development. The Board of Zoning Appeals may also impose such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights and for insuring that the intent and objectives of the Resolution will be observed. (Amended 6/27/14)

General Standards

The Board of Zoning Appeals shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that such use on the proposed location:

- A. Will be harmonious with and in accordance with the general objectives, or with any specific objective of the Township Comprehensive Plan of current adoption;
- B. Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the same area;
- C. Will not be hazardous or disturbing to existing or future neighboring uses;
- D. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal or schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;
- E. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- F. Will not involve any uses, activities, processes, materials, and equipment and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odors or noise of any nature;
- G. Will be consistent with the intent and purpose of this Resolution.
- H. Additional information may be requested by the Board of Zoning Appeals from the Applicant, if deemed necessary to comply with zoning regulations. (6/27/14)

Section 802

REGULATIONS PERTAINING TO CONDITIONALLY PERMISSIBLE USES

101. All structures and activity areas shall be located at least fifty (50) feet from all property lines excluding frontage set-back which shall conform to Article IV.
102. No lighting shall have a visible source of illumination and shall in no way impair safe movement of traffic on any street and highway; no lighting shall shine directly on adjacent properties.
103. Such structures should be located on a secondary or minor street or road.
104. Site locations should be preferred that offer natural or man-made barriers that would lessen the effect of the intrusion of the nonresidential use into a residential area.
105. Loud speakers which cause a hazard or annoyance shall not be permitted.
106. There shall be no more than one (1) directional advertisement oriented to each abutting road identifying the activity.
107. All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property, any individual or to the community in general.
108. Any temporary structures must be indicated as such on site plans submitted to the Zoning Board of Appeals for approval.
109. Such structures shall not be continued as permanent structures. The period of continuance shall be set by the Zoning Board of Appeals.
110. Such structures should be located on major thoroughfares or at intersections of major and/or secondary thoroughfares.
111. Such use shall not require costly or uneconomic extensions of utility services at the expense of the community.
112. Shall be enclosed by a fence six (6) feet or more in height for the entire periphery of the development. Fences shall be adequate to prevent trespass and shall be placed no closer than fifty (50) feet to the top or bottom of any slope.

113. No slope shall exceed an angle with horizontal of forty-five (45) degrees.
114. All areas within any single development shall be rehabilitated progressively as they are worked out or abandoned to a condition of being entirely lacking in hazards, inconspicuous and blended with the general surrounding ground form so as to appear reasonably natural. (Gravel, sand pits and quarries shall be completely and continually drained of water when not in use or not supervised by a watchman to prevent erosion or any other potential deterioration).
115. Shall indicate established route for truck movement in and out of the development in such a way that it will prevent hazards and damage to other properties in the community.
116. It is the intent of this subsection to permit basement dwellings, which are used for dwelling purposes, for a maximum period of two (2) years. Under certain unusual conditions or circumstances the Zoning Board of Appeals may grant additional extensions of six (6) month periods.
117. It is the intent of this subsection to exclude all dump-sanitary landfill or similar areas from Homer Township.
118. Mobile Homes & Trailers (Rev. 10/22/2008)
 - a. One mobile home for dwelling purposes, on a lot of where a permanent residence exists, for a maximum of 2 years, provided the mobile home is intended for occupancy by a non-paying guest or servant.
 - b. Mobile Homes and Trailers must conform to setback requirements of the R-2 Residential District of this Resolution and have sanitary facilities approved by the Medina County Board of Health
119. The site shall not be used for the storage and/or overnight parking of vehicles and/or trucks. Vehicles being repaired shall be parked on the site not longer than one (1) week.
120. All activities, except those required to be performed at fuel pumps, shall be carried on inside a building; if work is performed on a vehicle, said vehicle shall be entirely within a building.

121. Automobile service stations shall conform to all setback requirements of the district in which they are permitted except that gasoline pump islands need not conform to the building setback lines, but shall be set back from all road right-of-way lines at least fifty (50) feet. Lubrication, washing and other incidental servicing of motor vehicles and all supply and merchandise storage shall be completely within an enclosed building.

Ingress and egress driveways shall be separated from the intersection of any two road right-of-way lines by at least forty (40) feet and from property lines by at least twenty (20) feet. A curb shall be installed where any service areas adjoin any road right-of-way lines, except at driveway approaches.

Employee vehicles and vehicles awaiting servicing or return to customers following service shall be parked in areas indicated for such parking on the approved site plan. Such parking areas shall not be closer than fifty (50) feet to any road right-of-way.

122. Automobile service stations and auto body shops must conform to all applicable county, state and/or federal requirements for collection, storage, removal and disposal of hazardous materials generated or stored on the premises of said service stations and auto body shops.

123. Bed and Breakfast Homes

- a. No more than two (2) adults shall occupy each sleeping room. Children under twelve (12) years of age are permitted in the same occupancy provided that no more than five (5) persons occupy one room;
- b. Fire escapes shall be provided as approved by the Board of Zoning Appeals and the local Fire Dept. and County Building Dept.;
- c. Fire exit instructions shall be posted in each sleeping room;
- d. All applicable provisions of the fire code shall be met and certification of such compliance by the appropriate official shall accompany the Application;

- e. The facility shall be operated so that guests reside at the home for not longer than one continuous week;
- f. The facility shall contain no more than four (4) sleeping rooms for guests;
- g. Morning meals shall be the only meals provided for registered guests. No cooking facilities shall be permitted in guest rooms;
- h. Rooms used for guests shall be part of the primary residential structure and shall not have been specifically constructed for rental purposes;
- i. The facility shall provide one parking space for each guest room, plus the standard two parking spaces for the single family dwelling;
- j. Signs shall be permitted subject to Article VI, Sections 601-1, 601-2 and 601-6;
- k. Any and all requirements of the Township, County and State Building and Health Departments must be met;
- l. The establishment shall be owner occupied and managed.

124. Veterinary Clinic/Animal Hospital

A Veterinary Clinic/Animal Hospital shall be a permissible use provided that there are no adverse effects on the use or development of the surrounding area because of noise, traffic, type of physical activity or for any other reason, and if the following conditions and requirements are met:

- a. There shall be no runs, exercise yards or other facilities for the keeping of animals in any exterior space;
- b. All areas for the keeping of animals shall be soundproofed;
- c. Design and appearance of buildings used as a Veterinary Clinic/Animal Hospital shall be consistent with the rural environment in which it is located;

- d. Parking shall be provided per Article VII of this Resolution;
- e. A Veterinary Clinic/Animal Hospital designed for the treatment and care of pet animals shall be operated by a registered Veterinarian;
- f. Any and all requirements of the Township, County and State Building and Health Departments must be met.

125. Home Occupations - Type 2

- a. Such use shall be conducted by persons residing on the premises with no more than three (3) non-resident employees;
- b. Such occupation shall be carried on entirely within one accessory structure that is separated from all property lines by a minimum of fifty (50) feet, excluding the front yard setback which shall conform to Article IV of this Resolution;
- c. Such occupation shall be clearly incidental and subordinate to the land use for residential purposes;
- d. No activity, material, goods or equipment indicative of the occupation shall be visible from any public way or adjacent property;
- e. The proposed use shall not constitute primary or incidental storage facilities for a business, industrial or agricultural activity conducted elsewhere;
- f. No traffic shall be generated by such occupation in greater volume than would normally be expected in a residential neighborhood. Parking shall be provided per Article VII of this Resolution;

- g. Signs shall be permitted subject to Article VI of this Resolution;
- h. Accessory structures for home occupations may be a garage or other building. The maximum floor area for a Type 2 Home Occupation shall be 2000 square feet;
- i. Accessory structures for home occupations shall comply with all requirements in the applicable Zoning District;
- j. No equipment or process shall be used in such home occupation that would cause a nuisance to neighbors such as noise, vibration, glare, fumes, odors, or electrical interference. Evidence of the above objectionable elements shall not be discernible beyond the lot lines of the property.

126. Telecommunications Facilities (TCFs)
(Adopted 7/29/98; Rev. 2006)

- a. Tower should be of monopole design with a maximum height of two hundred feet (200'), or be limited to the minimum required for adequate transmission and reception of telecommunication signals. The Owner or Operator of a Telecommunications Facility (TCF) shall be required, as a condition of issuance of a permit, to post a cash or surety bond acceptable to the Homer Twp. Trustees of no less than one hundred dollars (\$100.00) per vertical foot from the natural grade of the telecommunications tower, which bond shall insure that an abandoned, obsolete, or destroyed wireless communication antenna or tower shall be removed in accordance with Section 801-126-1. Any Colocator shall be required to additionally execute such bond, as principal, to insure that the bond will be in place during the period of time that the colocator occupies the tower. The Owner, Operator, or Colocator must be required to notify the Homer Twp. Trustees, within 90 days, after discontinuance of operation of the facility.
(Rev. 6/10/99)

- b. Tower location, equipment facilities, and any support structures and attachments should conform to current setbacks for building location as described in Sections 401-4 and 403-4 of this Zoning Resolution.
- c. No guy wire anchors shall be located closer than twenty-five (25) feet to any property line.
(Added 10/24/07)
- d. Location should be such that it does not endanger an existing structure, and should be located at least 1,000 feet from any other TCF.
- e. Colocation and site sharing should be used whenever possible. If colocation and/or site sharing is not used, the applicant must provide a Justification Report explaining the need for a new tower or structure within the service area. This report must include written proof that carriers have been contacted, by registered letters, assuring that colocation was attempted and is not feasible because of grid pattern inconsistency or inappropriate signal strength. A feasibility/engineering report must be furnished.
- f. Any access road must be constructed with sufficient base and surface materials to support construction, future maintenance, and emergency vehicles, and must be constructed for all weather usage and to prevent mud deposits on public roads. (Added 10/24/07)
- g. Colocation must be made available to township and/or county safety forces upon request.
- h. Existing mature tree growth and natural land forms on the site shall be preserved where possible, and tower, equipment facilities, and support structures must be adequately screened to maintain the maximum aesthetic value possible.
- i. TCFs, equipment facilities, and support structures must be designed so as to blend in with existing surroundings to the extent feasible, including the use of compatible colors. Equipment and buildings should be limited to a maximum height of ten (12) feet.

- j. TCFs shall not be artificially lighted except for security and safety lighting of equipment and buildings. Such lighting must be appropriately down-shielded to keep light within the boundaries of the site, or as required by the FAA. (Rev. 10/24/07)

- k. All structures and TCF components must be surrounded by a minimum eight-foot (8') high security fence, topped with 3 strands of barbed wire that will adequately protect all equipment facilities, support structures and any related facilities.

Warning signs, including emergency numbers and contacts, must be posted on all exterior sides of the security fence. (Added 10/24/07)
Minimum sign size must be 18" x 24".

- l. Proof of FCC compliance for non-ionizing electromagnetic radiation (NIER) must be supplied to the Zoning Inspector. All applicants must provide proof of PUCO Registration Number at the time of application and renewal. (Rev. 10/24/07)

- m. All permitted installation facilities must be kept in a neat and orderly condition so as to prevent injury to any single property, any individual, or the Township in general. Applicants must provide a Maintenance Plan detailing schedule and repair procedures and identifying facility owner/operator and/or maintenance contractor. (Added 10/24/07)
Any modifications will be subject to the foregoing conditions and the Zoning Commission may impose additional conditions when it deems it necessary to safeguard the health, welfare and safety of the community.

- n. Any temporary construction facility must meet the above criteria and must be removed within ninety (90) days of completion of construction. (Rev. 10/24/07)

- o. Any TCF that is not operated for a continuous period of twelve (24) months shall be considered abandoned, and the owner of such TCF shall remove same within ninety (90) days.

- p. When a TCF is proposed to be located in a residential area, the Telecommunication Provider should present evidence that there is no feasible locality for the TCF in a non-residential area.
- q. No advertising shall be placed anywhere on the telecommunication tower or associated structures. (Added 10/24/07)
- r. An identification sign of a minimum of 18” x 24” shall be posted at the entrance of the facility identifying names, street number and 24-hour emergency phone numbers so that fire and police emergency vehicles can locate the responsible parties. All applicants must provide an Emergency Procedures Plan identifying who will be notified and what remedy processes will be used in case of emergency. (Added 10/24/07)

Section 803 COMPARABLE USES

A. Procedure and requirements to determine that a use is comparable.

When a use that is proposed is not listed or provided for in this Resolution, the Board of Zoning Appeals may make a determination, upon appeal, that the proposed use, within those districts specified, is comparable to a specific use that is listed or provided for in this Resolution. If the Board finds that a use is comparable to a specific use listed in this Resolution, the comparable use is deemed to be a comparable permitted use only in those districts where the specific use is a permitted use.

In formulating a determination that a proposed use is comparable, the Board shall follow the procedures relating to appeals and variances as specified in Article X of this Resolution. Upon making a determination that a proposed use is comparable, the Board shall notify the Township Trustees of its decision and shall include in its written findings the reasoning upon which the decision is based. Unless the decision is rejected within (30) days of its receipt by the Township Trustees, such comparable use determination by the Board shall become effective.

If the Board determines that a proposed use is not comparable, such determination shall be not be appealed to the Township Trustees, but remedy may be sought by the appellant through the submission of an application for amendment as prescribed in Article XII of this Resolution, or through the Court of Common Pleas.

B. Standards for consideration of comparable uses.

The following standards shall be considered by the Board when making a determination that a use is comparable to a permitted use within a specific district:

1. The compatibility of the proposed use with the general classification system as specified in this Resolution.
2. The nature, predominant characteristics, and intensity of the proposed use in relation to those uses specified by this Resolution as being permitted in that district.
3. The size, dimensional requirements, parking requirements, traffic generation potential, and other regulatory considerations normally associated with uses as specified in this Resolution.

C. Effect of determination that a use is comparable

Should a use be determined to be comparable to a specific permitted or conditionally permitted use provided for in this Resolution, it shall then be permitted in the same manner and under the same conditions and procedures as the use is permitted to which it has been found to be comparable.

D. Record of comparable uses

The Zoning Inspector shall maintain as a public record a listing of all uses which have been determined to be comparable. For each such use, the record shall include the use as listed in the Resolution, the use unlisted in the Resolution about which the determination of comparability was made, and the dates of any actions thereupon by the Board of Zoning Appeals and the Township Trustees. This record shall also contain the same information for all uses which have been determined to be comparable. The Zoning Inspector shall consult this record in the process of issuing future permits.
