



CENTRE COUNTY  
P E N N S Y L V A N I A

PLANNING AND COMMUNITY  
DEVELOPMENT OFFICE

BOARD OF COMMISSIONERS

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TO: Benner Township Supervisors  
Benner Township Planning Commission

FROM: Elizabeth A. Lose, Senior Planner  
Linda Marshall, Senior Planner/Housing Coordinator

DATE: March 19, 2019

SUBJECT: Benner Township Zoning Ordinance Review, 2<sup>ND</sup> draft

The Centre County Planning and Community Development Office appreciates the opportunity to provide comments on your proposed Benner Township Zoning Ordinance and Map which will replace your current Zoning Ordinance and Map adopted April 20, 2009. This review is in accordance with the *Pennsylvania Municipalities Planning Code, Act 247* as amended.

We want to recognize the changes made based on staff recommendations from the first draft including revised off-street parking requirements. These modifications and inclusions are critical parameters that provide the Township additional controls and it is in the Municipality's best interest that the regulations are present. We want to reiterate comments previously submitted in November 2018 with attachments to provide clarification:

*Our comments are as follows:*

- A use chart or a list chart of uses for each zoning district would ease administration and interpretation by the general public. Permitted and conditional uses could be shown in each zoning district use chart. *An example chart is attached as Appendix A.*
- The allowance of 15,000 square foot minimum lot size in the Forest Conservation and Agricultural Districts is inconsistent with the intent of these districts. This minimum lot size should be deleted from these two districts and provided for in a separate and/ or expanded district where public services are readily available. The Rural Residential District provides design requirements that better align with public water and public sewer availability. ***Take the opportunity to review the zoning map to determine if expanding the Rural Residential District is applicable should the minimum lot size be deleted.***
- Allowing a 15,000 square foot minimum lot size in the Agriculture District and removing the fixed ratio of nonagricultural uses that can be subdivided may result in undirected development and an undesirable future land use pattern. ***We recommend that the township takes advantage of available land use controls that steer a balanced***

***vision of the future.***

- The increase in impervious coverage from 70% to 80% is in conflict with the adopted Spring Creek Stormwater Ordinance. *We are not clear as to the purpose for allowing 100% maximum permitted impervious lot coverage for uses by the Township.*
- **Allowing Accessory Dwelling Units** could help expand the township's affordable rental inventory while at the same time allowing residential property owners to supplement their income. Unlike the in-law suite, accessory dwelling units can be leased to non-relatives. Definitions and examples are attached in Appendix B.
- **The township could opt to separate the modular and manufactured home definitions.** There are differences regarding construction standards and available financing through lending institutions. Definitions are attached in Appendix C.
- **The township should consider adding a group home use and definition.** Group homes serve a different demographic not served by a halfway house and/ or boarding house. If group homes are not permitted as a use by right, this could be interpreted as refusing to provide reasonable accommodations. The Township should seek legal counsel regarding this provision. A handout from the Fair Housing Law Center is attached as Appendix D.
- **Short-term rental and tourists rentals can be permitted and regulated within specific zoning districts.** Recognizing and regulating these uses from this perspective can mitigate potential nuisances and curtail public safety issues that can accompany short-term and tourist rentals in neighborhoods.

**Staff Recommendation**

Benner Township is easily accessible to the greater population of Centre County and it will be vitally important to accommodate growth through a balanced approach to maintain the Township's attributes that define it as a great place to live and work. The changes made between the first and second draft are significant and put the Township on track to solidify an appropriate zoning ordinance. However, the elimination of preservation and conservation provisions could have negative impacts on both the residents' quality of life and the cost of services that the Township provides its residents. Accommodating growth yet preserving the natural resources makes the Township special for its residents.

***Planning staff recommends that the zoning ordinance adoption be tabled further until the issues identified in this review are discussed and addressed. If the Township would like additional information on any of the items above and/ or would desire further assistance from this office, please do not hesitate to be in touch. Thank you.***

ZONING

200 Attachment 15

Township of College

Criteria and Standards for the Office Commercial District (C-2)  
 [Amended 3-11-1999 by Ord. No. O-93-02; 6-23-1994 by Ord. No. O-94-03; 5-17-2001 by Ord. No. O-01-03; 7-5-2007 by Ord. No. O-07-12; 12-18-2008 by Ord. No. O-08-12; 12-3-2009 by Ord. No. O-09-17; 7-15-2010 by Ord. No. O-10-04; 3-19-2015 by Ord. No. O-15-03; 2-18-2016 by Ord. No. O-16-02]

PERMITTED USES	Lot Requirements The following lot requirements shall be met for each primary use:		Yard Setback Requirements The following yard requirements shall be met:			Maximum Height (feet)
	Minimum Size	Minimum Width (feet)	Maximum Coverage	Front Yard (feet)	Side Yard (feet)	
Land and structures may be used for only the following: Primary Uses						
(1) Ambulance, fire and police services and facilities						45
(2) Child and adult day-care centers; see § 200-11E						
(3) Commercial cemeteries						
(4) Commercial parking lots						
(5) Data centers						
(6) Funeral homes and mortuaries						
(7) Hospitals						
(8) Indoor recreational facilities						
(9) Medical office and clinics						
(10) Model homes; see also § 200-11W		150	30% (buildings) 60% (total impervious)	50	15	50
(11) Light manufacturing facilities						
(12) Office uses	The minimum lot size shall be determined on the basis of the minimum width, maximum coverage, yard setback, parking and other requirements contained in this section and chapter.					45
(13) Places of assembly; see also § 200-11F						
(14) Public and private institutions of higher education						
(15) Public libraries and museums, art galleries and reading rooms						
(16) Radio and television studios						
(17) Research, engineering and testing laboratories						
(18) Studios for instruction in music, performing, visual and media arts; photographic and handicraft studios						
(19) Veterinary offices and clinics						
Accessory Uses						
(20) Customary uses accessory to the above, essential services						
(21) Crematories, as an accessory use to funeral homes and mortuaries						

NOTES:

- All drive-through facilities as either primary and accessory use are expressly prohibited from the Office Commercial District.
- All research and testing activities related to research, engineering and testing laboratories shall be conducted in a manner that does not produce smoke, fumes, odors, dust, noise, vibration, and/or glaring light that are noticeable from beyond the lot lines of the subject property.

See primary use to which it is accessory.

## APPENDIX B

### ACCESSORY DWELLING UNITS (ADU)

Definitions from *A Planners Dictionary*, APA, 2004

#### **Accessory Dwelling Unit**

*A residential dwelling unit, but not a mobile home, located on the same lot as a single-family dwelling unit, either within the same building as the single-family dwelling unit or in a detached building. Secondary dwelling units shall be developed in accordance with the standards set forth in local code and only in those zoning districts where the use is listed as a special review use. (Loveland, Colorado)*

*A separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities, which is an attached or detached extension to an existing single-family structure. (Livermore, California)*

ADUs may be:

- Attached above a garage
- Detached above a garage
- Inside SFD such as a lower level unit or to the side or rear

-Examples of Considerations:

- Allowing the unit as a permitted or conditional/special exception use
- Establishing a square footage/size and height limitation
- Deciding on the type or types of allowable units-interior only or detached.
- Requiring that the owner live in the primary or accessory unit.
- Providing parking for the units
- Issuing renewable and revocable permits

## APPENDIX C

### MANUFACTURED/ MOBILE HOME/ MODULAR DEFINITIONS

#### Definitions from *A Planners Dictionary*, APA, 2004

##### **Manufactured housing**

*A factory-built, single-family structure, which is manufactured or constructed under authority 42 U.S.C. Sec. 5403 Federal Manufactured Home Construction and Safety Standards, and is to be used as a place of human habitation, but which is not constructed with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site and which does not have permanently attached to its body or frame any wheels or axles. A mobile home is not a manufactured home unless it has been converted to real property and is taxed as a site-built dwelling. For the purpose of this title, a manufactured home shall be considered the same as any site-built, single-family detached dwelling. (North Liberty, Iowa)*

*Commentary: Manufactured housing is a generic term that describes housing that is manufacture in a factory rather than on site. As defined above, manufactured housing includes all housing built to the "HUD Code" which is cited in the definitions. Some zoning codes still refer to manufactured housing that is built to HUD Code as a mobile home. However, manufactured housing is the correct term.*

##### **HUD Homeowner's Fact Sheet**

##### **HUD Manufactured Construction Standards**

*Manufactured homes are built as dwelling units of at least 320 square feet in size with a permanent chassis to assure the initial and continued transportability of the home. All transportable sections of manufactured homes built in the US after June 15, 1976 must contain a certification label (commonly referred to as a HUD Tag) on the home. The label is the manufacturer's certification that the home section is built in accordance with HUD's Manufactured Home Construction and Safety Standards. The Standards cover Body and Frame Requirements, Thermal Protection, Plumbing, Electrical, Fire Safety, and other aspects of the home. The Standards are published in the Code of Federal Regulations under 24 CFR Part 3280.*

##### **Modular housing**

##### **HUD FAQ**

##### **What is the difference between manufactured and modular homes?**

*Manufactured homes are constructed according to a code administered by the US Department of Housing and Urban Development (HUD Code). The HUD Code, unlike conventional building codes, requires manufactured homes to be constructed on a permanent chassis. Modular homes are constructed to the same state, local or regional building codes as site-built homes.*

##### **What is a manufactured home?**

*A manufactured home (formerly known as a mobile home) is built to the Manufactured Home Construction and Safety Standards and displays a red certification label on the exterior of each transportable section. Manufactured homes are built in the controlled environment of a manufacturing plant and are transported in one or more sections on a permanent chassis.*

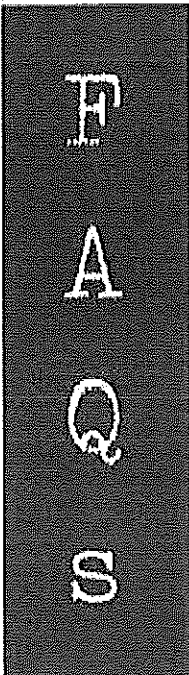
APPENDIX D



# Zoning/Land Use and the Fair Housing Act

The Fair Housing Act prohibits a broad range of practices that discriminate against individuals on the basis  
**RACE • COLOR • RELIGION • NATIONAL ORIGIN • SEX • FAMILIAL STATUS • DISABILITY**

*\*Check your state and local ordinances for additional protected classes*



### WHAT KIND OF HOUSING IS COVERED UNDER THE ACT?

Housing includes not only buildings intended for occupancy as residences, but also vacant land that may be developed into residence.

### DOES THE FAIR HOUSING ACT PRE-EMPT LOCAL ZONING LAWS?

No, but federal laws, such as the Fair Housing Act, take precedence over conflicting state and local laws. The Act prohibits state and local land use and zoning laws, policies and practices that discriminate based on any protected class.

### WHAT TYPES OF LAND USE AND ZONING LAWS / PRACTICES VIOLATE THE ACT?

- Prohibiting or restricting development of housing based on the belief that the residents will be members of a particular protected class
- Imposing restrictions or conditions on group housing for persons with disabilities not imposed on families or other groups of unrelated individuals
- Imposing restrictions on housing because of alleged public safety concerns based on stereotypes about the residents' or anticipated residents' membership in a protected class
- Refusing to provide a reasonable accommodation to land use or zoning policies when such accommodations may be necessary to allow persons with disabilities equal opportunity to use and enjoy the housing



1 Denying an exception to setback requirement as a reasonable accommodation for a disabled resident who needs a wheelchair ramp in order to access his or her home		4 Requiring additional studies, procedural steps or unnecessarily delaying decision making when considering a development that may be occupied by protected class members	<b>COMMON VIOLATIONS</b>
2 Rejecting a proposed affordable housing development in response to neighbor's fears that racial minorities will occupy the housing	3 Requiring neighbor notification or a public hearing only for the development of affordable housing or group homes, but not other types of residential development		
<p>For more information, technical assistance or to discuss best practices in your area, contact the Fair Housing Law Center at 877.725.4472 or visit us at <a href="http://www.fhlaw.org">www.fhlaw.org</a>.</p> 			