

ORDINANCE NO. 01 OF 2022

AN ORDINANCE OF THE TOWNSHIP OF HAMILTONBAN, ADAMS COUNTY, PENNSYLVANIA, AMENDING THE HAMILTONBAN TOWNSHIP ZONING ORDINANCE

BE IT ENACTED, ADOPTED, AND ORDAINED by the Township of Hamiltonban, Adams County, Pennsylvania, by the Hamiltonban Township Board of Supervisors, and it is hereby **ENACTED, ADOPTED, AND ORDAINED** by the authority of the same as follows:

SECTION 1: TEXT AMENDMENT

Section 375-40 shall be amended by adding Subsection D to read as follows.

D. Conditional Uses: The following uses are permitted by Conditional Use in the C District in accordance with the following standards and criteria, any reasonable conditions that the Board of Supervisors may deem necessary, and in accordance with the procedures set forth in § 375-111A of this chapter.

- (1) Residential Housing Community, in accordance with § 375-81.AAA.

SECTION 2: TEXT AMENDMENT

Section 375-80 shall be amended by adding Subsection AAA to read as follows.

AAA. Residential Housing Community

- (1) The following standards, requirements, and provisions shall be the only standards, requirements, and provisions that apply to Residential Housing Communities and shall supersede all other requirements, standards, and provisions of the Zoning Ordinance.

- (2) Minimum dimensional regulations shall be as follows.

- (a) For purposes of this land use only, "Net Developable Area" shall be defined as follows: All land excluding such portions that, prior to development.

- [1] are within the right-of-way of previously dedicated streets or roads.

- [2] contain slopes greater than 20% (excluding man-made slopes).

- [3] are identified as wetlands and/or waters of the Commonwealth by the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Protection, as applicable.

- [4] are encumbered by areas identified in the Township Flood Insurance Rate Maps as included within the 1% annual chance flood plan.

- [5] are encumbered by easements or deed restrictions that prohibit the development of the land.

- (b) Minimum lot width.

- [1] Single-family detached dwellings: 45 feet.

- [2] Single-family semi-detached dwellings: 35 feet.
 - (c) Minimum lot area.
 - [1] Single-family detached dwellings: 5,500 square feet.
 - [2] Single-family semi-detached dwellings: 4,000 square feet per dwelling unit.
 - (d) Maximum development coverage: 70% of net development area.
 - (e) Maximum density: 5 units per developable acre.
 - (f) Maximum building height: 45 feet.
 - (g) Minimum setback for residential buildings.
 - [1] Minimum front setback 25 feet.
 - [2] Minimum side setback: 5 feet.
 - [3] Minimum rear setback for properties with no access alley at the rear of the property: 20 feet.
 - [4] Minimum rear setback for properties with access alley at the rear of the property: 10 feet.
 - (h) Minimum setback for nonresidential buildings.
 - [1] Minimum front setback 50 feet.
 - [2] Minimum side setback: 20 feet.
 - [3] Minimum rear setback: 25 feet.
- (3) Other Requirements
- (a) All utilities serving a proposed Residential Housing Community shall be public or PADEP approved community systems and all utility lines shall be underground.
 - (b) A minimum of twenty-five percent (25%) of the development area shall be set aside for either:
 - [1] open space, stormwater management systems (limited to traditional grass-lined detention facilities and/or bio-retention facilities); or
 - [2] passive and/or active recreation use (including community buildings, related parking and other facilities) by the residents of the Residential Housing Community, or
 - [3] a combination thereof.

(c) A 50 foot wide external, circumferential buffer area shall be provided from all perimeter property lines and existing road right-of-way lines. No buildings or parking facilities shall be permitted in this buffer area. A calculation showing the total buffer area shall be provided. Twenty-five percent (25%) of this buffer area may be included in the "open space" required by § 375-80.AAA(3)(b) above.

(d) Streets or portions thereof that area proposed to be constructed within a Residential Housing Community shall be privately owned and maintained. Additionally, the streets shall be constructed to Township standards in accordance with § 320-30 of the Hamiltonban Township Subdivision and Land Development Ordinance.

(e) All residential, nonresidential, and commercial buildings constructed within a Residential Housing Community shall be accessed from the internal street system. That is, no individual building or parking lot access shall be permitted directly from an existing state or Township road.

(f) Nonresidential and residential areas of the Residential Housing Community shall be linked through sidewalks or other pedestrian trails. Direct pedestrian access shall be provided to the principal entrance of each principal building. Sidewalks constructed along the streets in a Residential Housing Community shall be constructed in accordance with § 320-38 of the Hamiltonban Township Subdivision and Land Development Ordinance.

(g) A lighting plan, also known as a photometric plan, shall be required with the submission of the Land Development Plans for a Residential Housing Community. Such plan shall demonstrate adequate lighting levels on site and no offensive light encroachment off site. The standards set for in Section § 375-41.F apply.

(h) Hiker/biker trails shall be provided to enhance physical fitness and encourage exercise. Such trails shall be a minimum width of six (6) feet and shall have activity stations, benches, and other amenities.

(i) Parking Requirements

[1] For residential uses, 2.5 parking spaces (may include garage and off-street driveway spaces) for each dwelling unit shall be provided.

[2] The total number of parking spaces that are required to serve the nonresidential uses of a Residential Housing Community shall be a total of one (1) parking space for each six (6) dwelling units of such development, unless:

[a] a reduced number is deemed sufficient by the Board of Supervisors in connection with approving a land development for the development, and

[b] if required by the Board of Supervisors, land of sufficient area to construct the number of spaces by which the required parking was reduced is set aside for such parking spaces in the event that the initially-reduced number of spaces is deemed by the board of Supervisors to be insufficient to satisfy parking needs.

[3] Parking spaces for nonresidential uses shall be subject to the following additional standards.

(a) Each such parking space shall be conveniently located to the nonresidential use that it is intended to serve.

[b] If the Residential Housing Community is to be constructed in phases, the total number of parking spaces required to serve all nonresidential uses of the overall development also may be constructed in phases, provided that:

[1] a sufficient number of parking spaces is installed with each phase to serve the nonresidential uses of such phase and any prior phase(s), and

[2] upon completion of the final phase of such development, the total number of parking spaces for nonresidential uses required under this section is satisfied (as reduced by the Board of Supervisors, if applicable).

(j) The following uses shall be permitted as part of a Residential Housing Community and shall be subject to the dimensional standards set forth in § 375-80.AAA(2) above.

[1] Single-family detached dwellings.

[2] Single-family semi-detached dwellings.

[3] Recreational and cultural facilities for the sole use of the residents of the Residential Housing Community and their guests, including but not limited to clubhouses, community centers, lounges, bars, ballrooms, libraries, places of worship, swimming pools, tennis courts, shuffleboard courts, bocce courts, pickle ball, fitness centers, walking paths, golf putting greens and riving areas.

[4] Personal care, assisted living, and/or nursing (skilled) care facilities that provide for a continuum or care for those residents of the community who wish to stay in the community in declining health. For the purposes of density calculation, every eight (8) beds in a personal care, assisted living, or skilled care facility shall equal one (1) equivalent dwelling unit.

[5] Accessory buildings and uses that are located within the Residential Housing Community and are customarily incidental to any of the above permitted uses.

[6] Public utilities, water facilities, and public sewer facilities. Such utilities and facilities may serve areas outside of the Residential Housing Community.

(k) Corner Lot Front Yards: Notwithstanding, a corner lot in a Residential Housing Community shall be deemed to have only one front yard. If a driveway that serves the corner lot is located in a yard that could be deemed a front yard, then the yard with the driveway shall be deemed the front yard and any other yard that could have been a front yard shall be deemed a side yard.

SECTION 3: TEXT AMENDMENT

Article XXII shall be amended by adding Section 375-108A to read as follows.

§ 375-108A. Conditional Use Hearings

The Board of Supervisors shall conduct hearing and make decisions regarding Conditional Use applications in accordance with the following requirements.

A. Public notice shall be given and written notice shall be given to the owner(s) of the subject land parcel(s), the applicant(s), the Zoning Officer, and all adjacent property owners to the subject land parcel(s), and any person who has made a written request for the same within fifteen (15) days of the scheduled hearing. Written notices shall be given at such time and in such manner as prescribed by the rules of the Board of Supervisors. In addition to the written notice provided for herein, a sign shall be conspicuously posted on the affected property at least one (1) week prior to a scheduled hearing date. Such sign(s) shall bear on its face, at a minimum, the name of the hearing body, the time and place of the hearing, and a phone number to contact the Zoning Officer to obtain additional information.

B. The Board of Supervisors may prescribe reasonable fees with respect to Conditional Use hearings before the Board of Supervisors. Fees for said hearings may include notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Board of Supervisors, expenses for engineering, architectural or other technical consultants or expert witness costs.

C. The first hearing before the Board of Supervisors or hearing officer shall be commenced within sixty (60) days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the Board of Supervisors or hearing officer shall be held within forty-five (45) days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his or her case-in-chief within one hundred (100) days of the first hearing. Upon the request of the applicant, the Board of Supervisors or hearing officer shall ensure that the applicant receives at least seven (7) hours of hearings within the one hundred (100) days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within one hundred (100) days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his or her case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and Hamiltonban Township, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.

D. The hearings shall be conducted by the Board of Supervisors, or the Board of Supervisors may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Board of Supervisors. However, the appellant or the applicant, as the case may be, in addition to Hamiltonban Township, may, prior to the decision of the hearing waive decision or findings by the Board of Supervisors and accept the decision or findings of the hearing officer as final.

E. The parties to the hearing shall be the any person affected by the application who has made timely appearance of record before the Board of Supervisors, and any other person including civic or community organizations permitted to appear by the Board of Supervisors. The Board of Supervisors shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board of Supervisors for that purpose.

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

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

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

I. The Board of Supervisors, or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and Hamiltonban Township. The cost of the original transcript shall be paid by the Board of Supervisors if the transcript is ordered by the Board of Supervisors or hearing officer, or shall be paid by the person appealing from the decision of the Board of Supervisors if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

J. The Board of Supervisors or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

K. The Board of Supervisors or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before Board of Supervisors or hearing officer. Where 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 Municipalities Planning Code 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.

L. If the hearing is conducted by a hearing officer, and there has been no stipulation that his or her decision or findings are final, the Board of Supervisors shall make his or her report and recommendations available to the parties within forty-five (45) days and the parties shall be entitled to make written representations thereon to the Board of Supervisors prior to final decision or entry of findings, and the Board of Supervisors' decision shall be entered no later than thirty (30) days after the report of the hearing officer.

M. Where the Board of Supervisors fails to render the decision within the period required by this subsection, or fails to commence, conduct or complete the required hearing as provided in subsection C of this Section, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board of Supervisors to meet or render a decision as hereinabove provided, the Board of Supervisors shall give public notice of said decision within ten (10) days from the last day the Board of Supervisors could have met to render a decision in the same manner as provided in Subsection A of this Section. If the Board of Supervisors shall fail to provide such notice, the applicant may do so. Nothing in this Subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

N. 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 or her not later than the day following its date. To all other persons who have filed their name and address with the Board of Supervisors not later than the last day of the hearing, the Board of Supervisors 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.

SECTION 4: TEXT AMENDMENT

Article XXII shall be amended by adding Section 375-111A to read as follows.

§ 375-111A. Conditional Uses.

A. Where the Board of Supervisors, in this chapter, has stated Conditional Uses to be granted or denied by the Board of Supervisors, pursuant to express standards and criteria, the Board of Supervisors shall hear and decide requests for such Conditional Uses in accordance with such standards and criteria.

B. Applications for any Conditional Use shall be made to the Board of Supervisors through the Zoning Officer. The Zoning Officer shall concurrently refer the matter to the Township Planning and Zoning Commission for a report thereon as specified in this chapter.

C. All applications shall include the following.

1. The submittal of an Application for a hearing before the Board of Supervisors..

2. A plan drawing including the same elements as those required in § 375-115C of this chapter.

3. Information of sufficient detail to evaluate conformance with the standards specified in the pertinent section of this chapter.

D. In granting a Conditional Use, the Board of Supervisors may attach such reasonable conditions and safeguards in addition to those expressed in the Zoning Ordinance as it may deem necessary to implement the purposes of the Municipalities Planning Code, the Zoning Ordinance and to anticipate and ameliorate any negative impacts on the health, safety, and welfare of citizens residing nearby as well as the general public.

E. In considering Conditional Uses, the Board of Supervisors shall utilize the following procedures.

1. The Board of Supervisors' decisions to approve or deny a permit for a special exception use shall be made only after public notices and hearing as set forth in § 375-108A of this chapter. Such permit shall apply only after public notice and hearing.

2. No permit shall be granted by the Board of Supervisors for any Conditional Use until said board has received and considered advisory reports thereon received from the Township Planning and Zoning Commission with respect to the location of such use in relation to growth patterns within the Township, and wherever appropriate, with reference to the adequacy of the site plan design and the arrangement of buildings, driveways, access points, parking areas, off-street loading spaces, signage, lighting and any other pertinent features of a site plan.


3. The Township Planning and Zoning Commission and Zoning Commission shall have thirty (30) days from the receipt of an Application for Hearing within which to file a report thereon. In the event that the Township Planning and Zoning Commission shall fail to file its report within thirty (30) days, such Application shall have deemed to have received a neutral review from said agency. The Township Planning and Zoning Commission may have representation at the public hearing held by the Board of Supervisors.

SECTION 5: EFFECTIVE DATE

This Ordinance shall be effective on and as of January 18, 2022.

ENACTED AND ORDAINED into an Ordinance this 18th day of January 2022.

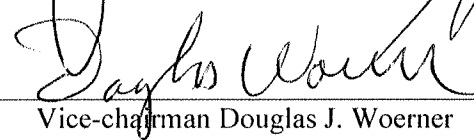
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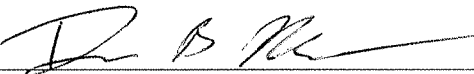

Nina Garretson
Secretary/Treasurer


(SEAL.)

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