



# Benner Township

## Rural Occupation Checklist

Please complete the following questions below by checking the appropriate boxes and filling in the requested information. Additional information requested can be provided on a separate attached sheet.

1. \_\_\_\_\_ How many buildings are to be used for the Rural Occupation?  
(number)
2. \_\_\_\_\_ How many full-time employees are employed at the home other than members  
(number) of the immediate family residing in the dwelling?
3. \_\_\_\_\_ How many part-time employees are employed at the home other than members  
(number) of the immediate family residing in the home.
4.   Are items offered for sale as part of the home occupation? If yes, check the  
Yes No appropriate box below:  
 These items are produced on the premises  
 These items are purchased and offered for resale.
5.   Do delivery vehicles for supplies and material service the Rural Occupation?  
Yes No If Yes, estimated number of deliveries each month? \_\_\_\_\_ (number)
6.   Are window displays or advertising needed?  
Yes No
7.   Is a sign needed? If so, please provide a drawing of the proposed sign.  
Yes No
8.   Is there any outdoor storage of material related to the Rural Occupation?  
Yes No
9.   Are other areas used for the Rural Occupation, such as garage, outbuilding,  
Yes No etc. If so, please explain.
10.   Will exterior alterations to the dwelling be done to accommodate the  
Yes No Rural Occupation?
11.   Can enough parking be provided for the Rural Occupation? If so, please  
Yes No explain.
12. \_\_\_\_\_ How many customer visits are expected each month (average).  
(number)

APPLICATION REQUEST FOR  
CONDITIONAL USE HEARING BEFORE  
BENNER TOWNSHIP SUPERVISORS

Today's Date: \_\_\_\_\_

Filing fee is \$300.00. Payable to "Benner Township Supervisors."

**A. Applicant Information:**

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone No.: \_\_\_\_\_ Work Phone: \_\_\_\_\_

**B. Property Information:**

Tax Map No. \_\_\_\_\_ Lot Size: \_\_\_\_\_

Property Location: \_\_\_\_\_

What do you propose to do on the premises? *(Please be specific)*

Are there existing buildings on the property and how many? \_\_\_\_\_

What size(s) are the existing buildings? \_\_\_\_\_

Do you propose to build a building, if so what size? \_\_\_\_\_

Are you proposing a parking lot on the parcel? If so, what size: \_\_\_\_\_

Approximately how many cars can be parked in this lot? \_\_\_\_\_

Approximately how many employees do you hope to employ? \_\_\_\_\_

C. Additional Comments You Wish to Give to the Board: (additional sheets may be attached)

D. Certification by Applicant:

*Waiver of Stenographic Record*

I agree to waive the requirements of Section 908(7) of the Penna. Municipalities Planning Code which requires that a stenographic record of the proceedings be made, and consent that a record of the proceedings be prepared from a tape recording of the hearing and the recording secretary's minutes.

\_\_\_\_\_ Date: \_\_\_\_\_

I hereby certify that all of the above statements and the statements contained in any papers or plans submitted herewith are true to the best of my knowledge and belief.

\_\_\_\_\_ Date: \_\_\_\_\_

BELOW FOR OFFICE USE ONLY

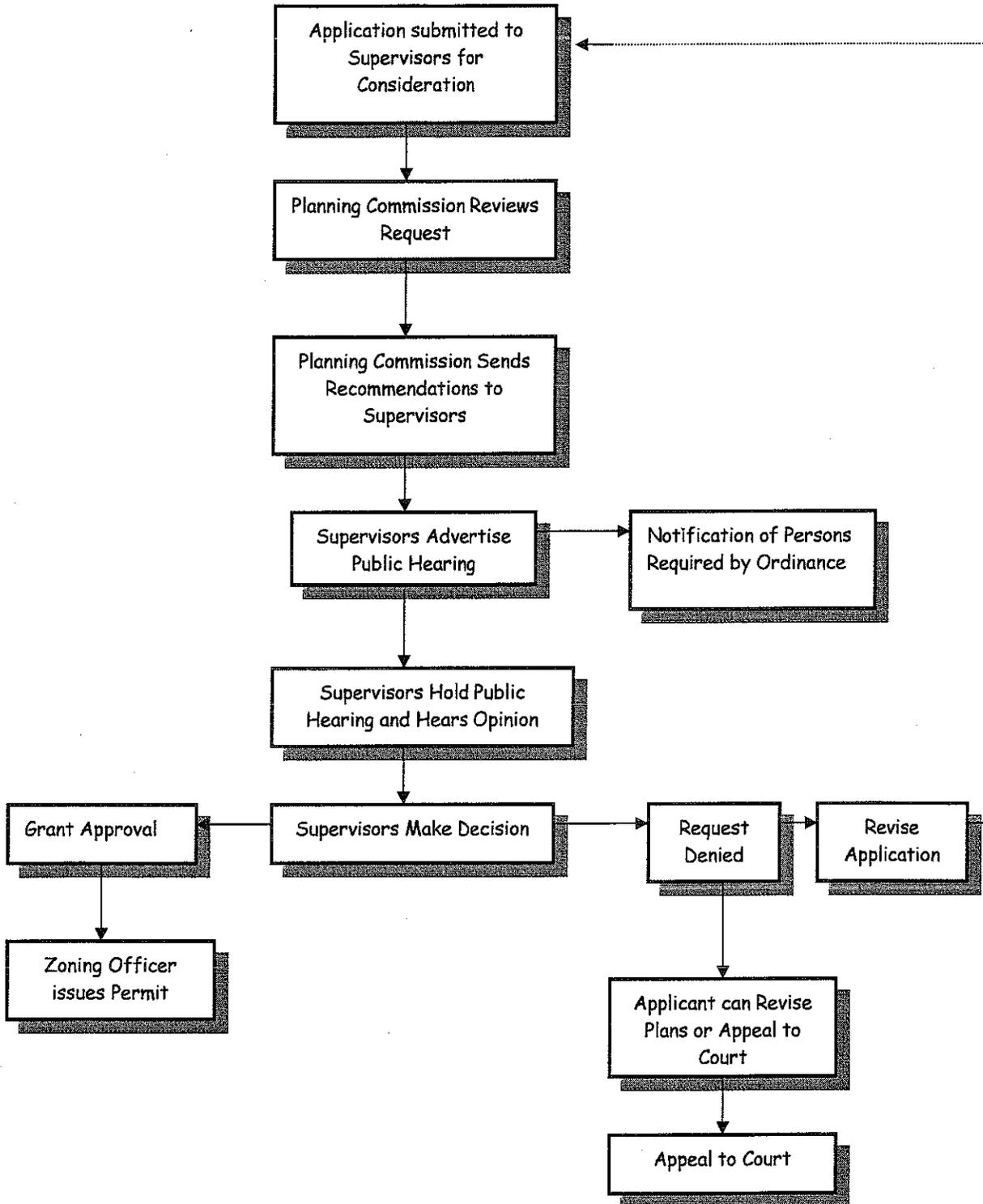
Date Received: \_\_\_\_\_ By Whom: \_\_\_\_\_

Date Paid: \_\_\_\_\_ Check No.: \_\_\_\_\_ Amount: \_\_\_\_\_

Advertisement Date: \_\_\_\_\_ PC Review Date: \_\_\_\_\_

Supervisor's Hearing Date: \_\_\_\_\_

PROCEDURE FOR CONDITIONAL USE APPLICATION  
Benner Township, Centre County



# Conditional Use Procedures and Requirements

*(taken from Benner Township Zoning Ordinance No. 104)*

## Section 905. Conditional Uses

**905.1 Filing of Conditional Use** – For any use permitted by conditional use, a conditional use must be obtained from the Board of Supervisors. Applications for Conditional Use shall be submitted **no earlier than four (4) business days** (excluding holidays, Saturdays and Sundays) prior to a regularly scheduled meeting of the Supervisors at which time the application and accompanying fee must be received from the applicant. Applications submitted by postal service or other carrier service must be received by the Township during the specified timeframe above. Incomplete applications shall not be accepted by the Township at any other time. The Supervisors will acknowledge receipt of such application at its regular meeting and then refer such application to the Township Planning Commission for review and recommendation. In addition to the information required on the zoning permit application, the conditional use application must show:

- A. Ground floor plans and elevations of proposed structures.
- B. Names and addresses of adjoining property owners, including properties directly across a public right-of-way.
- C. A scaled drawing (site plan) of the site including finished topography with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of this Ordinance, including competent evidence demonstrating a substantial likelihood of compliance with the requirements of Article 5 of this Ordinance; and,
- D. A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this Ordinance, including competent evidence demonstrating a substantial likelihood of compliance with the requirements of Article 5 of this Ordinance;

**905.2 General Criteria** – Each applicant must demonstrate compliance with the following:

- A. The proposed use shall be consistent with the purpose and intent of the Zoning Ordinance and such use is specifically authorized as a use by conditional use within the Zone wherein the applicant seeks approval;
- B. The proposed use shall not detract from the use and enjoyment of adjoining or nearby properties;
- C. The proposed use will not substantially change the character of the subject property's neighborhood nor adversely affect the character of the general neighborhood, the conservation of property values, the health and safety of residents or workers on adjacent properties and in the neighborhood, nor the reasonable use of neighboring properties. The use of adjacent properties shall be adequately safeguarded;
- D. Adequate public facilities are available to serve the proposed use and the proposed use shall not have an adverse effect upon the logical and economic extension of such public services and facilities, (e.g., schools, parks and recreation, fire, police and ambulance protection, sewer, water and other utilities, vehicular access, etc.);
- E. Such use shall be sized, location and designed so that no undue traffic congestion or safety hazards will be created. The surrounding streets shall be sufficient to accommodate any expected increase in traffic generated by the proposed use. There shall be control of development of highway frontage so as to limit the number of points for vehicular access and consideration of their location with regard to vehicular and pedestrian safety. Where appropriate and practicable, joint use of shared access drives along major highways shall be encouraged.
- F. The applicant shall establish by credible evidence that the proposed conditional use shall be in and of itself properly designed with regard to internal circulation, off-street parking, off-street loading, landscaping, screening, buffering, and all other elements or proper design as specified in this Ordinance and any other governing law or regulation.

- G. For development within a floodplain, that the application complies with those requirements listed in the Township Floodplain Ordinance;
- H. The proposed use shall comply with those criteria specifically listed for the use in Article 4 of this [Zoning] Ordinance. In addition, the proposed use must comply with all other applicable regulations contained in this Ordinance; and,
- I. The proposed use will not substantially impair the integrity of the Nittany Valley Region Comprehensive Plan.

**905.3 Conditions** – The Board of Supervisors, in approving conditional use applications, may attach conditions considered necessary to protect the public welfare and the purposes listed above, including conditions which are more restrictive than those established for other uses in the same Zone. These conditions shall be enforceable by the Zoning Officer, and failure to comply with such conditions shall constitute a violation of this Ordinance and be subject to the penalties described in this Article.

**905.4 Site Plan Approval** – Any site plan presented in support of the conditional use pursuant to Section 905.1 shall become an official part of the record for said conditional use. Approval of any conditional use will also bind the use in accordance with the submitted site plan; therefore, should a change in the site plan be required as part of the approval of the use, the applicant shall revise the site plan prior to the issuance of a zoning permit. Any subsequent change on the subject property not reflected on the originally approved site plan, shall require the obtainment of another conditional use approval.

**905.5 Hearing Procedures**

- A. Before voting on the approval of a conditional use, the Board of Supervisors shall hold a public hearing thereon, pursuant to public notice. If, after any public hearing held upon an application, the proposed application is revised, the Board of Supervisors or hearing officer shall hold another public hearing, pursuant to public notice, before proceeding to vote on the application. As an alternative the Board of Supervisors may appoint any one of its members or an independent attorney to act as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Board however, the appellant or the applicant, as the case may be, in addition to the municipality, may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final;
- B. The Board of Supervisors shall submit each such application to the Township Planning Commission at least thirty (30) days prior to the hearing on such application to provide the Township Planning Commission an opportunity to submit recommendations;
- C. Public notice as defined herein, and written notice shall be given to the applicant, the Zoning Officer, such other persons as the Board of Supervisors shall designate by Ordinance, and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by Ordinance or, in the absence of Ordinance provision, by rules of the Board of Supervisors. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing and will exhibit the nature, date, time, and location of the hearing;
- D. The first hearing before the Board or hearing officer shall commence 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 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 case-in-chief within one hundred (100) days of the first hearing. Upon the request of the applicant, the Board or hearing officer shall assure that the applicant receives at least seven (7) hours of hearing within the one hundred (100) days, including the first hearing. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and municipality, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal;
- E. The Board of Supervisors may prescribe reasonable fees with respect to hearings. Fees for said hearings may include compensation for the secretary, notice and advertising costs, and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses, expenses for engineering, architectural, or other technical consultants, or expert witness costs;

- F. The parties to the hearing shall be the Township, any person affected by the application who has made timely appearance of record before the Board of Supervisors or hearing officer, and any other person, including civic or community organizations permitted to appear by the Board of Supervisors or hearing officer. The Board of Supervisors or hearing officer 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 or hearing officer for that purpose;
- G. The Chairman or Acting Chairman of the Board of Supervisors or hearing officer 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;
- H. 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;
- I. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded;
- J. The Board of Supervisors or hearing officer may keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board of Supervisors. 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 the decision of the Board of Supervisors or hearing officer 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;
- K. The Board of Supervisors or hearing officer shall not communicate, directly or indirectly, with any party or his/her representative 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/her representative unless all parties are given an opportunity to be present;
- L. The Board of Supervisors or the hearing officer, as the case may be, shall render a written decision or, when on decision is called for, make written findings on the conditional use application within forty-five (45) days after the last hearing before the Board of Supervisors. However, the applicant and the municipality, may, prior to the decision of the hearing, waive the decision or findings by the Board of Supervisors and accept the decision or findings of the hearing officer as final. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefore. Conclusions based on any provisions of this act 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. If the hearing is conducted by the hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make the hearing officer's 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 prior to final decision or entry of findings, and the Board's decision shall be entered no later than thirty (30) days after the report of the hearing officer.
- M. Where the Board of Supervisors or hearing officer fails to render a decision within the period required by this subsection, or fails to commence the required hearing within sixty (60) days from the date of the applicant's request for a hearing, or fails to complete the hearing no later than one hundred (100) days after completion of the applicant's case in chief, unless extended for good cause upon application to the Court of Common Pleas, 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 or hearing officer to meet or render a decision as hereinabove provided, the Board of Supervisors or hearing officer shall give public notice of the decision within ten (10) days from the last day it could have met to render a decision in the same manner as required by the public notice requirements of this act. If the Board of Supervisors or hearing officer shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the applicant to appeal the decision to a court of competent jurisdiction; and,

- 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/her no later than the day following its date. To all other persons who have filed their name and address with the Board not later than the last day of 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.

**905.6 Time Limitation:**

- A. For uses that do not require subsequent subdivision and/or land development approval:
1. If a conditional use is granted, the necessary zoning permit shall be secured and the authorized action begun within six (6) months after the date when the conditional use is finally granted, and the building or alteration, as the case may be, shall be completed within two (2) years of said date. For good cause, the Board of Supervisors may upon application in writing, state the reasons therefore and extend either the six (6) months or two (2) year period;
  2. Should the appellant or applicant fail to obtain the necessary periods within said six (6) months period, or having obtained the permit should he fail to commence work thereunder within such six (6) months period, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn, or abandoned his conditional use application, and all approvals granted to him shall be deemed automatically rescinded by the Board of Supervisors; and,
  3. Should the appellant or applicant commence construction or alteration within said six (6) months period, but should he fail to complete such construction or alteration within said two (2) year period, the Board of Supervisors may, upon ten (10) days notice in writing, rescind or revoke the conditional use, if the Board of Supervisors finds that no good cause appears for the failure to complete within such two (2) year period, and if the Board of Supervisors further finds that conditions have so altered or changed in the interval since the granting of the conditional use, that revocation or rescission of the action is justified.
- B. For uses that require subsequent subdivision and/or land development approval:
1. If a conditional use is granted, the applicant shall be required to submit the subsequent subdivision and/or land development application within twelve (12) months after the date when the conditional use is finally granted, and the applicant shall have secured a zoning permit for such use within five (5) years of said date. For good cause, the Board of Supervisors may upon application in writing, state the reasons therefore and extend either the twelve (12) months or five (5) year period;
  2. Should the appellant or applicant fail to submit the subsequent subdivision and/or land development application within twelve (12) months period, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn or abandoned his conditional use application, and all approvals granted to him shall be deemed automatically rescinded by the Board of Supervisors; and,
  3. Should the appellant or applicant submit the subsequent subdivision and/or land development application within said twelve (12) months period, but should he fail to secure a zoning permit for such use within said five (5) year period, the Board of Supervisors may, upon ten (10) days notice in writing, rescind or revoke the granted conditional use approval, if the Board of Supervisors finds that no good cause appears for the failure to secure a zoning permit within such five (5) year period, and if the Board of Supervisors further finds that conditions have so altered or changed in the interval since the granting of the conditional use, that revocation or rescission of the action is justified.
- C. As an alternative to the preceding requirements of Section 905.6.A. and 905.6.B., an applicant can request, as part of the original conditional use application before the Board of Supervisors, the granting of a timetable associated with the request which would supersede the deadlines imposed in Section 905.6.A-B. In so doing, the applicant must demonstrate that the times requested are logically related to normal and expected progress of the project. In approving a timetable under this Section, the Board of Supervisors must establish and bind a definite time-frame for (1) application for subdivision and/or land development approval if applicable, (2) issuance of a zoning permit, and (3) completion of construction of the project.