

## CHAPTER 22

### SUBDIVISION AND LAND DEVELOPMENT

#### PART 1

##### SHORT TITLE, PURPOSE, INTERPRETATION AND AUTHORITY

- §22-101. Short Title; Effect on Other Provisions; When Effective
- §22-102. Purpose
- §22-103. Interpretation
- §22-104. Authority
- §22-105. Abrogation
- §22-106. Repealer; Reference to Prior Provisions
- §22-107. Severability

#### PART 2

##### DEFINITIONS

- §22-201. Interpretation
- §22-202. Definition of Terms
- §22-203. List of Definitions

#### PART 3

##### SUBDIVISION AND/OR LAND DEVELOPMENT CONTROL

- §22-301. Compliance Required
- §22-302. Approval Required
- §22-303. Unit or Condominium Subdivision and/or Land Development
- §22-304. Submission for Review
- §22-305. Borough Liability

#### PART 4

##### PROCEDURE

- §22-401. Table 1: Submission Requirements Overview
- §22-402. Preapplication Data and Sketch Plan for Major Subdivision and/or Land Development (Voluntary)
- §22-403. Submission of Plan; Time Limits
- §22-404. Simple Subdivision Application Form and Fee

## SUBDIVISION AND LAND DEVELOPMENT

- §22-405. Major Subdivision and/or Land Development: Preliminary Application Form and Fee
- §22-406. Minor and Major Subdivision and/or Land Development: Final Application Form and Fee
- §22-407. Other Applicable Provisions

### PART 5

#### PLAN REQUIREMENTS

- §22-501. Sketch Plan for Major Subdivision and/or Land Development (Voluntary)
- §22-502. Site Conditions Map
- §22-503. Context Report
- §22-504. Sinkhole Assessment
- §22-505. Project Information Sheet
- §22-506. Preliminary Plat
- §22-507. (Reserved)
- §22-508. Sewage Disposal Report
- §22-509. Building Elevations and Other Architectural Drawings
- §22-510. Preliminary Grading Plan
- §22-511. Preliminary Stormwater Management Plan
- §22-512. Traffic Impact Study Type A
- §22-513. Traffic Impact Study Type B
- §22-514. (Reserved)
- §22-515. Conceptual Landscape Plan
- §22-516. Additional Approvals Being Sought
- §22-517. Request for Waiver or Modification
- §22-518. Archaeological/Historical Resources Study and Report
- §22-519. Wetlands Study and Report
- §22-520. Existing Deed Restrictions and Protective Covenants
- §22-521. Final Plat
- §22-522. (Reserved)
- §22-523. Final Water Supply Report
- §22-524. Floodplain Management Plan (if Applicable)
- §22-525. Final Grading Plan
- §22-526. Final Stormwater Management Plan
- §22-527. Final Landscape Plan
- §22-528. Erosion and Sedimentation Control Plan
- §22-529. Written Easements or Deeds to be Granted
- §22-530. Agreement for Completion of Public Improvements and Dedication of Streets
- §22-531. Certificates of Approval from Other Agencies
- §22-532. Developer's Agreement
- §22-533. Statement of Ownership
- §22-534. Legal Mechanism for Management of Common Lands
- §22-535. Guaranty of Installation of Improvements

- §22-536. Inspection and Engineering Fees
- §22-537. Final Submission of Reproducible Original of the Plans
- §22-538. As-Built Drawings

## PART 6

### DESIGN STANDARDS

- §22-601. Interpretation of Standards; Additional Conditions; Modifications
- §22-602. Land Use Requirements
- §22-603. Street Patterns
- §22-604. Criteria for Streets
- §22-605. Alleys, Driveways and Easements
- §22-606. Blocks
- §22-607. Lots and Lot Sizes
- §22-608. Sanitary Sewage Disposal
- §22-609. Water Supply
- §22-610. (Reserved)
- §22-611. Easements and Utilities
- §22-612. Other Public Facilities and Monuments
- §22-613. Recreation
- §22-614. Improvements and Specifications
- §22-615. Design Standards and Improvements in Designated Floodplain Districts
- §22-616. Stormwater Management

## PART 7

### ADMINISTRATION

- §22-701. Jurisdiction
- §22-702. Compliance Required; Scope; Nonliability of Borough
- §22-703. Hardship
- §22-704. Records
- §22-705. Fees
- §22-706. Inspection and Approval of Construction
- §22-707. Easement Required
- §22-708. Contract Required
- §22-709. Improvement Guaranty
- §22-710. Procedure on Acceptance of Streets and Improvements by Borough
- §22-711. Maintenance Guaranty
- §22-712. Enforcement
- §22-713. Violations and Penalties
- §22-714. Appeals

SUBDIVISION AND LAND DEVELOPMENT

**PART 8**

**PENALTIES/SEVERABILITY**

- §22-801. Penalties**
- §22-802. Severability**

**PART 1**

**SHORT TITLE, PURPOSE, INTERPRETATION AND AUTHORITY**

**§22-101. Short Title; Effect on Other Provisions; When Effective.**

This chapter shall be known and may be cited as the “Mechanicsburg Subdivision and Land Development Ordinance.” Said chapter shall not supersede any other related state or federal provisions. The effective date of the chapter shall be upon its adoption.

(Ord. 1113, 1/19/2010)

**§22-102. Purpose.**

These regulations are established for the following purposes:

- A. To assist orderly, efficient, and integrated development of land.
- B. To assure sites suitable for building purposes and human habitation.
- C. To provide for the coordination of existing streets and public utilities with new facilities.
- D. To provide for adequate space for traffic, recreation, light, and air.
- E. To provide for efficient and orderly extension of community services and facilities at minimum cost and maximum convenience.
- F. To promote and to foster the community development goals and objectives, including quality infill, replacement, redevelopment and/or adaptive reuse, as identified in the Mechanicsburg Borough Comprehensive Plan, as amended.
- G. To provide for the proper distribution of population, thereby creating conditions favorable to the health, safety, morals, and general welfare of the citizens of the Borough.
- H. To provide uniform standards and procedures for the administration and processing of all subdivision and/or land development plans.
- I. To guide the future growth and development of the Borough in accordance with the Comprehensive Plan.
- J. To regulate the subdivision and/or land development of land within any designated floodplain district in order to promote the general health, welfare, and safety of the community.

## SUBDIVISION AND LAND DEVELOPMENT

- K. To require that each subdivision and/or land development of a lot in flood-prone areas complies with the provisions of Chapter 8 of the Mechanicsburg Borough Code relating to floodplains.
- L. To protect individuals from buying lands which are unsuitable for use because of flood by prohibiting the improper subdivision and/or land development of unprotected lands within a designated floodplain.
- M. To provide for the management of stormwater in coordination with Chapter 26 of the Mechanicsburg Borough Code relating to water.
- N. To effect any additional purposes provided for in Article V of the Pennsylvania Municipalities Planning Code.
- O. To assure that adequate easements and rights-of-way are provided for drainage facilities, public utilities, streets and other public improvements.

(Ord. 1113, 1/19/2010)

### **§22-103. Interpretation.**

In interpreting and applying the provisions of this chapter, they shall be held to be minimum requirements for the promotion of the public health, safety, comfort, convenience, and general welfare of the Borough. Where provisions of this chapter impose greater restrictions than those of any statute, other ordinance, restriction, or regulation, the provisions of this chapter shall control. In interpreting the language of this chapter to determine the extent of the restriction upon the use of property, the language shall be interpreted, where doubt exists as to the intended meaning of the language written and enacted by Mechanicsburg Borough, in favor of the landowner and/or developer and against any implied extension of the restriction.

(Ord. 1113, 1/19/2010)

### **§22-104. Authority.**

- A. The Borough Council shall have the authority to approve or disapprove all preliminary and final subdivision and/or land development plan applications as required herein.
- B. The Borough Planning Commission is hereby designated as the agency which shall review and make recommendations on all subdivision and/or land development plan applications as required herein, prior to action on same by the Borough Council.

(Ord. 1113, 1/19/2010)

**§22-105. Abrogation.**

It is not intended by this chapter to repeal, abrogate, annul, other than enumerated in §22-106 herein, or interfere with any existing ordinance or enactment or with any rule, regulation, or permit adopted or issued. If this chapter imposes greater restrictions upon the use of buildings or land, then the provisions of this chapter shall control.

(Ord. 1113, 1/19/2010)

**§22-106. Repealer; Reference to Prior Provisions.**

Ordinance 830, as amended, is hereby expressly repealed; provided, further that nothing in this chapter shall be construed to affect any suit or proceeding pending in any court, or any rights acquired or liability incurred, or any permit issued or approval granted or any cause or causes of action arising prior to the enactment of this chapter. All ordinances or parts of ordinances and all resolutions or parts of resolutions which are inconsistent herewith by virtue of references or incorporation of requirements contained in the preexisting Subdivision and Land Development Ordinance, as amended, shall, as nearly as possible, be construed to reference this chapter.

(Ord. 1113, 1/19/2010)

**§22-107. Severability.**

Should any section or provision of this chapter be declared by the courts to be unconstitutional or invalid, such a decision shall not affect the validity of this chapter as a whole or any part thereof other than the part declared to be unconstitutional or invalid.

(Ord. 1113, 1/19/2010)





## PART 2

### DEFINITIONS

#### **§22-201. Interpretation.**

As used in these regulations, words expressed in the singular include their plural meanings, and words expressed in the plural include their singular meanings. The word “person” includes a corporation, unincorporated association, and a partnership or other legal entity as well as an individual. The words “building” and “street” are used generally and shall be construed as if followed by the phrase “or part thereof.” The word “building” includes “structure.” The words “should” and “may” are permissive; the words “shall” and “will” are mandatory, subject to the provisions of §22-702 hereof.

(Ord. 1113, 1/19/2010)

#### **§22-202. Definition of Terms.**

Unless otherwise expressly stated, the following words shall, for the purposes of this chapter, have the meanings herein indicated. Words used in this chapter and not defined herein but defined in Chapter 8 of the Mechanicsburg Borough Code relating to floodplains, Chapter 26 of the Mechanicsburg Borough Code relating to water or Chapter 27 of the Mechanicsburg Borough Code relating to zoning shall have the meanings therein indicated.

(Ord. 1113, 1/19/2010)

#### **§22-203. List of Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**ALLEY** — a public thoroughfare, other than a minor street, which affords a secondary means of access to an adjoining lot and is not intended for general traffic circulation.

**APPLICANT** — a landowner or developer, as hereinafter defined, including his heirs, successors and assigns, who has filed an application as part of this chapter.

**APPLICATION FOR DEVELOPMENT** — every application, whether preliminary, tentative or final, required to be filed and approved prior to subdividing land or the start of construction or development, including but not limited to an application for a building permit, for the approval of a subdivision plat or plan, or for the approval of a development plan.

## SUBDIVISION AND LAND DEVELOPMENT

**BLOCK** — an area bounded by streets, rights-of-way, streams or other similar natural features.

**BOROUGH** — the Borough of Mechanicsburg, Cumberland County, Pennsylvania.

**BOROUGH COUNCIL** — the governing body of Mechanicsburg Borough, Cumberland County, Pennsylvania.

**BUILDING** — any structure affixed to the land, having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of persons, animals, or property, including covered porches or bay windows and chimneys.

**BUILDING SETBACK LINE** — the line within a lot defining the required distance permitted between any principal or accessory structure from the adjacent front, side and/or rear lot line(s).

**CARTWAY** — the portion of a right-of-way, street or alley which is improved, designated, or intended for vehicular use.

**CLEAR SIGHT TRIANGLE** — an area of unobstructed vision at the intersection between one or more of the following: a street, alley, driveway and/or access drive locations to a lot. It is defined by lines of sight between points at a given distance from the intersection of the right-of-way lines associated with said locations.

**COMMISSION** — the Planning Commission of the Borough of Mechanicsburg, Pennsylvania.

**CROSSWALK** — part of a right-of-way or privately owned land, intended and/or designated to provide pedestrian travel across a right-of-way.

**CUL-DE-SAC** — a street intersecting another at one end and terminating at the other in a vehicular turnaround.

**CUT** — an excavation; the difference between a point on the original ground and a designated point of lower elevation on the final grade; also, the material removed in excavation.

**DESIGNATED FLOODPLAIN DISTRICT** — see Chapter 8 of the Mechanicsburg Borough Code relating to floodplains.

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

**DEVELOPMENT** — any man-made change to improved or unimproved real estate including but not limited to buildings or other structures, filling, grading,

paving, excavation, mining, dredging or drilling operations and the subdivision of land and/or land development.

**DRAINAGE FACILITY** — any ditch, swale, gutter, culvert, storm sewer, or other structure designed, intended, or constructed for the purpose of diverting surface waters from or carrying surface waters off streets, public rights-of-way, parks, recreational areas, or any part of any subdivision and/or land development or contiguous land areas.

**DRIVEWAY** — a privately owned, constructed, and maintained vehicular access from a street to a principal building(s) or an accessory building(s) which does not meet the definition of a “street,” “access drive,” “alley” or the like.

**DWELLING** — a building or structure designed for occupancy or living quarters for one or more persons or families.

- A. **MOBILE HOME** — a transportable, single-family detached dwelling intended for permanent occupancy, contained in one unit or 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. For floodplain management purposes, this definition includes park trailers, travel trailers, and other similar vehicles located on site for greater than 180 consecutive days.
- B. **MULTIFAMILY** — a building used by two or more families living independently of each other and doing their own cooking, including apartment houses, wherein each dwelling unit or apartment shall contain its own private kitchen and bathing facilities.
- C. **SINGLE-FAMILY, ATTACHED** — a dwelling used for one family but having at least one party wall in common with another dwelling.
- D. **SINGLE-FAMILY, DETACHED** — a building used solely by one family within one dwelling unit surrounded completely by open space on the same lot.
- E. **TWO-FAMILY, DETACHED (DUPLEX)** — one building used by two families, with one dwelling unit arranged over the other.

**DWELLING UNIT** — more than one habitable room used for living and sleeping purposes and having its own kitchen with fixed cooking, refrigeration and plumbing facilities and its own sanitation facilities with bath and toilet fixtures, all arranged for independent occupancy by one family or a single person.

**EASEMENT** — a grant of one or more property rights by the property owner to and/or for use by the public, a corporation, or another person or entity.

## SUBDIVISION AND LAND DEVELOPMENT

**ENGINEER, BOROUGH** — a licensed and registered professional engineer in Pennsylvania designated by the Borough to perform the duties of engineer as herein specified.

**ENGINEER, PROFESSIONAL** — an individual licensed and registered engineer under the laws of the Commonwealth of Pennsylvania to engage in the practice of engineering. A professional engineer may not practice land surveying unless licensed as set forth in P.L. 534, No. 230; however, a professional engineer may perform engineering land surveys.

**EROSION** — the removal of surface materials by the action of natural elements.

**EXCAVATION** — any act by which earth, sand, gravel, rock or any other similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed; it shall include the conditions resulting therefrom.

**FILL** — any act by which earth, sand, gravel, rock or any other material is placed, pushed, dumped, transported, or moved to a new location above the natural surface of the ground or on top of the stripped surface and shall include the conditions resulting therefrom. Fill also can refer to the difference in elevation between a point on the original ground and a designated point of higher elevation on the final grade.

**FLOODPLAIN/FLOODPLAIN AREA** — see Chapter 8 of the Mechanicsburg Borough Code relating to floodplains.<sup>1</sup>

**HALF OR PARTIAL STREET** — a street, generally parallel with and adjacent to a property line, having a lesser right-of-way width than required for improvement and used as a street in accordance with this chapter.

**IMPROVED PUBLIC STREET** — any street for which the Borough, county, or commonwealth has maintenance responsibility and which is paved with an approved hardtop surface.

**IMPROVEMENTS** — those physical additions, installations, and changes required to render land suitable for the use intended, including but not limited to grading, swales, detention/retention basins, paving, curbing, streetlights and signs, fire hydrants, water mains, electric service, gas service, sanitary sewers, storm drains, sidewalks, crosswalks, driveways, culverts, and street shade trees.

**INTERIOR WALK** — a right-of-way for pedestrian use extending from a street into a block or across a block to another street.

**LAND DEVELOPMENT** — any of the following activities:

---

<sup>1</sup> Editor's Note: Original ordinance read "relating to water"; updated during codification to reflect correct subject of Chapter 8.

- A. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
  - (1) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots, regardless of the number of occupants or tenure; or
  - (2) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
- B. A subdivision of land.
- C. Development in accordance with Section 503(1.1) of the Pennsylvania Municipalities Planning Code.<sup>1</sup>

LANDOWNER — the legal or beneficial 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 conditions), a lessee, if he is authorized under the lease to exercise the rights of the landowner, or other person having a proprietary interest in land.

LOT — a designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built as a unit.

LOT AREA — the area contained within the property lines of a lot as shown on a subdivision plan or deed, excluding space within any rights-of-way, but including the area of any easement.

MAJOR SUBDIVISION AND/OR LAND DEVELOPMENT — subdivision of more than five residential lots or units of occupancy with public improvements and/or land development greater than 10,000 square feet; renovation/conversion/expansion of existing buildings/structures for nonresidential and/or mixed-use purposes; or any nonresidential land development.

MANAGER — the Borough Manager appointed by the Borough Council.

MINOR SUBDIVISION AND/OR LAND DEVELOPMENT — subdivision of land into three or more lots or units of occupancy with no public improvements and no land development; subdivision of up to five residential lots or units of occupancy with public improvements and/or land development of greater than 2,500 square feet to less than 10,000 square feet; or renovation/conversion/expansion of existing buildings/structures for nonresidential and/or mixed-use purposes.

---

<sup>1</sup> Editor's Note: See 53 P.S. §10503.

## SUBDIVISION AND LAND DEVELOPMENT

**MUNICIPAL AUTHORITY; AUTHORITY** — the Municipal Authority of the Borough of Mechanicsburg.

**MUNICIPALITY** — the Borough of Mechanicsburg, Pennsylvania.

**ONE-HUNDRED-YEAR FLOOD** — see Chapter 8 of the Mechanicsburg Borough Code relating to floodplains.

**OWNER** — any person having any title or interest whatsoever in any land subdivision and/or land development, as those terms are defined in this section.

**PARK** — a large open space used for recreation. It may include trails and paths, open lawns, recreation fields, and trees.

**PARK COMMISSION** — the Mechanicsburg Recreation Commission.

**PERSON** — an individual(s), partnership(s), copartnership(s), association(s), corporation(s), limited liability company(ies), limited liability partnership(s), and any and all other entities.

**PLAN, CONSTRUCTION IMPROVEMENT** — a plan prepared by a registered engineer or surveyor showing the construction details of streets, drains, sewers, bridges, culverts, and other improvements as required by this chapter.

**PLANNING COMMISSION** — the Mechanicsburg Borough Planning Commission, appointed by the Borough Council in accordance with the Pennsylvania Municipalities Planning Code, Act 247, as amended.<sup>1</sup>

**PLANNING COMMISSION STAFF** — the Borough Engineer, Zoning Officer or other personnel designated by the Borough Manager or Borough Council.

**PLAN, OFFICIAL** — the Comprehensive Plan and/or Development Policy Plan (Master Plan) and/or Future Land Use Plan and/or Ultimate Right-of-Way Plan and/or Official Map or other such plans, or portions thereof, as may be adopted, pursuant to statute, for the area of the municipality in which the subdivision and/or land development is located.

**PLAN, SKETCH** — an informal plan, not necessarily to scale, indicating salient existing features of a tract and its surroundings and the general layout of a proposed subdivision and/or land development for discussion purposes only and not to be presented for approval.

**PLAT, FINAL** — a complete and exact subdivision and/or land development plan prepared for necessary signatures and official recording, as required by statute,

---

<sup>1</sup> Editor's Note: See 53 P.S. §10101 et seq.

with the Cumberland County Recorder of Deeds, defining property rights and proposed streets and other improvements.

PLAT, PRELIMINARY — a tentative subdivision and/or land development plan, in lesser detail than a final plat, showing the salient existing features of a tract and its surroundings and approximate proposed streets and lot layout as a basis for consideration prior to preparation of a final plat.

PROFESSIONAL CONSULTANT(S) — persons who provide expert or professional advice, including but not limited to architects, attorneys, certified public accountants, engineers, geologists, land surveyors, landscape architects or planners.

PROFILE LINE — the profile of the center line of the finished surface of the street, which shall be midway between the side lines of the street.

PUBLIC GROUNDS — includes the following:

- A. Parks, playgrounds, trails, paths and other recreational areas and other public areas.
- B. Sites for schools, sewage treatment, refuse disposal and other publicly owned or operated facilities.
- C. Publicly owned or operated scenic and historic sites.

PUBLIC IMPROVEMENTS — see “improvements.”

PUBLIC NOTICE — notice published once each week for two successive weeks in a newspaper of general circulation in the Borough. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than seven days from the date of the hearing.

RESERVE STRIP — a narrow parcel of ground separating a street from other adjacent properties.

RESIDENT PROPERTY OWNER — any individual maintaining a voting address in the municipality within 1,000 feet of the proposed subdivision and/or land development, owning real estate in his own or joint names. A tenancy in common or any other means of joint ownership shall be considered as an individual; however, the signature of any single joint owner shall be notarized and considered as binding the others.

RESUBDIVISION — any approved subdivision or transfer of land, laid out on a plan, which changes or proposes to change property lines and/or public rights-of-way not in strict accordance with the approved plan.

## SUBDIVISION AND LAND DEVELOPMENT

**REVERSE-FRONTAGE LOT** — a lot extending between and having frontage on a major street and a minor street, with vehicular access solely from the latter.

**RIGHT-OF-WAY** — a strip of land acquired by grant, reservation, dedication, prescription or condemnation and intended to be occupied or occupied by a street, alley, lane or the like, interior walk, crosswalk, railroad, electric transmission lines, oil or gas pipeline, waterline, sanitary or storm sewer, and other similar uses; generally, the right of one to pass over, under or through the property of another.

**ROADWAY** — see “cartway.”

**RUNOFF** — the surface water discharge or rate of discharge of a given watershed after a fall of rain or snow that does not enter the soil but runs off the surface of the land.

**SCHOOL BOARD** — the Mechanicsburg Area School Board.

**SEDIMENTATION** — the process by which mineral or organic matter is accumulated or deposited by moving wind, water or gravity. Once this matter is deposited (or remains suspended in water), it is usually referred to as “sediment.”

**SEEPAGE PIT** — a covered pit with open-jointed lining through which the septic tank effluent may seep or leach into the surrounding soil.

**SEPTIC TANK** — a watertight tank in which raw sewage is broken down into solid, liquid, and gaseous phases to facilitate further treatment and final disposal.

**SERVICE STREET** — see “alley.”

**SEWAGE DISPOSAL SYSTEM (ON-SITE)** — any structure designed to eliminate sanitary sewage within the boundaries of the building site.

**SEWAGE DISPOSAL SYSTEM (PUBLIC)** — a sanitary sewage collection method in which sewage is carried from the site by a system of pipes to a central treatment and disposal plant.

**SIGHT DISTANCE** — the length of street visible to the driver of a passenger vehicle at any given point on the street when the view is unobstructed by traffic.

**SIMPLE SUBDIVISION** — subdivision of a lot into two lots with no public improvements and no land development; subdivision for open space or green space purposes only, less than 2,000 square feet;<sup>1</sup> renovation/conversion/expansion of existing buildings/structures for nonresidential and/or mixed-use purposes; revision, correction or creation of easements, lot line revisions or corrections, or consolidation of two or more lots into one lot

---

<sup>1</sup> Editor’s Note: Original ordinance read “2,00 feet”; number corrected during codification.



**SLOPE** — the face of an embankment or cut section; any ground whose surface makes an angle with the plane of the horizon. Slopes are usually expressed in a percentage based upon vertical difference in feet per 100 feet of horizontal distance.

**SOIL PERCOLATION TEST** — a field test conducted to determine the absorption capacity of soil to a specified depth in a given location for the purpose of determining suitability of the soil for on-site sewage disposal.

**SOIL STABILIZATION** — chemical or structural treatment designed to increase or maintain the stability of a mass of soil or otherwise to improve its engineering properties.

**STREET** — a strip of land, including the entire right-of-way in the case of a public street, intended primarily as a means of vehicular travel and which may also be used to provide space for sewers, public utilities, shade trees, and sidewalks. Streets may be classified as a public street offered or required to be offered for dedication or a private street or streets not offered or not required to be offered for dedication. Streets are further classified in §22-603 of this chapter.

- A. **COLLECTOR** — a street or highway which carries traffic from minor streets to major streets, including the principal entrance streets of a residential development and streets for circulation within such a development.
- B. **CUL-DE-SAC** — a local street intersecting another street at one end and terminating in the form of a loop at the other end or a dead-end street provided with a terminus in the form of a loop.
- C. **MINOR** — a street used primarily for local access and to service abutting properties.
- D. **MAJOR** — streets serving large volumes of comparatively long-distance traffic at high speed and intended primarily for intercity and commuter traffic, and including facilities classified as main and secondary highways by the Pennsylvania Department of Transportation.

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

**SUBDIVISION** — the division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels, or other divisions of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access or residential dwelling, shall be ex-

## SUBDIVISION AND LAND DEVELOPMENT

empted. The types of subdivision shall be defined in accordance with “Applicability” provided on Table 1.<sup>1</sup>

**SURFACE DRAINAGE PLAN** — a plan showing all present and proposed grades and facilities for stormwater drainage.

**SURVEYOR** — a licensed surveyor registered by the Commonwealth of Pennsylvania.

**SWALE** — a low-lying stretch of land characterized as a depression used to carry surface water runoff.

**THROUGH LOT** — a lot which abuts a street on two or more opposing or nonadjacent sides.

**TILE DISPOSAL FIELD** — a system of open-jointed or perforated pipes laid in the upper strata of the soil for absorption.

**TOPSOIL** — surface soils and subsurface soils which presumably are fertile soils and soil material, ordinarily rich in organic matter or humus debris. Topsoil is usually found in the uppermost soil layer called the “A horizon.”

**UNDEVELOPED LAND** — any lot or land in parcels which has not been graded or in any other manner prepared for the construction of a structure.

**WATERCOURSE** — a stream of water; river; brook; creek; or a channel or ditch for water, whether natural or man-made.

**WATER FACILITY** — any waterworks, water supply works, water distribution system, or part thereof, designed, intended or constructed to provide or distribute potable water.

(Ord. 1113, 1/19/2010)

---

<sup>1</sup> Editor’s Note: Table 1 is on file in the Borough offices.

**PART 3**

**SUBDIVISION AND/OR LAND DEVELOPMENT CONTROL**

**§22-301. Compliance Required.**

No subdivision and/or land development of any lot, tract, or parcel of land within the Borough shall be effected, and no street, alley, sanitary sewer, storm sewer, water main, other facilities/public improvements in connection therewith or private improvements to a lot, building, parcel or tract shall be laid out, constructed, opened or dedicated for public use or travel or for the common use of occupants of buildings abutting or to abut thereon, unless and until a final subdivision plan and/or land development plan has been approved by the Borough Council and publicly recorded in the manner prescribed herein, except in strict accordance with the provisions of this chapter.

(Ord. 1113, 1/19/2010)

**§22-302. Approval Required.**

No lot or dwelling in a subdivision and/or land development may be sold and no permit to erect or alter any building may be issued unless and until a plan has been approved by the Borough Council and improvements assured and guaranteed as provided in this chapter.

(Ord. 1113, 1/19/2010)

**§22-303. Unit or Condominium Subdivision and/or Land Development.**

Unit or condominium subdivision and/or land development of real property is included within the meaning of “subdivision and/or land development” as defined herein and must comply with this chapter. Such compliance shall include the clear definition of each unit, public easements, common areas, improvements and all. In addition to the required submissions, a preliminary declaration plan shall be submitted for approval by the Borough. When the project is complete, a copy of the declaration plan shall be filed with the Borough.

(Ord. 1113, 1/19/2010)

**§22-304. Submission for Review.**

All subdivision and/or land development plats are subject to all zoning regulations and all other land use regulations, including but not limited to stormwater management (Chapter 26 of the Mechanicsburg Borough Code relating to water and Chapter 8 of the Mechanicsburg Borough Code relating to floodplains).

## SUBDIVISION AND LAND DEVELOPMENT

(Ord. 1113, 1/19/2010)

### **§22-305. Borough Liability.**

The approval of a subdivision and/or land development plat or of any improvement installed or the granting of a permit for the use of land or erection of a structure thereon shall not constitute a representation, guaranty or warranty of any kind or nature by the Borough or any official, employee or appointee thereof of the safety of any land, improvement, property or use from any cause whatsoever and shall create no liability upon or cause of action against the Borough or such official, employee or appointee for any damage that may result pursuant thereto.

(Ord. 1113, 1/19/2010)

**PART 4**  
**PROCEDURE**

**§22-401. Table 1: Submission Requirements Overview.<sup>1</sup>**

Table 1 sets forth the requirements for all applications for subdivision and/or land development plan approvals. Plans shall comply with the procedural requirements of this Part. If applicable as part of any submission, preapplication meeting(s) between Borough staff and/or its designated representatives and the applicant landowner and/or developer may be conducted as determined by the Borough.

- A. Completed application signed by the owner or owner's agent.
- B. Correct application fee.
- C. A notarized owner's acknowledgement.
- D. Existing features, drawn to scale, including site location, property boundaries and description, Tax Map and parcel number, existing zoning, topography, streams, floodplains, soil boundaries and hydric soils, roads, drainage and utilities.
- E. Proposed features, drawn to scale, including lot lines and boundary descriptions, description of proposed use, proposed zoning, buildings, applicable setbacks, parking lots, landscape plans, plans and profiles of proposed streets, sanitary sewers, storm drainage, waterlines, and utilities.
- F. Waiver requests letter citing the sections(s) of the ordinance(s) from which relief is being sought, the proposed alternative to the requirements/criteria of the ordinance section, and the reason/justification for the waiver request.
- G. Stormwater management plan.
- H. Sewage planning module.
- I. Where public water and/or sewer is to be provided, acknowledgement in writing from the appropriate agency that capacity exists to serve the proposed development.

(Ord. 1113, 1/19/2010)

---

<sup>1</sup> Editor's Note: Table 1 is on file in the Borough offices.

## SUBDIVISION AND LAND DEVELOPMENT

### **§22-402. Preapplication Data and Sketch Plan for Major Subdivision and/or Land Development (Voluntary).**

- A. At least 14 calendar days prior to a regular meeting of the Planning Commission, the applicant may file with the Borough 11 copies of a sketch plan, together with 11 copies each of an appropriate project narrative and site analysis, containing all data required under §22-501. No fee shall be payable for this submission.
- B. Prior to the preparation and filing of the preapplication data and sketch plan with the Planning Commission, the applicant should consult the Cumberland County Conservation District concerning plans for erosion and sediment control and obtain a report on the soil and sinkhole characteristics of the lot(s). The sketch plan should indicate whether any of the land is within a floodplain area governed by Chapter 8 of the Mechanicsburg Borough Code relating to floodplains.
- C. Where connection to public sewer is proposed, the applicant should consult with the appropriate municipal sewer system entity to determine whether a connection may be made and whether the conveyance and treatment facilities have sufficient capacity to service the proposed development. Written confirmation of these matters by the municipal sewer entity should be filed with the sketch plan.
- D. Where public sewer is not available, the applicant should consult with the Commonwealth of Pennsylvania, Department of Environmental Protection and/or Borough Sewage Enforcement Officer with regard to the suitability of the site for a private facility. Written documentation confirming site suitability should be submitted with the sketch plan. A form "Request for Subdivision Site Suitability for Subsurface Sewage Disposal" should also be completed and signed by the Borough Sewage Enforcement Officer.
- E. Such preapplication data and sketch plan shall be considered as submitted for informal discussion between the applicant and the Planning Commission. Submission of a sketch plan shall not constitute formal filing with the Borough but shall be subject to the requirements of the Pennsylvania Right-to-Know Law.
- F. Within seven days of the submission of a sketch plan and required documentation, the Borough Engineer shall submit his findings to the Planning Commission.
- G. At its regular meeting following the receipt of the applicant's submission and related review comments, the Planning Commission shall:
  - (1) Review the applicant's submission.

- (2) Review the report(s) of the Borough staff and other reviewing bodies, as applicable.
- (3) Review if the subdivision and/or land development is located where a flood hazard exists, as identified by the applicant's land surveyor or engineer of record.
- (4) Advise the applicant of any initial areas of concern with respect to the project. The failure to inform the applicant of possible defects shall not constitute a waiver of the Borough's right to require compliance with all applicable Borough requirements.
- (5) Advise the applicant of the extent to which the proposed subdivision and/or land development conforms to the design standards required by Part 6 and by other applicable Borough ordinances.
- (6) Alert the applicant to possible modifications and changes which may be necessary to obtain approval. The failure to inform the applicant of possible defects shall not constitute a waiver of the Borough's right to require compliance with all applicable Borough requirements.

(Ord. 1113, 1/19/2010)

**§22-403. Submission of Plan; Time Limits.**

- A. The required number of plans shall be filed with the Borough not later than that which is identified by the provisions of this chapter and/or the Pennsylvania Municipalities Planning Code,<sup>1</sup> as applicable. The maximum size of 24 x 36 inches final plats for all proposed subdivisions and/or land development of land within the Borough shall be filed with the Planning Commission through the Borough.
- B. No application shall be considered as filed for the purpose of this chapter unless the same conforms in every respect to the requirements of this chapter. The acceptance of an application by a Borough official does not waive the requirement that it conforms in every respect to this chapter. All plans will undergo an initial staff review before being considered as a complete submission. Said staff review checklist is available in the Borough Municipal Administration Office. During this initial review, plans will not be released to Planning Commission members or other relevant reviewing bodies for formal review. In the event that the submission is deemed incomplete, the Borough will notify the applicant, in writing, within 10 business days of its receipt of the application. Should the applicant fail to provide a written withdrawal of the submission or fail to provide the missing items, in either event by the day the agenda closes for the next meeting of the Borough

---

<sup>1</sup> Editor's Note: See 53 P.S. §10101 et seq.

## SUBDIVISION AND LAND DEVELOPMENT

Council, the Borough shall place the matter on the agenda for that meeting, at which time consideration shall be given to deny approval of the plan under the relevant authority of this chapter and the Pennsylvania Municipalities Planning Code.

- C. Preliminary and final plats shall each be acted on by the Borough, and the decision shall be in writing and shall be communicated to the applicant or mailed to him at his last known address within the time frame(s) defined by the Pennsylvania Municipalities Planning Code.
- D. It is the intent of these regulations to provide for complete and thorough review of all proposed subdivisions and/or land developments. Therefore, an extension of time may be requested from the applicant in the case of subdivisions and/or land developments which, in the opinion of the Borough Council (Planning Commission for simple subdivision) will require additional review time. Efforts will be made to request and obtain such extension at the time of the submission of the simple, preliminary or final plat. However, an extension may be requested at any time during the review process.

(Ord. 1113, 1/19/2010)

### **§22-404. Simple Subdivision Application Form and Fee.**

- A. Plans and supporting data shall comply with the provisions of Part 5 of this chapter and shall be filed with the Borough in accordance with Table 1: Subdivision and/or Land Development Submission Requirements, and Diagram 1: Final Plat Approval Process - Simple Subdivision.<sup>1</sup> All information and procedures relating thereto in all respects shall be in compliance with the applicable provisions of this chapter. It is the responsibility of the applicant to coordinate plans with the respective private and public service agencies. The application form shall be accompanied by the fee in accordance with those that the Borough Council may from time to time establish by resolution and not less than 11 printed copies of all required material (12 if in the Borough Historic District) and one digital copy of all required site plans, plats and preliminary reports on CD-ROM in the applicable digital format(s) defined by the Borough.
- B. Printed copies shall be distributed to simple subdivision-designated review bodies identified on Diagram 1: Final Plat Approval Process - Simple Subdivision, or otherwise deemed necessary by the Borough. The time frame for review shall be defined as presented on Diagram 1: Final Plat Approval Process - Simple Subdivision.

---

<sup>1</sup> Editor's Note: Table 1 and Diagram 1 are on file in the Borough offices.



- C. Unless an extension of review time has been agreed upon in writing by the applicant, the Planning Commission shall review the submission at its next regularly scheduled meeting. At that meeting, the Planning Commission shall:
- (1) Consider the reports received from all reviewing bodies.
  - (2) Review the plan and supporting data to determine their conformity to this chapter and any other applicable Borough ordinances, regulations and standards.
  - (3) Hear a presentation from the applicant if he so desires.
  - (4) Discuss the plan and data and any modifications and/or design changes necessary.
  - (5) Make one of the following recommendations on the submission, describing and specifying the defects and/or violations and citing the provisions of the statute or ordinance relied upon.
    - (a) Approval of the plan and data.
    - (b) Give conditional approval.
    - (c) Denial of the submission.
    - (d) Delay any action on said submission to the next regular meeting of the Planning Commission.
- D. The actions of the Planning Commission shall be by motion, which shall be entered into the minutes of the meeting of the Planning Commission at which such final action is taken. In the case of conditional approval, and upon the agreement of the applicant to the conditions, one of two actions may be taken:
- (1) The applicant may be requested to make modifications and design changes and to resubmit the plan as a revised preliminary plat.
  - (2) The applicant may be notified of modifications or design changes required for approval of the final plat submitted.
- E. Time frames. All applications for approval, whether preliminary or final, shall be acted upon by the governing body or the planning agency within such time limits as may be fixed in this chapter, but the governing body or the planning agency shall render its decision and communicate it to the applicant not later than 90 days following the date of the regular meeting of the governing body or the planning agency (whichever first reviews the application) next following the date the application is filed, or after a final or-

## SUBDIVISION AND LAND DEVELOPMENT

der of the court remanding an application, provided that should the said next regular meeting occur more than 30 days following the filing of the application, or the final order of the court, the said ninety-day period shall be measured from the 30th day following the day the application has been filed.

- (1) The decision of the governing body or the planning agency shall be in writing and shall be communicated to the applicant personally or mailed to him at his last known address not later than 15 days following the decision.
- (2) When the application is not approved in terms as filed, the decision shall specify the defects found in the application and describe the requirements which have not been met and shall, in each case, cite the provisions of the statute or ordinance relied upon.
- (3) Failure of the governing body or agency to render a decision and communicate it to the applicant within the time and in the manner required herein shall be deemed an approval of the application in terms as presented, unless the applicant has agreed in writing to an extension of time or change in the prescribed manner of presentation of communication of the decision, in which case, failure to meet the extended time or change in manner of presentation of communication shall have like effect.
- (4) Changes in an ordinance shall affect plats as follows:
  - (a) From the time an application for approval, whether preliminary or final, is duly filed as provided in this chapter, and while such application is pending approval or disapproval, no change or amendment of the zoning, subdivision or other governing ordinance or plan shall affect the decision on such application adversely to the applicant, and the applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed. In addition, when a preliminary application has been duly approved, the applicant shall be entitled to final approval in accordance with the terms of the approved preliminary application as hereinafter provided. However, if an application is properly and finally denied, any subsequent application shall be subject to the intervening change in governing regulations.
  - (b) When an application for approval, whether preliminary or final, has been approved without conditions or approved by the applicant's acceptance of conditions, no subsequent change or amendment in the zoning, subdivision or other governing ordinance or plan shall be applied to affect adversely the right of the applicant to commence and to complete any aspect of the ap-

proved development in accordance with the terms of such approval within five years from such approval. The five-year period shall be extended for the duration of any litigation, including appeals, which prevents the commencement or completion of the development and for the duration of any sewer or utility moratorium or prohibition which was imposed subsequent to the filing of an application for preliminary approval of a plat. In the event of an appeal filed by any party from the approval or disapproval of a plat, the five-year period shall be extended by the total time from the date the appeal was filed until a final order in such matter has been entered and all appeals have been concluded and any period for filing appeals or requests for reconsideration has expired; provided, however, that no extension shall be based upon any water or sewer moratorium which was in effect as of the date of the filing of a preliminary application.

- (c) Where final approval is preceded by preliminary approval, the aforesaid five-year period shall be counted from the date of the preliminary approval. In the case of any doubt as to the terms of a preliminary approval, the terms shall be construed in light of the provisions of the governing ordinances or plans as they stood at the time when the application for such approval was duly filed.
- (d) Where the landowner has substantially completed the required improvements as depicted upon the final plat within the aforesaid five-year limit, or any extension thereof as may be granted by the governing body, no change of municipal ordinance or plan enacted subsequent to the date of filing of the preliminary plat shall modify or revoke any aspect of the approved final plat pertaining to zoning classification or density, lot, building, street or utility location.
- (e) In the case of a preliminary plat calling for the installation of improvements beyond the five-year period, a schedule shall be filed by the landowner with the preliminary plat delineating all proposed sections as well as deadlines within which applications for final plat approval of each section are intended to be filed. Such schedule shall be updated annually by the applicant, on or before the anniversary of the preliminary plat approval, until final plat approval of the final section has been granted, and any modification in the aforesaid schedule shall be subject to approval of the governing body in its discretion.
- (f) Each section in any residential subdivision or land development, except for the last section, shall contain a minimum of 25% of the total number of dwelling units as depicted on the preliminary plan, unless a lesser percentage is approved by the govern-

## SUBDIVISION AND LAND DEVELOPMENT

ing body in its discretion. Provided that the landowner has not defaulted with regard to or violated any of the conditions of the preliminary plat approval, including compliance with the landowner's aforesaid schedule of submission of final plats for the various sections, then the aforesaid protections afforded by substantially completing the improvements depicted upon the final plat within five years shall apply; and for any section or sections, beyond the initial section, in which the required improvements have not been substantially completed within said five-year period, the aforesaid protections shall apply for an additional term or terms of three years from the date of final plat approval for each section.

- (g) Failure of the landowner to adhere to the aforesaid schedule of submission of final plats for the various sections shall subject any such section to any and all changes in zoning, subdivision and other governing ordinance enacted by the municipality subsequent to the date of the initial preliminary plan submission.
- (5) Before acting on any subdivision plat, the governing body or the planning agency, as the case may be, may hold a public hearing thereon after public notice.
- (6) No plat which will require access to a highway under the jurisdiction of the Department of Transportation shall be finally approved unless the plat contains a notice that a highway occupancy permit is required pursuant to Section 420 of the Act of June 1, 1945 (P.L. 1242, No. 428), known as the "State Highway Law,"<sup>1</sup> before driveway access to a state highway is permitted.
  - (a) The Department shall, within 60 days of the date of receipt of an application for a highway occupancy permit:
    - [1] Approve the permit, which shall be valid thereafter unless, prior to commencement of construction thereunder, the geographic, physical or other conditions under which the permit is approved change, requiring modification or denial of the permit, in which event the Department shall give notice thereof in accordance with regulations;
    - [2] Deny the permit;
    - [3] Return the application for additional information or correction to conform with department regulations; or

---

<sup>1</sup> Editor's Note: See 36 P.S. §670.101 et seq.

[4] Determine that no permit is required, in which case the Department shall notify the municipality and the applicant in writing.

(b) If the Department shall fail to take any action within the sixty-day period, the permit will be deemed to be issued. The plat shall be marked to indicate that access to the state highway shall be only as authorized by a highway occupancy permit. Neither the Department nor any municipality to which permit-issuing authority has been delegated under Section 420 of the State Highway Law shall be liable in damages for any injury to persons or property arising out of the issuance or denial of a driveway permit or for failure to regulate any driveway. Furthermore, the municipality from which the building permit approval has been requested shall not be held liable for damages to persons or property arising out of the issuance or denial of a driveway permit by the Department.

(7) The municipality may offer a mediation option as an aid in completing proceedings authorized by this section. In exercising such an option, the municipality and mediating parties shall meet the stipulations and follow the procedures set forth in Article IX of the Pennsylvania Municipalities Planning Code.

(Ord. 1113, 1/19/2010)

**§22-405. Major Subdivision and/or Land Development: Preliminary Application Form and Fee.**

- A. Preliminary plats and supporting data shall comply with the provisions of Part 5 of this chapter and shall be filed with the Borough in accordance with Table 1: Subdivision and/or Land Development Submission Requirements, and Diagram 2: Preliminary Plat Approval Process - Major Subdivision and/or Land Development.<sup>1</sup> All information and procedures relating thereto in all respects shall be in compliance with the applicable provisions of this chapter. It is the responsibility of the applicant to coordinate plans with the respective private and public service agencies. The application form shall be accompanied by the fee in accordance with those that the Borough Council may from time to time establish by resolution and not less than 17 printed copies of all required material (18 if in the Borough Historic District) and one digital copy of all required site plans, plats and preliminary reports on CD-ROM in the applicable digital format(s) defined by the Borough.
- B. Printed copies shall be distributed to major subdivision and/or land development-designated review bodies as identified on Diagram 2: Preliminary

---

<sup>1</sup> Editor's Note: Table 1 and Diagram 2 are on file in the Borough offices.

## SUBDIVISION AND LAND DEVELOPMENT

Plat Approval Process - Major Subdivision and/or Land Development,<sup>1</sup> or otherwise deemed necessary by the Borough. As applicable, the time frame for review and submitting letter reports shall be defined as presented on Diagram 2: Preliminary Plat Approval Process - Major Subdivision and/or Land Development, and/or §22-405F.

- C. Unless an extension of review time has been agreed upon in writing by the applicant, the Planning Commission shall review the preliminary submission at its next regularly scheduled meeting. At that meeting, the Planning Commission shall:
- (1) Consider the reports received from all reviewing bodies.
  - (2) Review the preliminary plat and supporting data to determine their conformity to this chapter and any other applicable Borough ordinances, regulations and standards.
  - (3) Hear a presentation from the applicant.
  - (4) Discuss the plan and data and any modifications and/or design changes necessary.
  - (5) Make one of the following recommendations on the preliminary submission:
    - (a) Approval of the preliminary plat and data.
    - (b) Conditional approval.
    - (c) Denial of the preliminary submission.
    - (d) Delay any action on said preliminary submission to the next regular meeting of the Planning Commission.
  - (6) Except if there is a delay in action, the Planning Commission shall, within five days of the meeting, submit a written report to the Borough Council stating its recommendations. In the case of recommended disapproval, the Planning Commission shall cite relevant parts of this chapter and/or other Borough ordinances, regulations, and standards and/or state statutes.
- D. At the regularly scheduled Borough Council meeting for which the subdivision and/or land development application was scheduled for consideration, the Borough Council shall:
- (1) Review the preliminary plat and supporting data.

---

<sup>1</sup> Editor's Note: Diagram 2 is on file in the Borough offices.

- (2) Consider the report of the Planning Commission.
  - (3) Hear a presentation from the applicant if he so desires.
  - (4) Discuss the plan and data and any modifications and/or design changes necessary.
  - (5) Take one of the following actions on the preliminary submission:
    - (a) Approve the preliminary plat and data.
    - (b) Grant conditional approval.
    - (c) Disapprove the preliminary submission.
    - (d) Delay any action on said preliminary submission to the next regular meeting of Council.
- E. The action of the Borough Council in approving or disapproving any preliminary plats shall be by motion, which shall be entered at large upon the minutes of the meeting of the Council at which such final action is taken. In the case of conditional approval, one of two actions may be taken:
- (1) The applicant may be requested to make modifications and design changes and to resubmit the plan as a revised preliminary plat.
  - (2) The applicant may be notified of modifications or design changes required for approval of the final plat submitted.
- F. Time frames. All applications for approval, whether preliminary or final, shall be acted upon by the governing body or the planning agency within such time limits as may be fixed in this chapter, but the governing body or the planning agency shall render its decision and communicate it to the applicant not later than 90 days following the date of the regular meeting of the governing body or the planning agency (whichever first reviews the application) next following the date the application is filed, or after a final order of the court remanding an application; provided that should the said next regular meeting occur more than 30 days following the filing of the application or the final order of the court, the said ninety-day period shall be measured from the 30th day following the day the application has been filed.
- (1) The decision of the governing body or the planning agency shall be in writing and shall be communicated to the applicant personally or mailed to him at his last known address not later than 15 days following the decision.

## SUBDIVISION AND LAND DEVELOPMENT

- (2) When the application is not approved in terms as filed, the decision shall specify the defects found in the application and describe the requirements which have not been met and shall, in each case, cite the provisions of the statute or ordinance relied upon.
- (3) Failure of the governing body or agency to render a decision and communicate it to the applicant within the time and in the manner required herein shall be deemed an approval of the application in terms as presented, unless the applicant has agreed in writing to an extension of time or change in the prescribed manner of presentation of communication of the decision, in which case, failure to meet the extended time or change in manner of presentation of communication shall have like effect.
- (4) Changes in an ordinance shall affect plats as follows:
  - (a) From the time an application for approval, whether preliminary or final, is duly filed as provided in this chapter, and while such application is pending approval or disapproval, no change or amendment of the zoning, subdivision or other governing ordinance or plan shall affect the decision on such application adversely to the applicant, and the applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed. In addition, when a preliminary application has been duly approved, the applicant shall be entitled to final approval in accordance with the terms of the approved preliminary application as hereinafter provided. However, if an application is properly and finally denied, any subsequent application shall be subject to the intervening change in governing regulations.
  - (b) When an application for approval, whether preliminary or final, has been approved without conditions or approved by the applicant's acceptance of conditions, no subsequent change or amendment in the zoning, subdivision or other governing ordinance or plan shall be applied to affect adversely the right of the applicant to commence and to complete any aspect of the approved development in accordance with the terms of such approval within five years from such approval. The five-year period shall be extended for the duration of any litigation, including appeals, which prevents the commencement or completion of the development and for the duration of any sewer or utility moratorium or prohibition which was imposed subsequent to the filing of an application for preliminary approval of a plat. In the event of an appeal filed by any party from the approval or disapproval of a plat, the five-year period shall be extended by the total time from the date the appeal was filed until a final order in such matter has been entered and all appeals have been con-



cluded and any period for filing appeals or requests for reconsideration has expired; provided, however, that no extension shall be based upon any water or sewer moratorium which was in effect as of the date of the filing of a preliminary application.

- (c) Where final approval is preceded by preliminary approval, the aforesaid five-year period shall be counted from the date of the preliminary approval. In the case of any doubt as to the terms of a preliminary approval, the terms shall be construed in light of the provisions of the governing ordinances or plans as they stood at the time when the application for such approval was duly filed.
- (d) Where the landowner has substantially completed the required improvements as depicted upon the final plat within the aforesaid five-year limit, or any extension thereof as may be granted by the governing body, no change of municipal ordinance or plan enacted subsequent to the date of filing of the preliminary plat shall modify or revoke any aspect of the approved final plat pertaining to zoning classification or density, lot, building, street or utility location.
- (e) In the case of a preliminary plat calling for the installation of improvements beyond the five-year period, a schedule shall be filed by the landowner with the preliminary plat delineating all proposed sections as well as deadlines within which applications for final plat approval of each section are intended to be filed. Such schedule shall be updated annually by the applicant, on or before the anniversary of the preliminary plat approval, until final plat approval of the final section has been granted, and any modification in the aforesaid schedule shall be subject to approval of the governing body in its discretion.
- (f) Each section in any residential subdivision or land development, except for the last section, shall contain a minimum of 25% of the total number of dwelling units as depicted on the preliminary plan, unless a lesser percentage is approved by the governing body in its discretion. Provided that the landowner has not defaulted with regard to or violated any of the conditions of the preliminary plat approval, including compliance with the landowner's aforesaid schedule of submission of final plats for the various sections, then the aforesaid protections afforded by substantially completing the improvements depicted upon the final plat within five years shall apply; and for any section or sections, beyond the initial section, in which the required improvements have not been substantially completed within said five-year period, the aforesaid protections shall apply for an ad-

## SUBDIVISION AND LAND DEVELOPMENT

ditional term or terms of three years from the date of final plat approval for each section.

- (g) Failure of the landowner to adhere to the aforesaid schedule of submission of final plats for the various sections shall subject any such section to any and all changes in zoning, subdivision and other governing ordinance enacted by the municipality subsequent to the date of the initial preliminary plan submission.
- (5) Before acting on any subdivision plat, the governing body or the planning agency, as the case may be, may hold a public hearing thereon after public notice.
- (6) No plat which will require access to a highway under the jurisdiction of the Department of Transportation shall be finally approved unless the plat contains a notice that a highway occupancy permit is required pursuant to Section 420 of the Act of June 1, 1945 (P.L. 1242, No. 428), known as the "State Highway Law,"<sup>1</sup> before driveway access to a state highway is permitted.
  - (a) The Department shall, within 60 days of the date of receipt of an application for a highway occupancy permit:
    - [1] Approve the permit, which shall be valid thereafter unless, prior to commencement of construction thereunder, the geographic, physical or other conditions under which the permit is approved change, requiring modification or denial of the permit, in which event the Department shall give notice thereof in accordance with regulations;
    - [2] Deny the permit;
    - [3] Return the application for additional information or correction to conform with department regulations; or
    - [4] Determine that no permit is required, in which case the Department shall notify the municipality and the applicant in writing.
  - (b) If the Department shall fail to take any action within the sixty-day period, the permit will be deemed to be issued. The plat shall be marked to indicate that access to the state highway shall be only as authorized by a highway occupancy permit. Neither the Department nor any municipality to which permit-issuing authority has been delegated under Section 420 of the

---

<sup>1</sup> Editor's Note: See 36 P.S. §670.101 et seq.

State Highway Law shall be liable in damages for any injury to persons or property arising out of the issuance or denial of a driveway permit or for failure to regulate any driveway. Furthermore, the municipality from which the building permit approval has been requested shall not be held liable for damages to persons or property arising out of the issuance or denial of a driveway permit by the Department.

- (7) The municipality may offer a mediation option as an aid in completing proceedings authorized by this section. In exercising such an option, the municipality and mediating parties shall meet the stipulations and follow the procedures set forth in Article IX in the Pennsylvania Municipalities Planning Code.

(Ord. 1113, 1/19/2010)

**§22-406. Minor and Major Subdivision and/or Land Development: Final Application Form and Fee.**

- A. Final plats and supporting data shall comply with the provisions of Part 5 of this chapter and shall be filed with the Borough in accordance with Table 1: Subdivision and/or Land Development Submission Requirements, and Diagram 3: Final Plat Approval Process - Minor and Major Subdivision and/or Land Development.<sup>1</sup> All information and procedures relating thereto in all respects shall be in compliance with the applicable provisions of this chapter. It is the responsibility of the applicant to coordinate plans with the respective private and public service agencies. The application form shall be accompanied by the applicable fee(s) in accordance with those that the Borough Council may from time to time establish by resolution and not less than 17 printed copies of all required material (18 if in the Borough Historic District) and one digital copy of all required site plans, plats and final reports on CD-ROM in the applicable digital format(s) defined by the Borough.
- B. Printed copies shall be distributed to minor and major subdivision and/or land development-designated review bodies identified on Diagram 3: Final Plat Approval Process - Minor and Major Subdivision and/or Land Development,<sup>2</sup> or otherwise deemed necessary by the Borough. As applicable, the time frame for review and submittal of reports shall be defined as presented on Diagram 3: Final Plat Approval Process - Minor and Major Subdivision and/or Land Development, and/or §22-406G.<sup>3</sup>
- C. Unless an extension of review time has been agreed upon in writing by the applicant, the Planning Commission shall review the final submission at its

---

<sup>1</sup> Editor's Note: Table 1 and Diagram 3 are on file in the Borough offices.

<sup>2</sup> Editor's Note: Diagram 3 is on file in the Borough offices.

<sup>3</sup> Editor's Note: Original ordinance read "22-406I"; updated during codification to reflect correct reference.

## SUBDIVISION AND LAND DEVELOPMENT

next regularly scheduled meeting. At that meeting, the Planning Commission shall:

- (1) Consider the reports received from all reviewing bodies.
  - (2) Review the final plat and supporting data to determine their conformity to this chapter and any other applicable Borough ordinances, regulations and standards.
  - (3) Hear a presentation from the applicant.
  - (4) Discuss the plan and data and any modifications and/or design changes necessary.
  - (5) Make one of the following recommendations on the final submission:
    - (a) Approval of the final plat and data.
    - (b) Give conditional approval.
    - (c) Denial of the final submission.
    - (d) Delay any action on said final submission to the next regular meeting of the Planning Commission.
  - (6) Except if there is a delay in action, the Planning Commission shall, within five days of the meeting, submit a written report to the Borough Council stating its recommendations. In the case of recommended disapproval, the Planning Commission shall cite relevant parts of this chapter and/or other Borough ordinances, regulations, and standards and/or state statutes.
- D. At the regularly scheduled Borough Council meeting for which the subdivision and/or land development application was scheduled for consideration, the Borough Council shall:
- (1) Review the final plat and supporting data.
  - (2) Consider the report of the Planning Commission.
  - (3) Hear a presentation from the applicant if he so desires.
  - (4) Discuss the plan and data and any modifications and/or design changes necessary.
  - (5) Take one of the following actions on the final submission:
    - (a) Approve the final plat and data.

- (b) Conditional approval only in the instances to post financial security and enter into any applicable improvement agreements.
  - (c) Disapprove the final submission.
  - (d) Delay any action on said final submission to the next regular meeting of Council.
- E. The action of the Borough Council in approving or disapproving any final plats shall be by motion, which shall be entered at large upon the minutes of the meeting of the Council at which such final action is taken. In the case of conditional approval, the applicant may be requested to make modifications and design changes and to resubmit the plan as revised final plat.
- F. Following approval by the Borough Council, the final plat (all sheets) shall be submitted in .PDF format on CD-ROM to the Borough. The final plat (all sheets) shall also be recorded by the owner with the Recorder of Deeds of Cumberland County, Pennsylvania, in accordance with the law and the requirements of the Recorder. The recorded final plat must contain the signature(s) of the Cumberland County Planning Commission. No building permit will be issued until satisfactory proof of the recording of said approved plan has been received by the Borough. All filing costs are to be paid by the owner. As part of recording a plan(s) with the county, the applicant shall provide a CD-ROM to the County Planning Office with a .dwg AutoCAD file that includes one sketch of all the lots on the plan(s). The CD-ROM shall be provided when the paper copies are brought to the County Planning Office for stamping. The CD shall include only the data that is intended to be recorded. At a minimum, the following information is requested on CD-ROM:
  - (1) Parcel boundaries.
  - (2) Lot lines.
  - (3) Building footprints.
  - (4) Road rights-of-way.
  - (5) Edge of pavement.
- G. Time frames. All applications for approval, whether preliminary or final, shall be acted upon by the governing body or the planning agency within such time limits as may be fixed in this chapter, but the governing body or the planning agency shall render its decision and communicate it to the applicant not later than 90 days following the date of the regular meeting of the governing body or the planning agency (whichever first reviews the application) next following the date the application is filed, or after a final order of the court remanding an application, provided that should the said

## SUBDIVISION AND LAND DEVELOPMENT

next regular meeting occur more than 30 days following the filing of the application, or the final order of the court, the said ninety-day period shall be measured from the 30th day following the day the application has been filed.

- (1) The decision of the governing body or the planning agency shall be in writing and shall be communicated to the applicant personally or mailed to him at his last known address not later than 15 days following the decision.
- (2) When the application is not approved in terms as filed, the decision shall specify the defects found in the application and describe the requirements which have not been met and shall, in each case, cite the provisions of the statute or ordinance relied upon.
- (3) Failure of the governing body or agency to render a decision and communicate it to the applicant within the time and in the manner required herein shall be deemed an approval of the application in terms as presented, unless the applicant has agreed in writing to an extension of time or change in the prescribed manner of presentation of communication of the decision, in which case, failure to meet the extended time or change in manner of presentation of communication shall have like effect.
- (4) Changes in the ordinance shall affect plats as follows:
  - (a) From the time an application for approval, whether preliminary or final, is duly filed as provided in this chapter, and while such application is pending approval or disapproval, no change or amendment of the zoning, subdivision or other governing ordinance or plan shall affect the decision on such application adversely to the applicant, and the applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed. In addition, when a preliminary application has been duly approved, the applicant shall be entitled to final approval in accordance with the terms of the approved preliminary application as hereinafter provided. However, if an application is properly and finally denied, any subsequent application shall be subject to the intervening change in governing regulations.
  - (b) When an application for approval, whether preliminary or final, has been approved without conditions or approved by the applicant's acceptance of conditions, no subsequent change or amendment in the zoning, subdivision or other governing ordinance or plan shall be applied to affect adversely the right of the applicant to commence and to complete any aspect of the approved development in accordance with the terms of such ap-

proval within five years from such approval. The five-year period shall be extended for the duration of any litigation, including appeals, which prevents the commencement or completion of the development, and for the duration of any sewer or utility moratorium or prohibition which was imposed subsequent to the filing of an application for preliminary approval of a plat. In the event of an appeal filed by any party from the approval or disapproval of a plat, the five-year period shall be extended by the total time from the date the appeal was filed until a final order in such matter has been entered and all appeals have been concluded and any period for filing appeals or requests for reconsideration has expired; provided, however, that no extension shall be based upon any water or sewer moratorium which was in effect as of the date of the filing of a preliminary application.

- (c) Where final approval is preceded by preliminary approval, the aforesaid five-year period shall be counted from the date of the preliminary approval. In the case of any doubt as to the terms of a preliminary approval, the terms shall be construed in light of the provisions of the governing ordinances or plans as they stood at the time when the application for such approval was duly filed.
- (d) Where the landowner has substantially completed the required improvements as depicted upon the final plat within the aforesaid five-year limit, or any extension thereof as may be granted by the governing body, no change of municipal ordinance or plan enacted subsequent to the date of filing of the preliminary plat shall modify or revoke any aspect of the approved final plat pertaining to zoning classification or density, lot, building, street or utility location.
- (e) In the case of a preliminary plat calling for the installation of improvements beyond the five-year period, a schedule shall be filed by the landowner with the preliminary plat delineating all proposed sections as well as deadlines within which applications for final plat approval of each section are intended to be filed. Such schedule shall be updated annually by the applicant, on or before the anniversary of the preliminary plat approval, until final plat approval of the final section has been granted, and any modification in the aforesaid schedule shall be subject to approval of the governing body in its discretion.
- (f) Each section in any residential subdivision or land development, except for the last section, shall contain a minimum of 25% of the total number of dwelling units as depicted on the preliminary plan, unless a lesser percentage is approved by the governing body in its discretion. Provided that the landowner has not

## SUBDIVISION AND LAND DEVELOPMENT

defaulted with regard to or violated any of the conditions of the preliminary plat approval, including compliance with the landowner's aforesaid schedule of submission of final plats for the various sections, then the aforesaid protections afforded by substantially completing the improvements depicted upon the final plat within five years shall apply; and for any section or sections, beyond the initial section, in which the required improvements have not been substantially completed within said five-year period, the aforesaid protections shall apply for an additional term or terms of three years from the date of final plat approval for each section.

- (g) Failure of landowner to adhere to the aforesaid schedule of submission of final plats for the various sections shall subject any such section to any and all changes in zoning, subdivision and other governing ordinance enacted by the municipality subsequent to the date of the initial preliminary plan submission.
- (5) Before acting on any subdivision plat, the governing body or the planning agency, as the case may be, may hold a public hearing thereon after public notice.
- (6) No plat which will require access to a highway under the jurisdiction of the Department of Transportation shall be finally approved unless the plat contains a notice that a highway occupancy permit is required pursuant to Section 420 of the Act of June 1, 1945 (P.L. 1242, No. 428), known as the "State Highway Law,"<sup>1</sup> before driveway access to a state highway is permitted.
  - (a) The Department shall, within 60 days of the date of receipt of an application for a highway occupancy permit:
    - [1] Approve the permit, which shall be valid thereafter unless, prior to commencement of construction thereunder, the geographic, physical or other conditions under which the permit is approved change, requiring modification or denial of the permit, in which event the Department shall give notice thereof in accordance with regulations;
    - [2] Deny the permit;
    - [3] Return the application for additional information or correction to conform with department regulations; or

---

<sup>1</sup> Editor's Note: See 36 P.S. §670.101 et seq.



[4] Determine that no permit is required, in which case the Department shall notify the municipality and the applicant in writing.

(b) If the Department shall fail to take any action within the sixty-day period, the permit will be deemed to be issued. The plat shall be marked to indicate that access to the state highway shall be only as authorized by a highway occupancy permit. Neither the Department nor any municipality to which permit-issuing authority has been delegated under Section 420 of the State Highway Law shall be liable in damages for any injury to persons or property arising out of the issuance or denial of a driveway permit or for failure to regulate any driveway. Furthermore, the municipality from which the building permit approval has been requested shall not be held liable for damages to persons or property arising out of the issuance or denial of a driveway permit by the Department.

(7) The municipality may offer a mediation option as an aid in completing proceedings authorized by this section. In exercising such an option, the municipality and mediating parties shall meet the stipulations and follow the procedures set forth in Article IX of the Pennsylvania Municipalities Planning Code.

(Ord. 1113, 1/19/2010)

**§22-407. Other Applicable Provisions.**

A. See §22-709F.

B. See §22-710C.

(Ord. 1113, 1/19/2010)



## PART 5

### PLAN REQUIREMENTS

**NOTE:** See Table 1: Subdivision and/or Land Development Submission Requirements, for applicability of §22-501 through §22-537 as related to sketch plan, preliminary plat and/or final plat submissions.<sup>1</sup> Corresponding approvals associated with agencies outside of Mechanicsburg Borough shall also be required to be included as part of applicable submission(s) of plans and applications. See also §22-403B.

#### **§22-501. Sketch Plan for Major Subdivision and/or Land Development (Voluntary).**

- A. A subdivision and/or land development sketch plan may be submitted by a landowner and/or developer as a basis for informal discussion with the Planning Commission.
- B. Data furnished in a sketch plan shall be held by the Planning Commission for general reference only. For fullest usefulness, it is suggested that a sketch plan include the following information:
  - (1) Name of proposed subdivision and/or land development or identifying title.
  - (2) Name, address and telephone number of applicant.
  - (3) Name of engineer, surveyor, or other person responsible for the map.
  - (4) Purpose of proposed subdivision and/or land development.
  - (5) Location map, preferably not less than 1,000 feet to the inch, covering sufficient area to establish the location of the site.
  - (6) Informal plan, to scale, of existing and proposed streets and buildings, tract boundaries and dimensions, tract acreage, proposed general lot layout, building layout and date presented.
  - (7) Significant physical and natural features within the subdivision and/or land development, to include, if applicable, man-made improvements, slopes, tree masses, closed depressions, wetlands, sink-holes, bodies of water, quarries, estimated one-hundred-year flood-plains, tree masses and any other prominent features.
  - (8) North arrow.

---

<sup>1</sup> Editor's Note: Table 1 is on file in the Borough offices.

## SUBDIVISION AND LAND DEVELOPMENT

- (9) Zoning classification for the tract and adjacent properties.
  - (10) Preferred but not required:
    - (a) Preliminary project schedule.
    - (b) Available subsurface geotechnical information.
    - (c) Utility availability and approximate locations.
    - (d) Stormwater management concept.
    - (e) Proposed traffic impact.
    - (f) Aerial photographs with imposed site boundary.
    - (g) Any other information that will assist the Planning Commission in evaluating the project.
  - (11) Existing and proposed methods of sewage disposal and water supply.
- C. A subdivision and/or land development sketch plan shall have clearly marked thereon the following words: "Sketch Plan – Not to be Recorded."

(Ord. 1113, 1/19/2010)

### **§22-502. Site Conditions Map.**

- A. The following shall be provided for the project site and any land or water bodies located within 100 feet of the project area boundary:
  - (1) Existing contours at vertical intervals of two feet or, in the case of relatively level tracts, at such lesser intervals as may be necessary for satisfactory study and planning of the lot. Datum to which contour elevations refer shall be United States Coast and Geodetic Survey datum. (The Borough will furnish elevations of nearest known benchmarks.)
  - (2) Existing building setbacks and required minimum lot setback criteria, as defined by Chapter 27 of the Mechanicsburg Borough Code relating to zoning and Chapter 8 of the Mechanicsburg Borough Code relating to floodplains.
  - (3) Watershed boundaries.

- (4) Areas within the one-hundred-year floodplain, in accordance with the requirements and criteria identified in Chapter 8 of the Mechanicsburg Borough Code relating to floodplains.
- (5) Vegetative cover conditions according to general cover type, including existing street trees, tree lawns, woodlands and wetlands, and the actual canopy line of existing trees and woodlands. Vegetative types shall be described by predominate plant species and general condition.
- (6) Soil series, types and phases, as mapped by the United States Department of Agriculture, Natural Resources and Conservation Service, in the published Soil Survey for Cumberland County and accompanying data published for each soil relating to its suitability for construction and, in unsewered areas, for septic suitability.
- (7) Outstanding geologic formations on the proposed development parcel, including karst topography and sinkhole locations.
- (8) Locations of all culturally and historically significant sites or structures, including but not limited to structures listed on or eligible for the National Register of Historic Places and those identified within the Borough Historic District.
- (9) Locations of sidewalks that have been in public use (pedestrian, equestrian, bicycle, etc.).

(Ord. 1113, 1/19/2010)

**§22-503. Context Report.**

A context report including the following shall be submitted:

- A. A statement of how the proposed development will enhance physical and social connectivity between:
  - (1) Existing and proposed development.
  - (2) Existing and proposed streets and roads.
  - (3) Natural drainage systems on and adjacent to the site.
  - (4) Woodland areas on and adjacent to the site.
  - (5) Prime agricultural soils, agricultural soils of statewide importance, and active agricultural areas on and adjacent to the site.

## SUBDIVISION AND LAND DEVELOPMENT

- B. A statement of how the proposed development will integrate and retain key elements identified on the site conditions map.

(Ord. 1113, 1/19/2010)

### **§22-504. Sinkhole Assessment.**

A report, including a map supplied by the Pennsylvania Department of Environmental Protection, showing the location of sinkholes under the development or within 200 feet thereof and indicating how the development will affect or be affected by any sinkholes, with particular concern to public health, safety and welfare, shall be submitted. All applicants shall reference Chapter 26, Part 3, of the Mechanicsburg Borough Code relating to water, as applicable.

(Ord. 1113, 1/19/2010)

### **§22-505. Project Information Sheet.<sup>1</sup>**

- A. Sheet index.
- B. Location plan, at a graphic and written scale not less than 1,000 feet to the inch, covering sufficient area to establish the location of the project site within the Borough and adjacent township(s), if applicable. Include municipal boundaries.
- C. General notes.
- D. References: Deed Book page and number, Tax Map source and parcel number(s).
- E. Landowner/developer name, address and telephone number.
- F. Certification of ownership and acknowledge statement.
- G. Notary public and recording statement.
- H. Certification statements by the Cumberland County Planning Department, Mechanicsburg Borough Engineer, Mechanicsburg Borough Planning Commission, and Mechanicsburg Borough Council.
- I. Certification of accuracy of general plan/report data and survey, including the name and seal of the registered professional engineer, landscape architect, or surveyor responsible for the plan.

---

<sup>1</sup> Note: An example of project information sheet layout is available in the Borough Municipal Administration Office.

- J. Date of submission and any resubmission(s).
- K. Zoning/site data for each municipality in which the project is located.
- L. Utility listing, with addresses and telephone numbers, and PA one-call number.
- M. Listing of required permits and approvals, date submitted and date issued.
- N. If applicable, proposed protective covenants running with the land.
- O. If applicable, variance block containing variance description and approval date with any conditions identified by Borough Council and/or special exceptions attached by the Zoning Hearing Board and/or Cumberland County.
- P. If applicable, waiver block listing requested waivers, date submitted, action taken by the Borough Council, and date of action.
- Q. Block outline around each of the above items.

(Ord. 1113, 1/19/2010)

**§22-506. Preliminary Plat.**

A preliminary plat containing the following information shall be provided:

- A. The Borough name, graphic and written scale as defined and acceptable to the Borough and in standard engineering format (e.g., one inch equals 10 feet, 20 feet, 30 feet, 40 feet, 50 feet, 60 feet or 100 feet), North arrow and application date.
- B. The proposed name of the subdivision and/or land development.
- C. The names and addresses of the developer and/or landowner and, if the developer is not the landowner, the names and addresses of the landowner.
- D. The names of all adjoining property owners with deed references, including lots across any street and/or alley applicable to the lot.
- E. A boundary survey by a surveyor and topographical survey of the total proposed subdivision and/or land development by an engineer or surveyor. If the developer and/or landowner intends to develop a tract of land in phases, the preliminary plat shall include the total tract phasing. If a subdivision and/or land development is a phased development, specify how many phases, phasing boundaries and the proposed time frame necessary to complete each phase.

## SUBDIVISION AND LAND DEVELOPMENT

- F. The preliminary plat shall have clearly marked thereon the following words: “Preliminary Plat – Not to be Recorded.”
- G. The proposed street layout in the subdivision and/or land development, indicating whether the streets are proposed to be public or private; the location and width of all proposed streets, alleys, rights-of-way, pedestrian circulation and rights-of-way/easements. Existing and proposed sewer, water and storm line utility locations shall be shown. Linear feet of new streets shall be shown if streets and alleys are to be dedicated to the Borough.
- H. The layout of existing and proposed lot(s) (showing scaled dimensions), lot numbers, the area of each lot in square feet, and boundaries with bearings and distances.
- I. Parcels of land proposed to be reserved for schools, parks, playgrounds or other public, semipublic or community purposes, if any.
- J. A legend of symbols, lines and appropriate explanatory notes.
- K. Outline of existing and proposed buildings and setbacks from property lines.
- L. Existing and proposed easements and rights-of-way and the purpose for which the easements or rights-of-way have been established.
- M. Existing streets and rights-of-way on or adjoining the site, including dedicated widths, roadway widths, types and widths of pavements, curbs, sidewalks, tree lawns and other pertinent data.
- N. The existing platting of land adjacent to the subdivision, including land located across a public or private street or other right-of-way.
- O. The preliminary plat shall show or be accompanied by the following information:
  - (1) Parcel information:
    - (a) Existing protective covenants.
    - (b) Existing zoning classifications, building heights requirements, lot area requirements and permissible lot access locations and access encumbrances, if applicable.
    - (c) Existing watercourses, ponds, wetlands and other significant natural features, including tree lines within 200 feet beyond the subject lot boundary.



- (d) Proposed street names; proposed watercourses and detention ponds, proposed land development phases, and typical section of all streets.
  - (e) Existing and proposed parking and loading areas, including street access points, internal circulation pattern, showing number of spaces, typical space dimensions, type of construction and landscaping. Proposed use of the property shall include additional parking spaces, access drive/driveway location and width, number of current and new employees, if applicable, and percentage of lot coverage.
  - (f) Proposed design details and materials for all fences, walls, screens, lighting fixtures, signs and other outdoor structures.
  - (g) Location and effect of outdoor lighting on highways and residential properties in the sight line of proposed lighting.
  - (h) A computer-generated lighting model with point-by-point illumination of all proposed lighting and areas expected to be illuminated, if applicable, is required.
  - (i) Where the preliminary plat covers only a part of the landowner's and/or developer's entire holding, a drawing shall be submitted of the prospective street layout, lot layout, and building layout for the remainder.
  - (j) Where applicable, a map showing the location of the proposed subdivision and/or land development with respect to any designated floodplain district, including information on the one-hundred-year flood elevations. Where the subdivision and/or land development lies partially or completely within any designated floodplain districts or where such activities border on any designated floodplain district, the preliminary plat map shall include information as defined in §22-402B.<sup>1</sup>
  - (k) If applicable, lands to be dedicated to the Borough.
- P. Submission of the plan shall also be accompanied by proof of submission of applicable review requests and permit applications, including but not limited to:
- (1) Pennsylvania Department of Transportation highway occupancy permits.

---

<sup>1</sup> Editor's Note: Original ordinance read "22-402I"; updated during codification to reflect correct reference.

## SUBDIVISION AND LAND DEVELOPMENT

- (2) Pennsylvania Department of Transportation traffic signal permits.
- (3) Pennsylvania Department of Environmental Protection sewerage planning module (or exemption if applicable).
- (4) Pennsylvania Department of Environmental Protection National Pollutant Discharge Elimination System permits.
- (5) Pennsylvania Department of Environmental Protection water obstruction and encroachment permits.
- (6) Pennsylvania Department of Economic Development and/or Federal Emergency Management Agency floodplain permits.
- (7) Cumberland County Conservation District approval.
- (8) Borough of Mechanicsburg Municipal Authority approval.
- (9) In addition, documentation shall be submitted indicating that all affected adjacent municipalities have been notified of the proposed alteration or relocation. The Department of Community and Economic Development and the Federal Insurance Administration, or other applicable agency, shall also be notified whenever any such activity is proposed.

(Ord. 1113, 1/19/2010)

### **§22-507. (Reserved)**

### **§22-508. Sewage Disposal Report.**

Where applicable, a sewage facilities planning module shall be the responsibility of the applicant and shall be prepared in accordance with the rules and regulations of the Pennsylvania Department of Environmental Protection. The completed module shall accompany the preliminary plat submission.

(Ord. 1113, 1/19/2010)

### **§22-509. Building Elevations and Other Architectural Drawings.**

Building elevations and other architectural drawings containing the following information shall be provided. Elevations and drawings shall be illustrated to scale, showing:

- A. The principal building's front, side, and rear elevations (schematic architectural drawings) and typical floor plans in the case of new principal buildings or additions to existing principal buildings.

(Ord. 1113, 1/19/2010)

**§22-510. Preliminary Grading Plan.**

A preliminary grading plan shall be submitted and shall include the following, in addition to any other information required by the Borough Engineer:

- A. Written and graphic scale in a form acceptable to the Borough and engineering standards. The grading plan shall be at a scale of one inch to 50 feet or larger.
- B. North arrow.
- C. The existing contours of the lot(s).
- D. Proposed contours of the lot(s) after completion of the excavation, cuts, grading and filling.
- E. The plan's contour interval shall be as follows:
  - (1) Not more than two-foot intervals where the slope will be greater than 10%.
  - (2) Not more than one-foot intervals where the slope will be equal to or less than 10%.
- F. Existing and proposed catch basis, manholes, headwalls and other drainage structures, with top and invert elevations.
- G. Existing and proposed structures, roads, sidewalks, curbs, parking areas and any other physical features.

(Ord. 1113, 1/19/2010)

**§22-511. Preliminary Stormwater Management Plan.**

Subdivision and/or land development plans shall have a stormwater management study performed in accordance with Chapter 26 of the Mechanicsburg Borough Code relating to water. Action on the stormwater management plan shall be made in conjunction with the development plan.

(Ord. 1113, 1/19/2010)

## SUBDIVISION AND LAND DEVELOPMENT

### §22-512. Traffic Impact Study Type A.

- A. The Borough shall require a traffic impact study for developments or changes in uses generating less than 100 trips in addition to the adjacent roadways' existing peak-hour volumes in cases where known traffic deficiencies exist in the area of the proposed development or change in use.
- B. The applicant shall prepare a worksheet that computes the weekday peak morning hour (between 7:00 a.m. and 9:00 a.m.) and weekday peak afternoon hour (between 4:00 p.m. and 6:00 p.m.) average vehicle trips for residential uses and for nonresidential uses according to the latest edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual. For nonresidential uses, the applicant shall prepare weekend peak-hour average daily trips. The applicant shall submit the completed worksheet to the Borough. The applicant shall reference the average rate in the Trip Generation Table for the applicable land use codes of the ITE Trip Generation Manual.
- C. In addition to the computation worksheet, the applicant shall supply copies of the land use pages' ITE results to the Borough Zoning Officer.
- D. A description of future levels of service and their compliance with standards for traffic capacity of streets, intersections and driveways. New streets shall be designed for adequate traffic capacity, defined as follows. All reference to levels of service (LOS) shall be defined by the Highway Capacity Manual, Special Report 209, published by the Transportation Research Board. These standards may be waived by the Borough if sufficient evidence is provided that criteria cannot be met with reasonable mitigation.
  - (1) Traffic capacity LOS shall be based upon future design-year analysis.
  - (2) New or modified (a new approach created) nonsignaled intersections, lot access points or driveways which intersect streets and/or alleys shall be designed for LOS C or better for each traffic movement, unless otherwise specified by the Borough.
  - (3) New or modified (a new approach created) signalized intersections shall be designed for LOS C or better for each traffic movement, unless otherwise specified by the Borough.
  - (4) Existing intersections impacted by development traffic shall maintain a minimum LOS D for each traffic movement; or, if future base (without development traffic) LOS is E, then mitigation shall be made to maintain LOS E with development traffic. If future base LOS is F, then degradation in delays shall be mitigated.

(Ord. 1113, 1/19/2010)

**§22-513. Traffic Impact Study Type B.**

- A. The Borough shall require a traffic impact study for developments or changes in uses generating more than 100 trips in addition to the adjacent roadways' existing peak-hour volumes in cases where known traffic deficiencies exist in the area of the proposed development or change in use.
  
- B. Traffic impact study scope. Prior to beginning a traffic impact study, the applicant shall submit a proposed scope of services to the Borough Zoning Officer for review and approval. The traffic impact study shall include the following if appropriate, as determined by the Borough:
  - (1) A brief description of the proposed project in terms of land use and magnitude.
  
  - (2) An inventory and analysis of existing roadway and traffic conditions in the site environs, including:
    - (a) Roadway network and traffic control.
  
    - (b) Existing traffic volumes in terms of peak hours and average daily traffic (ADT).
  
    - (c) Planned roadway improvements by others.
  
    - (d) Intersection levels of service.
  
    - (e) Other measures of roadway adequacy, i.e., lane widths, traffic signal warrants, vehicle studies, etc.
  
    - (f) Proposed site-generated traffic volumes in terms of:
      - [1] Peak hours and ADT (by development phase if required).
  
      - [2] Arrival/departure distribution, including method of determination.
  
      - [3] Site traffic volumes on study roadways.
  
    - (g) An analysis of future traffic conditions, including:
      - [1] Future opening year combined traffic volumes (site traffic plus future background roadway traffic). Opening year is the projected year of opening for the proposed development or change in use.

## SUBDIVISION AND LAND DEVELOPMENT

- [2] Future design year, or years with phasing, combined traffic volumes (site traffic plus future roadway traffic). Design year is projected to 10 years beyond the expected opening year of the development or change in use.
  - (h) Intersection levels of service.
  - (i) A pavement analysis of roadways which are projected to experience a significant increase in ADT volumes off site.
  - (j) Other measures of roadway adequacy, i.e., lane widths, traffic signal warrants, vehicle delay studies, etc.
  - (k) When access is onto a state road, the analysis of future conditions shall be consistent with PennDOT requirements.
- (3) A description of future levels of service and their compliance with standards for traffic capacity of streets, intersections and driveways. New streets shall be designed for adequate traffic capacity, defined as follows. All reference to levels of service (LOS) shall be defined by the Highway Capacity Manual, Special Report 209, published by the Transportation Research Board. These standards may be waived by the Borough if sufficient evidence is provided that criteria cannot be met with reasonable mitigation.
- (a) Traffic capacity LOS shall be based upon future design-year analysis.
  - (b) New or modified (a new approach created) nonsignaled intersections, lot access points/access drives or driveways which intersect streets and/or alleys shall be designed for LOS C or better for each traffic movement, unless otherwise specified by the Borough.
  - (c) New or modified (a new approach created) signalized intersections shall be designed for LOS C or better for each traffic movement, unless otherwise specified by the Borough.
  - (d) Existing intersections impacted by development traffic shall maintain a minimum LOS D for each traffic movement; or, if future base (without development traffic) LOS is E, then mitigation shall be made to maintain LOS E with development traffic. If future base LOS is F, then degradation in delays shall be mitigated.
- (4) A description and analysis of the proposed access plan and site plan, including:

- (a) Access plan, including analysis of required sight distances using PennDOT criteria and description of access roadway, location, geometric conditions and traffic control.
- (b) On-site circulation plan showing parking locations and dimensions, loading access circulation roadway and traffic control.
- (c) Traffic circulation mitigating action plan shall include:
  - [1] Project features relative to site access and on-site circulation which could be modified to maximize positive impact or minimize negative impact.
  - [2] Off-site improvement plan depicting required roadway and signal installation and signing improvements to meet the minimum level of service requirements.
- (5) Traffic control devices and other traffic improvements. Whenever, as a result of additional traffic generated by a proposed development, the traffic impact study determines the need for a traffic signal or regulatory sign, additional traffic lanes (acceleration, deceleration or turning) or other traffic improvements to be constructed on the applicant's property or on the property abutting the applicant's property, the applicant shall, as a condition to approval of the final plat, agree to construct the improvements at the applicant's cost or in lieu thereof, and with the written consent of the Borough, reimburse the Borough for the cost of the improvements.

(Ord. 1113, 1/19/2010)

**§22-514. (Reserved)**

**§22-515. Conceptual Landscape Plan.**

A conceptual landscape plan shall be provided and shall contain the following:

- A. Preliminary grading plan as a background.
- B. Approximate locations and spacing of all proposed plant material, with typical dimensions by species.
- C. Botanical and common names of all plant species, their sizes and quantities.
- D. Tree lawn and street trees in accordance with the Borough Shade Tree Commission requirements. See Chapter 25 of the Mechanicsburg Borough Code relating to street trees.

## SUBDIVISION AND LAND DEVELOPMENT

(Ord. 1113, 1/19/2010)

### **§22-516. Additional Approvals Being Sought.**

A statement of the approvals and permits that will be required for the proposed development from the Borough, county, commonwealth or federal agencies shall be submitted.

(Ord. 1113, 1/19/2010)

### **§22-517. Request for Waiver or Modification.**

A letter from the applicant specifically requesting any waiver or modification from the regulations herein established and citing the reasons for same shall be submitted.

(Ord. 1113, 1/19/2010)

### **§22-518. Archaeological/Historical Resources Study and Report.**

- A. This provision applies to properties containing sites that are:
  - (1) Listed on the National Register of Historic Places or designated within the Borough Historic District;
  - (2) Eligible for the National Register and which have received a determination of eligibility from the National Park Service;
  - (3) Identified in the Borough of Mechanicsburg Comprehensive Plan or other applicable studies/reports available through the Borough; or
  - (4) Listed in the Cumberland County Comprehensive Plan.
- B. Projects may be subject to the completion of a Level 1 and 2 archaeological survey and report or a determination by the State Preservation Officer that the project will not disturb the cultural significance or artifacts on the property.
- C. If artifacts are uncovered during construction, work in the area shall cease, and the State Preservation Officer shall be called to inspect the archaeological site to determine whether Level 1 and 2 archaeological surveys are required. The results of the survey shall determine if construction can proceed in the area.

(Ord. 1113, 1/19/2010)



**§22-519. Wetlands Study and Report.**

When wetlands are known or suspected to exist, when directed by the Borough Council, Planning Commission or Borough Engineer, all subdivision and/or land development plans shall have a wetland study and report performed by a professional soil scientist, biologist, hydrologist, wetland ecologist, or other professional with demonstrated qualifications. The Borough Council, Planning Commission and/or Borough Engineer may require a second study, at the applicant's expense, by another mutually chosen professional, and/or a "jurisdiction delineation" by the United State Army Corps of Engineers. The wetland study and report shall identify the location of existing wetlands as determined by the standards of either the United States Environmental Protection Agency, the United States Army Corps of Engineers, the Pennsylvania Department of Environmental Protection, or the United States Department of Agriculture/Natural Resources Conservation Services (USDA/NRCS). Wetland areas are not limited to those areas delineated on wetland maps prepared by the United States Fish and Wildlife Service. All subdivision and/or land development plans shall identify the location of all wetland areas.

(Ord. 1113, 1/19/2010)

**§22-520. Existing Deed Restrictions and Protective Covenants.**

Documentation of all governing roles and responsibilities shall be provided.

(Ord. 1113, 1/19/2010)

**§22-521. Final Plat.**

- A. The final plat shall be provided in an accurate and final form appropriate for recording. Final plats shall be submitted on sheets measuring 24 x 36 inches and then reduced if necessary to the size requested by the Cumberland County Recorder of Deeds. Where necessary to avoid sheets larger than the maximum size prescribed above, final plats shall be drawn in two or more sections accompanied by a key diagram showing the relative location of the sections.
- B. The final plat shall clearly delineate the following:
  - (1) All preliminary plat requirements.
  - (2) Subdivision name or identifying title.
  - (3) Name and seal of the registered professional engineer, landscape architect, or surveyor responsible for the plan.

## SUBDIVISION AND LAND DEVELOPMENT

- (4) Total acreage of the tract.
- (5) Lot area to 1/1,000 acre.
- (6) Total number of dwelling units and/or nonresidential square footage proposed.
- (7) Location, type and size of all monuments and lot markers in accordance with the standards and requirements of this chapter and an indication of whether they were found or set.
- (8) Lots within a subdivision and/or land development shall be numbered consecutively.
- (9) The proposed building setback line for each street and the proposed placement of each building.
- (10) Accurate boundary lines and ownership, with dimensions and bearings and details of easements where required.
- (11) Street names and house numbers.
- (12) Street lines, with accurate dimensions in feet and hundredths of feet, with angles to the nearest one minute of street and lot lines.
- (13) If applicable, a notation on the plat that access to a state highway shall only be authorized by a highway occupancy permit issued by the Pennsylvania Department of Transportation (PennDOT) under Section 420 of the State Highway Law (P.L. 1242, No. 428, of June 1, 1945).<sup>1</sup>
- (14) All streets and driveways on or adjacent to the lot, including name, right-of-way width, cartway width, street lines, lot lines, rights-of-way, easements and areas dedicated to public use.
- (15) Center line of streets, with bearings, distances, curve data, sight distances and stations corresponding to the profile.
- (16) Proposed center-line grade of streets, with percent of grade of tangents and elevations at fifty-foot intervals, including grades at intersections, control points, etc.
- (17) Profile of ground surface along center line of street.
- (18) Right-of-way lines and curblines of streets, with radii at intersections.

---

<sup>1</sup> Editor's Note: See 36 P.S. §670.420.

- (19) Location and width of all private driveways.
- (20) Vertical curve data of streets, including length and elevations and sight distance as required by the Borough Engineer.
- (21) Beginning and end of proposed construction of streets.
- (22) Tie-ins by courses and distances to the intersection of all public roads, with their names and widths.
- (23) Permanent reference monuments shall be shown on the plan at all street intersections, angle points, beginning and end of curves, and change of direction of property boundaries. Designations should include benchmark elevations to establish Borough data.
- (24) Location and size of all drainage structures, public utilities, street name signs and shade trees.
- (25) Location and size of storm and/or sanitary sewer lines, with stations corresponding to the profile.
- (26) Location of storm and/or sanitary sewer manholes or inlets, with grade between and elevation of flow line, top of each manhole or inlet and invert elevations.
- (27) Profile of storm drain or sewer, showing size of pipe, grade cradle, if any, manhole or inlet locations, and elevations at flow line.
- (28) Beginning and end of proposed construction of storm and/or sanitary sewer.
- (29) Location of storm and/or sanitary sewer laterals, Y's, etc.
- (30) Location of all other drainage facilities and public utilities.
- (31) Profile of existing ground surface, with elevations at top of manholes or inlets.
- (32) Proposed details for all on-lot drainage and final disposition of storm-water.
- (33) When required by the Borough, additional information related to in-fill, redevelopment and or replacement in accordance with the Borough zoning requirements. See Chapter 27 of the Mechanicsburg Borough Code relating to zoning.
- (34) Tree lawn locations, street trees and sidewalk locations.

## SUBDIVISION AND LAND DEVELOPMENT

- C. Where applicable, plans of bridges and other improvements, which shall contain sufficient information to provide complete working plans for the proposed construction.
- D. Typical cross sections of streets, showing:
  - (1) Right-of-way width and location and width of paving.
  - (2) Type, thickness and crown of paving.
  - (3) Type and size of curb.
  - (4) Grading of sidewalk area, if applicable.
  - (5) Location, width, type and thickness of sidewalks.
  - (6) Typical location of sewers and utilities, with sizes.
- E. An affidavit that the applicant is the owner or equitable owner of the land proposed to be subdivided. A notarized statement duly acknowledged before an officer authorized to take acknowledgments of deeds and signed by the owner or owners of the property to the effect that the subdivision and/or land development<sup>1</sup> as shown on the final plat is made with his or their free consent and that it is desired to record the same.
- F. For subdivision and/or land development having individual on-site sewage disposal facilities, one of the following must be supplied if this information was not submitted with a preliminary plat:
  - (1) A copy of the Pennsylvania Department of Environmental Protection report of investigation and approval of the proposed sewage disposal systems.
  - (2) Where the State Department of Environmental Protection approval is not required, soil percolation test results for each lot, with a plan showing the location of each test hole; in addition, a description of each soil stratum from a subsoil investigation made near the site of each test hole to the depth specified in §22-608.
  - (3) A description of proposed sewage disposal systems.
- G. Where individual on-site water supply systems are proposed, certification of the acceptability of the water supply system by the State Department of

---

<sup>1</sup> Editor's Note: Original ordinance read "subdivision and/or"; updated during codification to add "land development."

Environmental Protection must be submitted wherever its approval is required.

- H. Such other certificates of approval as may be required by the Borough Engineer, Planning Commission and Borough Council.
- I. The following information shall be required as part of the final plat and shall be prepared by a registered engineer or surveyor:
  - (1) All information required for the submission of the plan, incorporating any changes requested by the Borough Council of the Borough of Mechanicsburg.
  - (2) Where applicable, a map showing the exact location and elevation of all proposed buildings, structures, roads, and public utilities to be constructed within any designated floodplain district. All such maps shall show contours at intervals of two feet and identify accurately the boundaries of the flood-prone areas in accordance with Borough requirements.
- J. Submission of the final plat shall also be accompanied by proof of submission of review requests/responses and permit applications, including but not limited to:
  - (1) Pennsylvania Department of Transportation highway occupancy permits.
  - (2) Pennsylvania Department of Transportation traffic signal permits.
  - (3) Pennsylvania Department of Environmental Protection sewerage planning module (or exemption if applicable).
  - (4) Pennsylvania Department of Environmental Protection National Pollutant Discharge Elimination System permits.
  - (5) Pennsylvania Department of Environmental Protection water obstruction and encroachment permits.
  - (6) Pennsylvania Department of Economic Development and/or Federal Emergency Management Agency floodplain permits.
  - (7) Cumberland County Conservation District approval.
  - (8) Borough of Mechanicsburg Municipal Authority approval.
  - (9) In addition, documentation shall be submitted indicating that all affected adjacent municipalities have been notified of the proposed alteration or relocation. The Department of Community and Economic

## SUBDIVISION AND LAND DEVELOPMENT

Development and the Federal Insurance Administrator, or other applicable agency, shall also be notified whenever any such activity is proposed.

- (10) Borough of Mechanicsburg zoning approval, unless otherwise identified by the Borough.

(Ord. 1113, 1/19/2010)

### **§22-522. (Reserved)**

### **§22-523. Final Water Supply Report.**

If water is to be provided by means other than private wells owned and maintained by the individual owners of lots within the subdivision and/or land development, applicants shall present evidence to the Planning Commission that the subdivision and/or land development is to be supplied by a certified public utility, a bona fide cooperative of lot owners or by a municipal corporation, authority or utility. This evidence shall take the form of a copy of a certificate of public convenience from the Pennsylvania Public Utility Commission or an application for such certificate, a cooperative agreement or a commitment or agreement to serve the area in question, whichever is appropriate, submitted to the Borough.

(Ord. 1113, 1/19/2010)

### **§22-524. Floodplain Management Plan (if Applicable).**

When required, the information required by Chapter 8 of the Mechanicsburg Borough Code relating to floodplains shall be submitted.

(Ord. 1113, 1/19/2010)

### **§22-525. Final Grading Plan.**

A final grading plan, illustrating final grades of all lots and a surface drainage plan by arrows showing the direction of runoff on each lot, shall be submitted and shall also include all items required under §22-510, Preliminary Grading Plan, of this chapter.

(Ord. 1113, 1/19/2010)

**§22-526. Final Stormwater Management Plan.**

A final stormwater management plan shall be submitted and shall include all items required under §22-511, Preliminary Stormwater Management Plan, of this chapter.

(Ord. 1113, 1/19/2010)

**§22-527. Final Landscape Plan.**

A final landscape plan shall be submitted and shall include all items required under §22-515, Conceptual Landscape Plan, of this chapter.

(Ord. 1113, 1/19/2010)

**§22-528. Erosion and Sedimentation Control Plan.**

A copy of the erosion and sedimentation plan as filed with the Cumberland County Conservation District, including a copy of the transmittal letter and evidence of Cumberland County Conservation District approval, shall be provided.

(Ord. 1113, 1/19/2010)

**§22-529. Written Easements or Deeds to be Granted.**

A copy of all written easements or deeds to be granted as a result of the subdivision and/or land development shall be provided.

(Ord. 1113, 1/19/2010)

**§22-530. Agreement for Completion of Public Improvements and Dedication of Streets.**

- A. An appropriate statement, signed by the owner, unequivocally indicating his intention either:
  - (1) To dedicate for public use all streets, roads, easements and rights-of-way so intended and designated; or
  - (2) To reserve as private any streets, roads, easements or rights-of-way intended not to be dedicated for public use.
- B. The final plat shall be accompanied by a written agreement of the landowner and/or developer in a form approved by the Borough Council, including an agreement to construct, in form and substance agreeable to the Bor-

## SUBDIVISION AND LAND DEVELOPMENT

ough, required improvements, including but not limited to streets, curbs, sidewalks and storm drainage facilities.

- C. Public improvements shall be in conformance with Borough construction specifications.

(Ord. 1113, 1/19/2010)

### **§22-531. Certificates of Approval from Other Agencies.**

- A. The final plat shall be accompanied by, if required, a highway occupancy permit or review and written approval by the Pennsylvania Department of Transportation.
- B. The final plat shall be accompanied by an approval of street names by Cumberland County and/or the Borough of Mechanicsburg, as applicable.
- C. The applicant shall obtain approval from the Borough Zoning Officer and/or designated Code Enforcement Officer, as applicable.

(Ord. 1113, 1/19/2010)

### **§22-532. Developer's Agreement.**

Prior to an applicant beginning construction of a subdivision and/or land development, the Borough Council shall require that the developer and/or landowner execute a development agreement with the Borough, in a form acceptable to the Borough Solicitor, containing provisions that are reasonably required to guarantee compliance with the conditions of approval, if any, and to guarantee the proper installation of on-site and off-site improvements related to the subdivision and/or land development and provisions necessary to indemnify the Borough in connection therewith.

(Ord. 1113, 1/19/2010)

### **§22-533. Statement of Ownership.**

A statement of acknowledgment in legal form, executed by a notary, stating that the landowner and/or developer is the owner or equitable owner of the land proposed for subdivision and/or land development and that the subdivision and/or land development as shown on the final plat is the act and deed of the landowner and/or developer and that it is desired to record the same, shall be submitted.

(Ord. 1113, 1/19/2010)



**§22-534. Legal Mechanism for Management of Common Lands.**

All development proposals involving land or facilities that will be commonly owned among more than one title holder shall include all proposed covenants, restrictions, and operating bylaws for the association pursuant to the requirements of this chapter.

(Ord. 1113, 1/19/2010)

**§22-535. Guaranty of Installation of Improvements.**

See Part 7.

(Ord. 1113, 1/19/2010)

**§22-536. Inspection and Engineering Fees.**

See Part 7.

(Ord. 1113, 1/19/2010)

**§22-537. Final Submission of Reproducible Original of the Plans.**

See Part 7.

(Ord. 1113, 1/19/2010)

**§22-538. As-Built Drawings.**

An as-built drawing shall be submitted which illustrates to scale the as-built conditions of the site.

(Ord. 1113, 1/19/2010)



**PART 6**  
**DESIGN STANDARDS**

**§22-601. Interpretation of Standards; Additional Conditions; Modifications.**

- A. The standards and requirements outlined herein shall be considered minimum standards and requirements for the promotion of the public health, safety, morals and general welfare.
- B. With the consent of the applicant, additional conditions may be applied to any application for subdivision and/or land development by the applicable and defined approving body of the Borough.
- C. Modifications. See Pennsylvania Municipalities Planning Code Section 512.1.<sup>1</sup>

(Ord. 1113, 1/19/2010)

**§22-602. Land Use Requirements.**

- A. Proposed land uses shall conform to the Chapter 27 of the Mechanicsburg Borough Code relating to zoning.
- B. Land shall be suited to the purposes for which it is to be used.
- C. Land subject to hazards to life, health or property shall not be used until all such hazards, including but not limited to chemical, soil, access, and drainage hazards, have been eliminated or unless adequate safeguards against hazards are provided by the subdivision and/or land development plan.
- D. A subdivision and/or land development shall conform to Borough land use plans, adjacent land use patterns and other official maps of the Borough or to such parts thereof as shall have been officially prepared and adopted by Borough agencies for the locality in which the subdivision and/or land development is located.
- E. Proposed subdivision and/or land development shall be coordinated with existing nearby neighborhoods so that the community as a whole may develop harmoniously.

(Ord. 1113, 1/19/2010)

---

<sup>1</sup> Editor's Note: See 53 P.S. §10512.1.

## SUBDIVISION AND LAND DEVELOPMENT

### §22-603. Street Patterns.

- A. Proposed streets shall be properly related to such street plans or parts thereof as have been officially adopted by the Borough.
- B. Proposed streets shall further conform to such county and state road and highway plans as have been adopted and filed as prescribed by law.
- C. Streets shall be logically related to the topography so as to produce usable lots and reasonable grades.
- D. Access shall be given to all lots and portions of the tract in the subdivision and/or land development and to adjacent unsubdivided territory. Streets giving such access shall be improved to the limits of the subdivision(s) and/or land development(s). Remnants, reserve strips and land-locked areas shall not be created.
- E. Streets shall be classified according to their functions.
  - (1) Minor, including cul-de-sac streets: intended primarily to provide access to abutting properties. The standards given are for streets serving residential properties and assume light traffic flow and street parking.
  - (2) Collector: streets which, in addition to serving abutting properties, intercept minor streets, connect with community facilities, and are intended primarily to serve neighborhood traffic. Standards assume medium traffic flow and street parking on both sides.
  - (3) Major streets: streets serving large volumes of comparatively long-distance traffic at high speed and intended primarily for inter-city and commuter traffic and include facilities classified as main and secondary highways by the Pennsylvania Department of Transportation.
- F. Streets shall be laid out to preserve the integrity of their design.
- G. Minor streets shall be laid out to discourage through traffic, but provision for street connections into and from adjacent areas will generally be required.
- H. If lots resulting from original subdivision and/or land development are large enough to permit resubdivision, or if a portion of the tract is not subdivided, adequate improved rights-of-way to permit further subdivision shall be provided as necessary.
- I. Where a subdivision and/or land development abuts or contains an existing or proposed major street, the Planning Commission may require rear service alleys, reverse-frontage lots or such other treatment as will provide protec-

tion for abutting properties, reduction in the number of intersections with the major street, and separation of local and through traffic.

- J. New half or partial streets will not be permitted, except where essential for reasonable subdivision of a tract in conformance with the other requirements and standards of this chapter and where, in addition, satisfactory assurance for dedication of the remaining part of the street can be secured.
- K. Wherever a tract to be subdivided borders an existing half or partial street, the other part of the street shall be plotted within such tract and improved.
- L. Dead-end streets shall be prohibited, except as stubs to permit future street extension into adjoining tracts. No stub shall be permitted unless improved with a cul-de-sac, which would be removed when the stub is connected to the street in the adjoining tract.
- M. New streets shall be laid out to continue existing streets at equal or greater width as regard to cartway and right-of-way where such continuations are reasonable and practicable.
- N. Continuation of existing streets shall be known by the same name. Names for new streets shall not duplicate or closely resemble names of existing streets and shall be established by the Borough Council. The landowner and/or developer shall provide street name signs at intersections, and such signs shall be of the type approved by the Borough.
- O. Where a subdivision and/or land development abuts a railroad right-of-way, proposed streets shall not be permitted to cross any railroad right-of-way without consent of the Public Utility Commission or applicable railroad authority.
- P. Cul-de-sac streets.
  - (1) Cul-de-sac streets permanently designed as such shall not be less than 250 feet and shall not exceed 500 feet in length, measured from the furthest point on the outer curb radius to end of the tangent, or provide access to more than 20 dwelling units.
  - (2) Cul-de-sac streets shall be provided at the closed end with a paved turnaround or apron having an outside road diameter of at least 80 feet and a property line diameter of at least 100 feet.
  - (3) Unless future extension of a cul-de-sac street is clearly impractical or undesirable, the turnaround right-of-way shall be placed adjacent to a property line, and a right-of-way of the same width as the street shall be carried to the property line in such a way as to permit future extension of the street into the adjoining tract. Drainage of a cul-de-sac

SUBDIVISION AND LAND DEVELOPMENT

shall preferably be towards the open end, in the absence of storm drains.

(Ord. 1113, 1/19/2010)

**§22-604. Criteria for Streets.**

- A. Widths. Minimum street right-of-way and cartway (roadway) widths shall be as follows:

**Table 2: Street Width Criteria**

Type	Width	
	Right-of-Way (feet)	Cartway and Curbing (feet)
Minor street	50	34
Collector street	60	36
Major street	80	Per PennDOT
Alleys	See §22-605	

- (1) Additional cartway widths that may be required for one of the following shall conform to Table 2 standards:
  - (a) Promoting public safety and convenience; and/or
  - (b) Providing parking space in commercial districts and in areas of high-density residential development.
- (2) Where a subdivision and/or land development abuts or contains an existing street of inadequate right-of-way and/or cartway width, the Borough shall require additional right-of-way and/or cartway width in conformance with Table 2 standards.

- B. Alignment.

- (1) Whenever street lines are deflected in excess of 5°, connection shall be made by horizontal curves.
- (2) Centering radii for horizontal curves shall ensure adequate sight distance. Sight distance shall be calculated in accordance with Borough standards.
- (3) Except on minor streets, a tangent shall be required between curves; however, a long-radius curve shall be preferred in all cases to a series

of curves and tangents. Tangents of 100 feet shall be required between reverse curves.

- (4) Proper superelevation shall be required when curved radii are less than the following: 500 feet on major streets and 200 feet on minor and collector streets; and where the speed limit is in excess of 30 miles per hour, proper superelevation shall be required in accordance with Pennsylvania Department of Transportation standards.
- (5) Clear sight distances shall be provided in accordance with Pennsylvania Department of Transportation Publication 441. Reductions in sight distances at stop-controlled intersections may be granted at the discretion of the Borough Engineer.

C. Grades.

- (1) Minimum permissible center-line grades shall be 1% for bituminous concrete cartways and 0.5% for cement concrete cartways or streets with cement concrete gutters.
- (2) Table 3.

**Table 3: Center Lines and Vertical Curves**

Type	Center-Line Grades (maximum)	Vertical Curve Dis- tances (feet)
Minor street/alley	8%	200
Collector street	6%	300
Major street	6%	400
Cul-de-sac	4%	—

- (a) Vertical curves shall be used at changes of grade exceeding 1% and shall be designed in relation to the extent of grade change.
- (b) At the approach to an intersection and when the grade exceeds 7%, a leveling area shall be provided having not greater than 4% grades for a distance of 40 feet measured from the nearest right-of-way line of the intersection street.
- (c) A combination of minimum-radius horizontal curves with maximum street grades shall not be permitted.

## SUBDIVISION AND LAND DEVELOPMENT

### D. Intersections.

- (1) Streets shall be laid out to intersect at as nearly as possible to ninety-degree angles. No street shall intersect another at an angle less than 60°.
- (2) Multiple intersections involving a junction of more than two streets shall be avoided. Where this proves impossible, such intersections shall be designed with extreme care for both pedestrian and vehicular safety.
- (3) Clear sight triangles of 25 feet, measured along the right-of-way from their point of junction, shall be provided at all intersections of minor streets; and no building, planting, or other obstruction shall be permitted within such sight triangles which exceeds two feet above the center line of the street.
- (4) At proposed intersections where traffic intersects with a collector or major street, the traffic to be controlled by a stop sign must have sight distance acceptable to the Borough Engineer to enable the stopped vehicle to cross the collector or major street. Clear sight distances shall be provided in accordance with Pennsylvania Department of Transportation Publication 441.
- (5) To the fullest extent possible, intersections with major streets shall be located not less than 800 feet apart, measured from center line to center line.
- (6) Streets entering opposite sides of another street shall be laid out either directly opposite one another or with a minimum offset of 200 feet between their center lines. The minimum offset may be reduced to 125 feet with the incorporation of approved traffic-calming devices.
- (7) Maximum grades within any intersection shall not exceed 2%, and approaches to an intersection shall follow a straight course for 100 feet.
- (8) Curb radii at intersections shall be according to the following schedule of minimum lengths: minor streets, 25 feet; collector traffic streets, 30 feet; and major streets, 35 feet. Where streets of different categories intersect, the requirements for the greater distance shall apply.
- (9) At intersections, the street right-of-way line shall be parallel to the curbline.

### E. Drainage. Unless otherwise regulated by the Borough's Stormwater Management Ordinance (see Chapter 26 of the Mechanicsburg Borough Code relating to water), the following provisions shall apply:



- (1) Storm sewers, culverts, and related installations shall be provided to permit unimpeded flow of natural watercourses, to drain all low points along streets, and to intercept stormwater runoff along streets at intervals reasonably related to the extent and grade of the entire area drainage.
- (2) In the design of storm sewerage installations, special consideration shall be given to avoidance of problems which may arise from concentration of stormwater runoff over adjacent properties. Drainage releases for discharge onto downstream properties shall be provided in accordance with Borough standards.
- (3) The slope of the crown of minor and collector streets shall be 2%. Where drainage is provided in the center of the cartways, slopes within the same limit shall be provided.
- (4) Storm sewers, as required, shall be placed in front of the curb when located in a street right-of-way. When located in undedicated land, they shall be placed within an easement not less than 20 feet wide, as approved by the Borough Engineer.
- (5) Storm sewers shall have a minimum diameter of 15 inches and a minimum grade of 1/2%. Changes in alignment shall be by straight sections connected by inlets or manholes.
- (6) Manholes shall be not more than 300 feet apart on sizes up to 24 inches and not more than 500 feet apart on greater sizes. Inlets may be substituted for manholes on approval by the Borough Engineer.
- (7) Inlets and manhole covers and frames shall conform to the Borough standards. At street intersections, inlets shall be placed in the tangent and not in the curved portion of the curbing.
- (8) Stormwater roof drains shall not discharge water directly over a sidewalk, driveway or parking area but shall connect with the gutter or storm sewer.
- (9) Bridges and culverts shall have ample waterway to carry expected flows. Culverts shall be provided with wing walls and shall be constructed for the full width of the right-of-way. Bridges shall be provided with a paved flow line and with deep aprons and wing walls at each end. Bridges shall be constructed no narrower than the cartway of the road they serve; and, in addition, sidewalks on one or both sides shall be required.

## SUBDIVISION AND LAND DEVELOPMENT

- (10) Storm drainage facilities shall be designed to remove the anticipated increase in runoff that will occur when all undeveloped adjacent property at a higher elevation is fully developed.

### F. General development standards.

- (1) Street cuts shall be provided with side slopes no steeper than one vertical to two horizontal, and streets on fill shall be provided with side slopes no steeper than one vertical to two horizontal. Such slopes shall be suitably planted with perennial grasses or other vegetation to prevent gulleying and erosion. Gutters and/or swales in conformance with Borough standards shall be provided on cut slopes. Dish gutters may be required.
- (2) Sidewalks shall be required on both sides of a street in residential and nonresidential areas. Sidewalk width shall not be less than five feet. Greater width may be required in high-density residential developments and nonresidential areas. Sidewalks shall be located as required by the Borough in the street right-of-way with grade and paving continuous across driveways.
- (3) Shade trees shall be provided in compliance with the provisions of this chapter, Chapter 25 of the Mechanicsburg Borough Code relating to trees, and any other applicable Shade Tree Commission regulations and shall be planted so as not to interfere with the installation or maintenance of sidewalks and utilities. Street rights-of-way (existing or planned to be dedicated to the Borough) adjacent to or located within new subdivisions and/or land developments shall have shade trees planted along both sides of the streets. The street offset and horizontal spacing of the shade trees shall comply with the provisions set forth in of the Mechanicsburg Borough Code relating to trees and resolutions of the Borough Council promulgated thereunder.
- (4) The yard areas and other areas not used for buildings, parking lots, driveways, sidewalks, and other paved areas shall be planted with vegetative material as shown on the landscape plan which shall be submitted to the Planning Commission for review. Such plantings shall contain not less than the following minimum plant material:
  - (a) Not less than 30% of the total area of the tract shall be lawn area planted in grass or ground cover.
  - (b) Not less than 5% of the total area of the tract shall be planted in shrubbery. Such shrubbery shall be not less than 1 1/2 feet in height, and each bed of such shrubbery area shall be planted with shrubbery spaced according to generally accepted standards.

- (c) Not less than one tree shall be planted for each 3,000 square feet of the total area of the tract. Each tree shall be not less than 2 1/2 inches in diameter and of a species approved by the Shade Tree Commission.
- (d) Landscaping of off-street parking shall be in conformance with the requirements of Chapter 27 of the Mechanicsburg Borough Code relating to zoning.
- (5) Hedges, fences and walls or other obstructions shall not be placed or planted in the right-of-way of any street.
- (6) Curbing shall be provided for the full length of all streets (excluding alleys).
- (7) Material and construction standards for streets, curbs and gutters, storm and sanitary sewers, and sidewalks shall conform to the Borough standards; and construction and installation of all facilities shall conform to the Borough specifications and be subject to inspection by appropriate Borough officials.
- (8) All utility lines and services which serve five or more dwellings or other uses shall be placed underground, if approved by the utility owners.
- (9) Underground utilities shall be put in place, connected and approved before the sidewalks and streets are constructed and before any person is permitted to occupy any building to be served by such utilities.

(Ord. 1113, 1/19/2010)

**§22-605. Alleys, Driveways and Easements.**

- A. Alleys are permitted and encouraged to minimize direct driveway access to major streets.
- B. As applicable to existing alleys where adjacent lot(s) are improved or developed, improvements to existing alleys shall be completed by the landowner and/or developer.
- C. Alleys in residential developments shall have a minimum width of 20 feet and be curbed with a minimum paved surface of 16 feet. Where alleys serve dwellings only on one side, the Borough may permit a paved alley surface of not less than 12 feet.
- D. Alleys shall be required in commercial and industrial districts, except where other adequate provision is made for off-street loading and parking consis-

## SUBDIVISION AND LAND DEVELOPMENT

tent with the use proposed. Where required, alleys in commercial or industrial districts shall have a minimum paved width of 22 feet.

- E. Dead-end alleys shall be avoided; but where this proves impossible, they shall be terminated with a paved circular turnaround of dimensions acceptable to the Borough Engineer for safe use by large vehicles. Minimum dimensions shall comply with Borough Construction Standards.
- F. Alley intersections and sharp changes in alignment shall be avoided; but where necessary, corners shall be rounded or cut back to permit safe vehicular circulation. Turning radii at an intersection(s) of an alley and a street or other cartway shall be designed and constructed to be acceptable to the Borough Engineer.
- G. Private driveways on corner lots shall be located at least 40 feet from the intersection and shall have such grades as to furnish a safe and convenient parking space. Curb height shall be at least one inch high above the gutter at driveway entrances.

(Ord. 1113, 1/19/2010)

### **§22-606. Blocks.**

- A. The length, width and shape of blocks shall be determined with regard to:
  - (1) Provisions of adequate sites for buildings of the type proposed.
  - (2) Zoning requirements.
  - (3) Topography.
  - (4) Requirements for safe and convenient vehicular and pedestrian circulation.
    - (a) Blocks shall have a minimum length of 500 feet. In the design of blocks longer than 1,100 feet, additional requirements may be defined by the Borough in order to address satisfactory fire protection and pedestrian access/circulation.
    - (b) Residential blocks shall be of sufficient depth to accommodate two tiers of lots, except where through lots with services by a minor street are required along a major street, in which case the minimum depth of such through lots shall be 150 feet.

(Ord. 1113, 1/19/2010)

**§22-607. Lots and Lot Sizes.**

- A. Lot dimensions and area shall be not less than specified by provisions of Chapter 27 of the Mechanicsburg Borough Code relating to zoning.
  - (1) Where capped sanitary sewer mains and house connections are to be installed at the time of subdivision, and where studies indicate that construction or extension of sanitary trunk sewers to serve the property subdivided appears probable, the Borough may permit lots smaller than outlined above, provided that soil and drainage data submitted with the plan indicates that the temporary on-lot facilities will function properly.
  - (2) Where either or both water supply and sanitary sewage disposal are provided by individual on-site facilities, the Borough will require that the adequacy of the proposed facilities for each lot be certified in accordance with the procedures outlined in §22-608, Sanitary Sewage Disposal, and §22-609, Water Supply.
  - (3) All lots where on-lot sewage disposal facilities are proposed utilizing tile fields must be of a size and shape to accommodate the required length of tile field at a safe distance and at a lower elevation than the proposed building.
- B. If parking is required by Chapter 27 of the Mechanicsburg Borough Code relating to zoning, at least one paved off-street parking space back of the front building setback line with access to a street or alley shall be provided for each dwelling unit. Where such access is to be a major street, adequate turnaround space shall be provided on the lot.
- C. Side lot lines shall be substantially at right angles or radial to street lines.
- D. Residential lots shall abut a public street, existing or proposed.
- E. Through lots are permitted only where the lot is adjacent to a major street.
- F. Reverse-frontage lots shall be required along major streets and highways with an ultimate right-of-way of 80 feet or more.
- G. The depth and width of parcels laid out or reserved for nonresidential use shall be adequate for the use proposed and sufficient to provide satisfactory space for off-street parking and unloading.
- H. Where construction of buildings is to accompany the subdivision of land, lots shall be laid out and graded to provide positive drainage away from said buildings. On lots where individual on-site sewage disposal facilities are used, the lots shall be graded to divert stormwater from the proposed dis-

## SUBDIVISION AND LAND DEVELOPMENT

posal field or seepage pit locations. Topsoil shall be redistributed as cover and shall be stabilized by seeding or planting.

- I. Final grades of all lots must be shown on the final plat, and retaining walls shall be used wherever the slope exceeds a ratio of 2:1. Details of retaining walls shall be provided in a form acceptable to the Borough Engineer.

(Ord. 1113, 1/19/2010)

### **§22-608. Sanitary Sewage Disposal.**

- A. The landowner and/or developer shall provide the highest type of sewage disposal facility consistent with existing physical, geographical and geological conditions and in accordance with Pennsylvania Department of Environmental Protection standards and the applicable chapter(s) of the Mechanicsburg Borough Code relating to sanitary sewers. The following types of sanitary sewage disposal facilities are listed:
  - (1) Public sanitary sewer and treatment plant system.
  - (2) Community sanitary sewer and temporary sewage treatment plant.
  - (3) Capped sewers with temporary on-lot facilities.
  - (4) Septic tank with tile field or septic tank with seepage pit, depending on results of soil tests and subsoil investigation.
    - (a) Soil percolation tests to determine the suitability of the soil for on-lot sewage disposal facilities must be performed for all new subdivisions and/or land developments where buildings are not to be connected to public or community sanitary sewers at the time of construction.
    - (b) Soil percolation tests shall be supervised and certified by a registered professional engineer. Where the approval of the Pennsylvania Department of Environmental Protection is required, a copy of its report of investigation and approval of the proposed sewage disposal system may be submitted in lieu of certification by an engineer.
    - (c) Soil percolation test results shall be accompanied by a description of subsoil strata to a depth of four feet greater than the proposed effluent disposal field or seepage pit. These data shall be obtained from test borings at or near the site of each percolation test hole.

- (d) Where possible, soil percolation tests shall be performed at or near the site of the proposed sewage disposal facility for each lot according to the specifications of the Department of Environmental Protection or as outlined in the Manual of Septic Tank Practice, United States Department of Health, Education and Welfare. The Borough may waive this requirement in whole or part for lots which are to be two acres or larger in area.
- (e) The results of soil percolation tests shall be evaluated individually for each lot in light of information from test borings and topographical features at each respective test hole location.
- (f) All lots in any new subdivision and/or land development that cannot be connected to the public sanitary sewer system at the time of building construction shall be provided with an on-site sewage disposal system consisting of a septic tank or tanks provided with a cover to facilitate cleaning, connected with one or both of the following:
  - [1] Tile disposal field: wherever test results indicate that this is the most desirable system.
  - [2] Seepage pits (cesspool): wherever test results indicate that the field will not function properly and that this is a desirable system.
    - [a] The design of proposed on-site sewage disposal facilities shall as a minimum requirement meet the standards set up by the State Department of Environmental Protection for the conditions found at each individual site.
    - [b] The complete system of sanitary sewers, including laterals to the curblines, shall be laid usually in the center of streets in accordance with plans meeting the requirements of the Borough Engineer, the Municipal Authority and the Sanitary Water Board (Water Board) of the Commonwealth of Pennsylvania. Depths, materials, distance between manholes and other details of construction shall meet the requirements of the foregoing Engineer, Authority and Water Board. Eight-inch PVC pipe is required as a minimum, but under special conditions larger sizes of pipe and/or other approved materials may be required. If receiving sewers are not ready for connection, all termini shall be capped. At the completion, the developer shall supply to the Borough two sets of plans on Mylar showing details, lo-

## SUBDIVISION AND LAND DEVELOPMENT

cation of manholes and laterals from measurements made during the course of construction. Requirements of this section may be waived by the Council for any area in which outfall sewers are not planned for construction within five years from the date of the application; and in such cases, the applicant must produce a certificate from the Municipal Authority attesting to this fact.

(Ord. 1113, 1/19/2010)

### **§22-609. Water Supply.**

- A. All new subdivisions and/or land developments shall utilize a public or semipublic water distribution system for the water supply where a geographical location and accessibility to a common water source make this type of system possible. Fire hydrants must be installed at the applicant's expense at locations specified by the Borough or its authorized representatives. Fire hydrants in residential areas shall be located so that their distance from the projection of any building frontage to the curb is not more than 500 feet, measured along the curb. The Borough may, however, require closer spacing of hydrants where deemed necessary. In commercial and industrial areas, the Borough shall prescribe the location of hydrants.
- B. Where private water supply systems must be used as the principal source of water in a new subdivision and/or land development, each lot shall be of a size and shape to allow safe location of a well on every lot; and the applicant must produce a certificate of nonavailability of a public water supply system from the closest public water distributor.
- C. Where certification of individual on-site water supply systems is required by the State Department of Environmental Protection, a copy of this certificate will be required by the Borough.

(Ord. 1113, 1/19/2010)

### **§22-610. (Reserved)**

### **§22-611. Easements and Utilities.**

- A. Easements with a minimum width of 20 feet shall be provided for common utilities and drainage when provided in or over undedicated land.
- B. To the fullest extent possible, easements shall be centered on or adjacent to rear or side lot lines.



- C. Where a subdivision and/or land development is traversed by a watercourse, there shall be provided a drainage easement or right-of-way conforming substantially with the line of such watercourse and of such width as will be adequate to preserve natural drainage.
- D. The installation of all sewer, water, streetlights, and other utilities shall be in strict accordance with the engineering standards and specifications of the Borough Engineer and other utility companies concerned.
- E. There shall be a minimum distance of 25 feet, measured in the shortest distance, between each proposed dwelling unit and any petroleum transmission lines which may traverse the lot.

(Ord. 1113, 1/19/2010)

**§22-612. Other Public Facilities and Monuments.**

- A. In acting upon subdivision and/or land development plans, consideration shall be given to the adequacy of existing or proposed community facilities to serve the additional dwellings proposed by the subdivision and/or land development.
  - (1) Monuments of concrete shall be placed at property line intersections with street rights-of-way, and iron pins at all other property corners and indicating markers to be set upon recording, subject to the approval of the Borough Engineer, to give full surveying control of each block, lot and all areas of proposed dedication or public easement.
  - (2) Monuments shall not be placed in the ground until final grading is completed, and all other corners of every lot are to be marked with iron pins.

(Ord. 1113, 1/19/2010)

**§22-613. Recreation.**

- A. All residential subdivision and/or land development plans submitted after the effective date of this chapter shall provide for suitable and adequate recreation in order to:
  - (1) Ensure adequate recreational areas and facilities to serve the present and future residents of the Borough.
  - (2) Maintain compliance with recreational standards as developed by the National Recreation and Parks Association.

## SUBDIVISION AND LAND DEVELOPMENT

- (3) Reduce demand on existing recreational areas and facilities.
- (4) Ensure that all present and future residents have the opportunity to engage in many and varied recreational pursuits.
- (5) Reduce the possibility of the Borough becoming overburdened with the development and maintenance of many very small, randomly placed and widely separated recreation areas.
- (6) Maintain compliance with the Mechanicsburg Recreation Plan, as the same is amended from time to time.

### B. Land dedication requirements.

- (1) Residential uses. In the case of a residential subdivision and/or land development, or that portion of a subdivision and/or land development set aside for residential use, the applicant shall dedicate a contiguous area containing a minimum of 625 square feet for each dwelling unit.
- (2) Nonresidential uses. The amount of land required to be dedicated for recreational purposes by every applicant for any nonresidential subdivision and/or land development proposing any new or enlarged lot, structure or use shall be as follows:
  - (a) Business and professional office uses: 300 square feet multiplied by that number, rounded to the nearest one-hundredth, determined by dividing the total gross square feet allocated to office space use by 300.
  - (b) All other commercial uses: 500 square feet multiplied by that number, rounded to the nearest one-hundredth, determined by dividing the total gross square feet allocated to commercial use by 500.
  - (c) Industrial uses: 1,500 square feet multiplied by that number, rounded to the nearest one-hundredth, determined by dividing the total gross square feet allocated to industrial use by 1,500.
  - (d) Institutional uses: 1,500 square feet multiplied by that number, rounded to the nearest one-hundredth, determined by dividing the total gross square feet allocated to institutional use by 500. Public uses and facilities owned and operated by political subdivisions and public school districts are excluded from the requirements of this provision.
- (3) Mixed-use subdivision and/or land development plans. In the circumstance of mixed-use plans, the land dedication shall be calculated us-

ing the requirements for each separate use, as specified in Subsection B(1) and (2) above, as applicable, and the minimum land dedication shall be the sum of the amounts calculated for each use.

- (4) A maximum of 25% of the total land area required by this section to be provided for recreation may consist of floodplain areas and/or slopes exceeding 3%.
- (5) Such land set aside shall be suitable to serve the purpose of active and/or passive recreation by reason of its size, shape, location and topography and shall be subject to the approval of the Borough Council.

C. Recreation area location criteria. The Planning Commission and the Borough Council, in exercising their duties regarding subdivision and/or land development plans, shall consider the following criteria in determining whether to approve the proposed location of recreation areas in the applicant's plan:

- (1) The site or sites shall be easily accessible from all areas of the development to be served, have good ingress and egress and have direct access (minimum 25 feet in width) to a street; however, no street shall traverse the site or sites.
- (2) The site or sites shall have suitable topography and soil conditions for use and development as a recreation area.
- (3) The size and shape for the site or sites shall be suitable for development as a particular type of park.
- (4) When designing and developing these recreation areas, it shall be done according to the standards established by the National Recreation and Parks Association and in conformance with the Borough's Recreation Plan.
- (5) The site or sites shall be easily accessible to essential utilities, water, sewer, power, and site maintenance. However, no part of any overhead utility easement, or any aboveground protrusion of any underground utility, shall be permitted in active play areas of the site.
- (6) Should a development be proposed at a location contiguous to any existing park or recreation area, dedicated recreational area shall be provided, where practicable, as an expansion of the existing facility.
- (7) No part of the recreational site shall be calculated as part of any required setback, yard, and/or open space for adjoining lots or uses as regulated by Chapter 27, Zoning.

## SUBDIVISION AND LAND DEVELOPMENT

- D. Recreation report. A recreation report shall be required for residential developments of 50 or more dwelling units. Said report shall be prepared by a certified park and recreation professional (CPRP) with the following minimum considerations:
- (1) A description of the total projected number of residents in their respective age groups.
  - (2) A description of those existing public recreation facilities located within a one-half-mile radius of the site.
  - (3) A discussion on the adequacy of existing recreation facilities to serve the proposed residents, taking into consideration current usage.
  - (4) A discussion of the potential for new recreation facilities to be provided by the developer to accommodate new residents and/or compensate for any anticipated deficiencies of the Borough's recreational facilities.
  - (5) A description of any facilities to be provided by the developer.
  - (6) A description of responsibility for maintenance of any recreational facilities to be provided by the developer.
  - (7) A description of accessibility of the proposed facilities to all Borough residents.
  - (8) A description of any contributions that the developer will make for Borough recreation needs in order to compensate for expected impacts.
  - (9) The source of standards used in data presented.
- E. Waiver. In special circumstances, the Borough may waive any or all of the preceding design standards. In such instances, the applicant must demonstrate that the public will be better served by some alternate design that would accomplish at least one of the following objectives:
- (1) Protection of important natural resources (e.g., streams, ponds, wetlands, woodlands, unique geologic features, wildlife habitats, aquifer recharge areas, etc.).
  - (2) Protection of important historical and/or archaeological sites.
  - (3) Integration of greenbelts throughout the development that link residences with on-site or adjoining parks, schools, or other similar features.

F. Dedication to Borough.

- (1) The Planning Commission shall recommend whether public recreation areas should be dedicated, and the site of those areas, to the Borough Council.
- (2) Such area dedicated to the Borough for public use shall be suitable for recreational purposes by reason of size, shape, location, topography and access.
- (3) In its review and deliberation, the Planning Commission or Borough Council may find dedication to be impractical because of the size, shape, location, access, topography, drainage or other physical features of the land, or for any other reason, and that such dedication would adversely affect the subdivision and/or land development and its future residents or occupants or that there is no land area within the proposed subdivision and/or land development which is practical for dedication to the public because of size, access, topography or other physical characteristics.
- (4) When the Borough Council deems it to be in the public interest to accept dedicated land, such acceptance shall be by means of a deed of dedication, which shall include the description of the dedicated recreation area.

G. Fee in lieu of dedication.

- (1) Where the Borough Council determines, because of the size, shape, location, access, topography or other physical features of the land, or for any other reason, that it is impractical to dedicate land to the Borough or set aside recreation area as required by this section, the Borough, with the agreement of the applicant, shall require a payment of a fee in lieu of dedication of such land, which shall be payable to the Borough prior to approval of each final section of the overall plan by the Borough Council.
- (2) The amount of the fee shall be as follows:
  - (a) Fees for residential development. Every subdivision and/or land development for residential purposes shall contribute an amount per dwelling unit as defined and as may be updated from time to time by the Borough Council.
  - (b) Fees for nonresidential development. The applicant for every subdivision and/or land development for any new or enlarged nonresidential lot, structure or use shall pay the amount of the employee ratio as defined and as may be updated from time to time by the Borough Council as hereinafter specified:

## SUBDIVISION AND LAND DEVELOPMENT

- [1] Business and professional office use: one employee per 300 square feet, and/or a pro rata portion rounded to the nearest one-hundredth, of gross floor area.
  - [2] All other commercial uses: one employee per 500 square feet, and/or a pro rata portion rounded to the nearest one-hundredth, of gross floor area.
  - [3] Industrial uses: one employee per 1,500 square feet, and/or a pro rata portion rounded to the nearest one-hundredth, of gross floor area.
  - [4] Institutional uses: one employee per 500 square feet, and/or a pro rata portion rounded to the nearest one-hundredth, of gross floor area. Public uses and facilities owned and operated by political subdivisions, public libraries and public school districts or entities are excluded from the requirements of this provision.
  - [5] Mixed-use subdivision and/or land development plans. In the circumstance of mixed-use plans, the fee shall be calculated using the above requirements for each separate use, including the residential requirements set forth in Subsection G(2)(a) when applicable, and the minimum fee shall be the sum of the amounts calculated for each use.
- (3) A fee authorized under this section shall, upon its receipt by the Borough, be deposited in an interest-bearing account, clearly identifying the general recreation land or facilities acquisition for which the fee was received. Interest earned on such accounts shall become funds of that account. Funds from such accounts shall be expended only in properly allocable portions of the costs incurred to acquire the general recreation land and/or construct the facilities for which the funds were collected. Upon agreement of the developer, fees may be set aside for acquisition of general recreation land or facilities, or both, without reference to specific land or facilities.
  - (4) Upon request of any person who paid any fee under this section, the Borough shall refund such fee, plus interest accumulated thereon from the date of payment, if the Borough has failed to utilize the fee paid for the purposes set forth in this section within three years from the date such fee was paid.

(Ord. 1113, 1/19/2010)

**§22-614. Improvements and Specifications.**

- A. As condition of approval of the final plat by the Borough, the landowner and/or developer shall agree with the Borough to install all improvements shown on the final plat.
- B. All improvements shall be constructed in accordance with the specifications of the Borough.
- C. Where there are no Borough specifications, improvements shall be constructed in accordance with specifications furnished by the Borough Engineer or the Pennsylvania Department of Transportation.
- D. After approval of his plans by Council, the builder must immediately make application to the electric company for installation of streetlights in the development.

(Ord. 1113, 1/19/2010)

**§22-615. Design Standards and Improvements in Designated Floodplain Districts.**

- A. Unless otherwise defined by provisions in Chapter 8 of the Mechanicsburg Borough Code relating to floodplains, the provisions of §22-615 shall apply.
- B. General.
  - (1) Where not prohibited by this chapter or any other laws or ordinances, land located in any designated floodplain district may be platted for development with the provision that the developer construct all buildings and structures to preclude flood damage in accordance with this chapter and any other laws and ordinances regulating such development.
  - (2) Building sites for residences or any other type of dwelling or accommodation shall not be permitted in any designated floodway district. Sites for these uses may be permitted outside the floodway district if the sites or dwelling units shall be elevated up to the regulatory flood elevation. If fill is used to raise the elevation of a site, the fill areas shall extend out laterally for a distance of at least 15 feet beyond the limits of the proposed structures.
  - (3) Building sites for structures or buildings other than for residential uses shall also not be permitted in any designated floodway district. Also, such sites for structures or buildings outside the floodway shall be protected. However, the governing body may allow the subdivision and/or land development of areas or sites for commercial and indus-

## SUBDIVISION AND LAND DEVELOPMENT

trial uses at an elevation below the regulatory flood elevation if the developer otherwise protects the area to that height or assures that the buildings or structures will be floodproofed at least up to that height.

- (4) If the Borough Council of the Borough of Mechanicsburg determines that only a part of a proposed plat can be safely developed, it shall limit development to that part and shall require that development proceed consistent with this determination.
- (5) When a developer does not intend to develop the plat himself and the Borough Council of the Borough of Mechanicsburg determines that additional controls are required to ensure safe development, it may require the developer to impose appropriate deed restrictions on the land. Such deed restrictions shall be inserted in every deed and noted on every recorded plat.
  - (a) Excavation and grading. Where any excavation or grading is proposed or where any existing trees, shrubs or other vegetative cover will be removed, the developer shall consult the County Conservation District representative concerning plans for erosion and sediment control and to also obtain a report on the soil characteristics of the site so that a determination can be made as to the type and degree of development the site may accommodate. Before undertaking any excavation or grading, the developer shall obtain a grading and excavation permit if such is required by the Borough.
  - (b) Drainage facilities. Storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner. The system shall ensure drainage at all points along streets and provide positive drainage away from buildings and on-site waste disposal sites. Plans shall be subject to the approval of the Borough Council of the Borough of Mechanicsburg. The Borough Council of Mechanicsburg may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less-frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.
  - (c) Streets. The finished elevation of the proposed streets shall not be more than one foot below the regulatory flood elevation. The Borough Council of Mechanicsburg may require, where necessary, profiles and elevations of streets to determine compliance with the requirements. Drainage openings shall be sufficient to discharge flood flows without unduly increasing flood heights.



- C. Sewer facilities. All sanitary sewer systems located in any designated floodplain district, whether public or private, shall be floodproofed up to the regulatory flood elevation.
- (1) The Borough Council of the Borough of Mechanicsburg shall prohibit installation of sewage disposal facilities requiring soil absorption systems where such systems will not function due to high groundwater, flooding, or unsuitable soil characteristics or are proposed for location in designated floodplain districts. The Borough Council may require that the developer note on the face of plat and in any deed of conveyance that soil absorption fields are prohibited in designated areas.
  - (2) The Borough Council may prescribe adequate methods for waste disposal. If a sanitary sewer system is located on or near the proposed subdivision and/or land development, the Borough Council shall require the developer to provide sewage facilities to connect to this system where practical and shall prescribe the procedures to be followed by the developer in connecting to the system.
    - (a) Water facilities. All water systems located in any designated floodplain districts, whether public or private, shall be floodproofed up to the regulatory flood elevation. If there is an existing public water supply system on or near the subdivision and/or land development, the Borough Council shall require the developer to connect to this system where practical and shall prescribe the procedures to be followed by the developer in connecting to the system.
    - (b) Other utilities and facilities. All other public and private utilities and facilities, including gas and electric, shall be elevated or floodproofed up to the regulatory flood elevation.

(Ord. 1113, 1/19/2010)

**§22-616. Stormwater Management.**

All subdivision and/or land development plans shall have a stormwater management study performed in accordance with Chapter 26 of the Mechanicsburg Borough Code relating to water. Action on the stormwater management plan shall be made in conjunction with the development plan.

(Ord. 1113, 1/19/2010)



## PART 7

### ADMINISTRATION

**NOTE:** This Part has been prepared under the authority of and is consistent with the terms and requirements of the Pennsylvania Municipalities Planning Code (53 P.S. §10101 et seq., Act 1988-170, as amended) and is in accordance with the police power authority granted to the Borough through the Borough Code. It is intended to further the objectives of Article I, §27, of the Constitution of the Commonwealth of Pennsylvania and of the Borough of Mechanicsburg Comprehensive Plan.

#### **§22-701. Jurisdiction.**

From and after the effective date of this chapter, any subdivision and/or land development shall be in conformity with this chapter and all standards and specifications adopted as part of this chapter. The Borough Council shall have jurisdiction over and control of subdivision and/or land development within the Borough limits. In order that the action of the Borough Council under this chapter may be correlated with all relevant data and procedures, the Borough Council hereby designates the Borough Planning Commission as the planning agency of the Borough Council:

- A. To which all applications relating to preapplication data and sketch plans for major subdivision and/or land development, and simple, minor and/or major approval of subdivision and/or land development plans, shall initially be submitted.
- B. With which applicants shall hold all preliminary consultations relating to the plans.
- C. Which shall make recommendations to the Borough Council concerning the interpretation of and the granting of modifications to provisions and standards of this chapter and to perform such other functions as the applicable laws grant to such agency.

(Ord. 1113, 1/19/2010)

#### **§22-702. Compliance Required; Scope; Nonliability of Borough.**

- A. No lot, tract or parcel of land shall be subdivided and no land may be developed and no street, sanitary sewer, storm sewer, water main or concomitant facility may be laid out, constructed, opened or dedicated for public use or travel or for the use of occupants of buildings abutting or to abut on them except in accordance with the provisions of this chapter and other applicable chapters of the Mechanicsburg Borough Code.

## SUBDIVISION AND LAND DEVELOPMENT

- B. No lot in a subdivision and/or land development may be sold, no permit to build, alter or repair any building on land in a subdivision and/or land development may be issued, and no building may be erected in a subdivision and/or land development until a final subdivision and/or land development plan has been approved and recorded in accordance with this chapter and, where required, improvements have been completed or their completion has been assured by a performance guaranty consistent with the terms of Article V of the Municipalities Planning Code and any other applicable chapter(s) of Mechanicsburg Borough Code.
- C. The scope of this chapter shall include all matters over which, by law, the Borough is authorized to exercise control by enactment and enforcement of this chapter, including but not limited to:
  - (1) All improvements within any tract undergoing subdivision and/or land development.
  - (2) The improvement of public facilities adjacent to any tract undergoing subdivision and/or land development, including streets and drainage facilities which border upon any such tract.
  - (3) The installation or enhancement of off-site improvements needed to serve adequately the subdivision and/or land development.
- D. The granting of a permit or the approval of a plan of subdivision and/or land development shall not constitute a representation, guaranty or warranty of any kind by the Borough or by any official, employee, agent or adviser of the Borough as to the practicability, adequacy, functioning or safety of any use, improvement, facility or system installed or maintained pursuant to the aforementioned permit or approval, and such permit or approval shall not create any liability upon the Borough, its officials, employees, agents or advisers.

(Ord. 1113, 1/19/2010)

### **§22-703. Hardship.**

- A. The Borough Council may grant a modification of the requirements of one or more provisions of this chapter if the literal enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question, provided that such modification will not be contrary to the public interest and that the purpose and intent of the chapter is observed.
- B. Any request for a modification shall be in writing and shall accompany and be a part of the application for development. The request shall state in full the grounds and facts of unreasonableness or hardship on which the request

is based, the provision or provisions of the chapter involved and the minimum modification necessary.

- C. The Borough Council shall refer the request for modification to the Borough Planning Commission for advisory comments.
- D. In granting modifications, the Borough Council may impose such conditions as will, in its judgment, secure substantially the objectives of the standards and requirements so modified.
- E. The Borough shall keep a written record of all action on all requests for modifications.

(Ord. 1113, 1/19/2010)

**§22-704. Records.**

- A. Records (Borough).
  - (1) The Borough shall keep a record of its findings, decision and recommendations relative to all subdivision and/or land development plans filed with it for review.
  - (2) All such records shall be public records.
- B. Records (applicant). Within 30 days after completion and approval of the Borough Engineer of all improvements shown on final plats, and before Borough acceptance of any such improvements, the applicant shall submit to the Borough Council a corrected copy of said plans showing actual dimensions and conditions of streets and all other improvements, including sanitary sewers, sewage treatment plants and sewage disposal facilities, certified by a professional engineer to be in accordance with actual construction.

(Ord. 1113, 1/19/2010)

**§22-705. Fees.**

The following fees shall be payable to the Borough. A current listing of costs set by resolution from time to time by the Borough Council shall be kept on file in the Borough Office.

- A. Plans.
- B. Construction (plan), to accompany the application.

## SUBDIVISION AND LAND DEVELOPMENT

- C. Inspection: per day for each day or portion thereof a Borough inspector is engaged on the subdivision and/or land development construction site.
- D. Review fees may include reasonable and necessary charges by the municipality's professional consultants for review and report thereon to the municipality. Such review fees shall be based upon a schedule established by ordinance or resolution. Such review fees shall be reasonable and in accordance with the ordinary and customary charges for similar service in the community, but in no event shall the fees exceed the rate or cost charged by the professional consultant for comparable services to the municipality for services which are not reimbursed or otherwise imposed on applicants. Fees charged to the municipality relating to any appeal of a decision on an application shall not be considered review fees and may not be charged to an applicant.
  - (1) The governing body shall submit to the applicant an itemized bill showing work performed, identifying the person performing the services and the time and date spent for each task. Nothing in this subsection shall prohibit interim itemized billing or municipal escrow or other security requirements. In the event that the applicant disputes the amount of any such review fees, the applicant shall, no later than 45 days after the date of transmittal of the bill to the applicant, notify the municipality and the municipality's professional consultant that such fees are disputed and shall explain the basis of their objections to the fees charged, in which case the municipality shall not delay or disapprove a subdivision or land development application due to the applicant's dispute over fees. Failure of the applicant to dispute a bill within 45 days shall be a waiver of the applicant's right to arbitration of that bill under the applicable sections of the Pennsylvania Municipalities Planning Code.
  - (2) In the event that the municipality's professional consultant and the applicant cannot agree on the amount of review fees which are reasonable and necessary, then the applicant and the municipality shall follow the procedure for dispute resolution set forth in Section 510(g) of the MPC, provided that the arbitrator resolving such dispute shall be of the same profession or discipline as the professional consultant whose fees are being disputed.
  - (3) Subsequent to a decision on an application, the governing body shall submit to the applicant an itemized bill for review fees, specifically designated as a final bill. The final bill shall include all review fees incurred at least through the date of the decision on the application. If for any reason additional review is required subsequent to the decision, including inspections and other work to satisfy the conditions of the approval, the review fees shall be charged to the applicant as a supplement to the final bill.

- E. Other fees. Fees for all other permits required for and by the Borough for opening roads, connecting to Borough sewers, building construction, etc.:
- (1) The applicant, at the time of application, shall agree to cover the cost of advertising, accepting the deed of dedication and its recording, cost of title insurance and registration costs.
  - (2) No application for preliminary or final approval shall be deemed to have been submitted until the fee and escrow deposit, as set forth below, shall have been paid. Failure by the applicant to deliver the funds necessary to meet the escrow requirement within 30 days of receipt of the plans by the Code Enforcement Officer shall constitute good and sufficient grounds for the rejection of the plans as received.
  - (3) A subdivision and/or land development application fee (nonrefundable) and an escrow deposit shall be submitted with any application for preliminary or final plat review and approval to cover the costs of plan review and processing. Amounts of the application fee and escrow deposit shall be fixed by Borough Council by resolution. The escrow funds shall be used to reimburse the Borough for actual expenditures incident to these processes, including but not limited to fees of the Borough Engineer and other professionals deemed necessary by the Borough and legal fees in excess of the fee for review of the Borough standard forms. Any costs incurred by the Borough in excess of the amount held in escrow shall be fully reimbursed by the applicant prior to the issuance of any permits. Any unexpended balance in the escrow deposit shall become part of the second deposit required in Subsection E(4) below.
  - (4) Following final plat approval and recording and the establishment of any required performance guaranty, a second escrow deposit shall be established to cover the cost of inspections of improvements; construction; materials or site testing; or maintenance costs (e.g., snow removal, cindering, street sweeping, etc.) prior to the acceptance of improvements by the Borough. Any costs incurred by the Borough in excess of the amount held in escrow shall be fully reimbursed by the applicant. Any unexpended balance in the escrow deposit following acceptance or dedication of improvements by the Borough shall be returned to the applicant after the submission of record drawings. The amount of the escrow deposit shall be fixed by the Borough Council by resolution. This escrow deposit may be waived by the Borough where the proposed development will not include the construction or installation of any public improvements.

(Ord. 1113, 1/19/2010)

## SUBDIVISION AND LAND DEVELOPMENT

### **§22-706. Inspection and Approval of Construction.**

- A. The Borough Engineer and/or Borough Manager shall draw up regulations governing the times when inspections shall be made to determine whether construction is proceeding in accordance with the proposed plan.
- B. All improvements shall be inspected by the Borough Engineer and/or Borough Manager. The landowner and/or developer shall pay the cost of such inspection and review of plans, including materials tests, reimbursing the Borough for the inspection at rates established in the current copy of "Suggested Minimum Salaries and Fee Schedule of the Pennsylvania Society of Engineers." The Borough Engineer shall be notified at least 48 hours in advance of the commencement of any construction operation such as grading, sewer installation, paving, curbing or any and all types of construction operation, in order that provisions may be made for the proper inspection of such construction operation.
- C. Before building permits are issued, the builder will furnish a plot plan showing the actual placement of the building, with dimensions of front setback and side and rear yard setback.
- D. After a subdivision plan and/or land development has been duly recorded, the streets, highways, parks and other public improvements shown thereon shall be considered to be a part of the Official Plan of the Borough, unless ownership is retained by the landowner and/or developer.
- E. Every street, highway, park or other public improvement shown on a plan that is recorded, as provided herein, shall be deemed to be a private street, highway, park or improvement until such time as the same has been accepted by ordinance or by deed of dedication accepted by Borough Council or until it has been condemned for use as a public street, park or other improvement.
- F. Prior to the start of construction, an applicant or its designated contractor representative shall establish an escrow in the amount of 4% of the total estimated construction cost to cover inspection costs by the Borough Engineer.

(Ord. 1113, 1/19/2010)

### **§22-707. Easement Required.**

When any street, drainage facility or other improvement within a subdivision and/or land development abuts or traverses lands of persons other than the person holding legal title to the lands of the subdivision and/or land development, the applicant or owner of the subdivision and/or land development shall, at his own costs, obtain from the owner of the lands so abutted or traversed a written easement, acceptable to the Borough Solicitor, to be recorded with the plan, and full releases from all damages which



may result to said lands of the owners thereof from the change in grade, construction or otherwise, of the street, drainage facility or other improvement, and such release shall inure to the benefit not only of the owner of the subdivision and/or land development but to the Borough.

(Ord. 1113, 1/19/2010)

**§22-708. Contract Required.**

Before the Borough Council shall cause its approval to be endorsed upon the final plats of any subdivision and/or land development and as a requirement for the approval thereof, the owners shall enter into a written agreement with the Borough, in the manner and form set forth by the Borough Solicitor, wherein they shall agree:

- A. To construct, or cause to be constructed, at his own expense, all streets, curbs, sidewalks, drainage facilities, street signs, monuments, capped sewers, parks and other improvements shown on said plan when required so to do in accordance with the plan(s) as finally approved.
- B. To maintain at his own cost the streets, curbs, capped sewers, and other improvements until same are accepted or condemned by the Borough for public use; and for a period of two years thereafter to repair and reconstruct the same or any part or one of them when such repairs or reconstruction shall be specified by the Borough Council as necessary by reason of faulty construction, workmanship, or materials; and at or before acceptance of such improvements by Borough Council, and to be in such amount as may be required by Council, to provide a bond to be in a form to be approved by the Borough Solicitor and conditioned upon the repair and reconstruction of such improvements as above set forth.
- C. To install or cause to be installed, at his own expense and without any cost to the Borough for any part of such installation, street facilities on all streets within and abutting the subdivision and/or land development.
- D. To pay all costs, charges or rates, of the utility furnishing electric service for the lighting of the streets on or abutting said subdivision, from the lights installed by the owner, until such time as the streets shown on the subdivision plans shall be accepted as public streets of the Borough by ordinance after receipt of the deed of dedication from owner, and to indemnify and save harmless the Borough from and against all suits, actions, claims and demands for electric service to the streets shown on said plans, or any part thereof, to the time that the said streets shall be accepted as public streets of the Borough in the manner hereinabove set forth.
- E. To pay the inspection fees required by this Part 7.
- F. To obtain the easements and releases required by this chapter.

## SUBDIVISION AND LAND DEVELOPMENT

- G. To promptly reimburse to the Borough reasonable legal, engineering and professional consultant fees as specified in this Part.

(Ord. 1113, 1/19/2010)

### **§22-709. Improvement Guaranty.**

In order to assure the Borough that the streets, drainage facilities, curbs, gutters, sidewalks, street signs, streetlighting facilities, monuments, parks, and capped sewers, shown on said plans, and other improvements, shown on said subdivision and/or land development plans, which the Borough shall require the owner to install, at his own expense, will be constructed and installed in strict accordance with the plans as finally approved and with the standards, regulations and specifications of the Borough and will be maintained until accepted, the owner shall furnish to the Borough a corporate bond with such surety as the Borough shall approve, or security acceptable to the Borough, in an amount sufficient to cover the cost, as estimated by the Borough Engineer or Solicitor, of the construction and installation of the aforesaid improvements and of lighting the streets until the same shall be accepted as public streets of the Borough, which said bond or deposit, if required, shall be conditioned upon and guarantee:

- A. The owner constructing and installing or causing to be constructed or installed, in strict accordance with the subdivision and/or land development plans, as finally approved, and with the Borough standards and specifications, the streets, drainage facilities, curbs, gutters, sidewalks, street signs, lighting facilities, monuments and parks, and capped sewers, shown on said plans, and such other improvements, shown on said plans, as the Borough may require the owner to construct or install.
- B. The owner maintaining at his own cost the said streets, curbs, gutters, drainage facilities, sidewalks, street signs, parks, monuments, capped sewers, and other improvements until the same are accepted by the Borough for public use and for a period of two years thereafter repairing and reconstructing the same or any part of one of them when such repair or reconstructing shall be specified as necessary, by reason of faulty construction, by the Borough.
- C. The payment by the owner of the cost of lighting the streets in the subdivision and/or land development until such time as the same are accepted as Borough streets by ordinance of the Borough Council.
- D. The payment of the inspection fees required in this Part 7.
- E. The faithful performance by the owner of the contract provided for in this section. The Borough may elect to have the final stable road inspection conducted by representatives of the Pennsylvania Department of Transporta-

tion, and the acceptance of the road may be subject to approval of the Pennsylvania Department of Transportation.

- F. Completion of improvements or guaranty thereof prerequisite to final plat approval.
- (1) No plat shall be finally approved unless the streets shown on such plat have been improved to a mud-free or otherwise permanently passable condition, or improved as may be required by this chapter, and any walkways, curbs, gutters, streetlights, fire hydrants, shade trees, water mains, sanitary sewers, storm sewers and other improvements as may be required by this chapter have been installed in accordance with this chapter. In lieu of the completion of any improvements required as a condition for the final approval of a plat, including improvements or fees required, this chapter shall provide for the deposit with the municipality of financial security in an amount sufficient to cover the costs of such improvements or common amenities, including but not limited to roads, stormwater detention and/or retention basins and other related drainage facilities, recreational facilities, open space improvements, or buffer or screen plantings which may be required. The applicant shall not be required to provide financial security for the costs of any improvements for which financial security is required by and provided to the Department of Transportation in connection with the issuance of a highway occupancy permit pursuant to Section 420 of the Act of June 1, 1945 (P.L. 1242, No. 428), known as the "State Highway Law."
  - (2) When requested by the developer, in order to facilitate financing, the governing body or the planning agency, if designated, shall furnish the developer with a signed copy of a resolution indicating approval of the final plat contingent upon the developer obtaining a satisfactory financial security. The final plat or record plan shall not be signed nor recorded until the financial improvements agreement is executed. The resolution or letter of contingent approval shall expire and be deemed to be revoked if the financial security agreement is not executed within 90 days, unless a written extension is granted by the governing body; such extension shall not be unreasonably withheld and shall be placed in writing at the request of the developer.
  - (3) Without limitation as to other types of financial security which the municipality may approve, which approval shall not be unreasonably withheld, federal or commonwealth chartered lending institution irrevocable letters of credit and restrictive or escrow accounts in such lending institutions shall be deemed acceptable financial security for the purposes of this section.
  - (4) Such financial security shall be posted with a bonding company or federal or commonwealth chartered lending institution chosen by the

## SUBDIVISION AND LAND DEVELOPMENT

party posting the financial security, provided that said bonding company or lending institution is authorized to conduct such business within the commonwealth.

- (5) Such bond or other security shall provide for, and secure to the public, the completion of any improvements which may be required on or before the date fixed in the formal action of approval or accompanying agreement for completion of the improvements.
- (6) The amount of financial security to be posted for the completion of the required improvements shall be equal to 110% of the cost of completion estimated as of 90 days following the date scheduled for completion by the developer. Annually, the municipality may adjust the amount of the financial security by comparing the actual cost of the improvements which have been completed and the estimated cost for the completion of the remaining improvements as of the expiration of the 90th day after either the original date scheduled for completion or a rescheduled date of completion. Subsequent to said adjustment, the municipality may require the developer to post additional security in order to assure that the financial security equals said 110%. Any additional security shall be posted by the developer in accordance with this subsection.
- (7) The amount of financial security required shall be based upon an estimate of the cost of completion of the required improvements, submitted by an applicant or developer and prepared by a professional engineer licensed as such in this commonwealth and certified by such engineer to be a fair and reasonable estimate of such cost. The municipality, upon the recommendation of the Municipal Engineer, may refuse to accept such estimate for good cause shown. If the applicant or developer and the municipality are unable to agree upon an estimate, then the estimate shall be recalculated and recertified by another professional engineer licensed as such in this commonwealth and chosen mutually by the municipality and the applicant or developer. The estimate certified by the third engineer shall be presumed fair and reasonable and shall be the final estimate. In the event that a third engineer is so chosen, fees for the services of said engineer shall be paid equally by the municipality and the applicant or developer.
- (8) If the party posting the financial security requires more than one year from the date of posting of the financial security to complete the required improvements, the amount of financial security may be increased by an additional 10% for each one-year period beyond the first anniversary date from posting of financial security or to an amount not exceeding 110% of the cost of completing the required improvements as reestablished on or about the expiration of the preceding one-year period by using the above bidding procedure.

- (a) In the case where development is projected over a period of years, the governing body or the planning agency may authorize submission of final plats by section or stages of development, subject to such requirements or guaranties as to improvements in future sections or stages of development as it finds essential for the protection of any finally approved section of the development.
- (9) As the work of installing the required improvements proceeds, the party posting the financial security may request the governing body to release or authorize the release, from time to time, of such portions of the financial security necessary for payment to the contractor or contractors performing the work. Any such requests shall be in writing, addressed to the governing body, and the governing body shall have 45 days from receipt of such request within which to allow the Municipal Engineer to certify, in writing, to the governing body that such portion of the work upon the improvements has been completed in accordance with the approved plat. Upon such certification, the governing body shall authorize release by the bonding company or lending institution of an amount as estimated by the Municipal Engineer fairly representing the value of the improvements completed; or, if the governing body fails to act within said forty-five-day period, the governing body shall be deemed to have approved the release of funds as requested. The governing body may, prior to final release at the time of completion and certification by its Engineer, require retention of 10% of the estimated cost of the aforesaid improvements.
- (10) Where the governing body accepts dedication of all or some of the required improvements following completion, the governing body may require the posting of financial security to secure the structural integrity of said improvements as well as the functioning of said improvements in accordance with the design and specifications as depicted on the final plat for a term not to exceed 18 months from the date of acceptance of dedication. Said financial security shall be of the same type as otherwise required in this section with regard to installation of such improvements, and the amount of the financial security shall not exceed 15% of the actual cost of installation of said improvements.
- (11) If water mains or sanitary sewer lines, or both, along with apparatus or facilities related thereto, are to be installed under the jurisdiction and pursuant to the rules and regulations of a public utility or municipal authority separate and distinct from the municipality, financial security to assure proper completion and maintenance thereof shall be posted in accordance with the regulations of the controlling public utility or municipal authority and shall not be included within the financial security as otherwise required by this section.

## SUBDIVISION AND LAND DEVELOPMENT

- (12) If financial security has been provided in lieu of the completion of improvements required as a condition for the final approval of a plat as set forth in this section, the municipality shall not condition the issuance of building, grading or other permits relating to the erection or placement of improvements, including buildings, upon the lots or land as depicted upon the final plat upon actual completion of the improvements depicted upon the approved final plat. Moreover, if said financial security has been provided, occupancy permits for any building or buildings to be erected shall not be withheld following the improvement of the streets providing access to and from existing public roads to such building or buildings to a mud-free or otherwise permanently passable condition, as well as the completion of all other improvements as depicted upon the approved plat, either upon the lot or lots or beyond the lot or lots in question if such improvements are necessary for the reasonable use of or occupancy of the building or buildings. Any ordinance or statute inconsistent herewith is hereby expressly repealed.

(Ord. 1113, 1/19/2010)

### **§22-710. Procedure on Acceptance of Streets and Improvements by Borough.**

- A. Upon completion of any public improvements shown on an approved final plat and within 90 days after approval of such public improvements as herein provided, the developer shall submit a written offer of such public improvements for dedication to the Borough. Said offer shall include a deed of dedication covering said public improvements, together with satisfactory proof establishing the developer's title insurance to said property. Such documents are to be filed with the Code Enforcement Officer for review by the Borough Solicitor. Deeds of dedication for public improvements shall be accepted by ordinance at a regular Borough Council meeting.
- B. The Borough may require that certain subdivision and/or land development improvements remain undedicated, with maintenance the responsibility of individual lot owners, a homeowners' association or similar entity or an organization capable of carrying out maintenance responsibilities.
  - (1) When the owner has constructed and installed streets, drainage facilities, curbs, sidewalks, street signs, monuments, capped sewers, and other improvements in accordance with Borough regulations, standards, and specifications and desires the Borough to accept the said improvements, he shall, in writing, by certified or registered mail, addressed to the Borough Manager, request the Borough Engineer to make an inspection of the said improvements. The Borough Engineer shall thereupon make such inspection and shall report within 30 days, in writing, to the Borough Council and the owner the result thereof, specifying with particularity those items of construction, material,

and workmanship which do not comply with the Borough regulations, standards and specifications or fail to conform with the construction detail shown on the approved plans. The owner shall thereupon proceed, at his own cost, to make such corrections as shall be required to comply with said regulations, standards, specifications, and construction detail and, when the same is done, request in writing to the Borough Manager that final inspection be made by the Borough Engineer; and the owner shall pay to the Borough the cost to the Borough of the acceptance of the improvements.

- (2) Thereupon, the Borough and the Borough Engineer shall make a final inspection of the said streets, drainage facilities, curbs, sidewalks, monuments, capped sewers, and other improvements, and the Borough Engineer shall, in connection with his final inspection, run the finished center-line profile grades of the completed roads or streets and furnish to the Borough Council an official report thereof; and such elevations as approved thereafter by Council shall be affixed to the final profile plan drawing either by the Borough Engineer himself entering the same upon the original final profile drawings or by the owners' engineers pursuant to the direction of the Borough Engineer by providing such owners' engineers with the approved data; and if the Borough Council and the Borough Engineer, on such final inspection, shall find that the streets, drainage facilities, curbs, sidewalks, monuments, capped sewers and other improvements have been constructed in accordance with Borough regulations, standards, specifications, and the construction detail shown on the plans and shall be satisfied that the owner has complied fully with the provisions of this chapter, the Borough Council shall notify the owner to that effect, and the owner shall thereupon furnish the Borough with three complete sheets of Mylar of all plans of the subdivision and/or land development, including but not limited to drainage and profile plans, showing thereon all approvals required by this chapter, and also eight like sheets of plans on paper. On receipt of such plans, and upon performance of all the obligations by the owner to be performed under the contract provided for in Part 7, §22-709, hereof, the Borough Council may proceed to accept said streets, drainage facilities, and other improvements in the manner provided by Act 247. The profile plan drawing hereinabove referred to shall be upon Mylar and shall show the center-line profile grades of the streets within the subdivision and/or land development as originally computed and designed and shown on the plans approved by the Planning Commission and Borough Council pursuant to this chapter and also the final profile grades of said streets after the construction thereof.

C. Release from improvement bond.

- (1) When the landowner and/or developer has completed all of the necessary and appropriate improvements, the landowner and/or developer

## SUBDIVISION AND LAND DEVELOPMENT

shall notify the municipal governing body, in writing, by certified or registered mail, of the completion of the aforesaid improvements and shall send a copy thereof to the Municipal Engineer. The municipal governing body shall, within 10 days after receipt of such notice, direct and authorize the Municipal Engineer to inspect all of the aforesaid improvements. The Municipal Engineer shall thereupon file a report, in writing, with the municipal governing body and shall promptly mail a copy of the same to the developer by certified or registered mail. The report shall be made and mailed within 30 days after receipt by the Municipal Engineer of the aforesaid authorization from the governing body. Said report shall be detailed and shall indicate approval or rejection of said improvements, either in whole or in part; and if said improvements, or any portion thereof, shall not be approved or shall be rejected by the Municipal Engineer, said report shall contain a statement of reasons for such nonapproval or rejection.

- (2) The municipal governing body shall notify the landowner and/or developer, within 15 days of receipt of the Engineer's report, in writing, by certified or registered mail, of the action of said municipal governing body with relation thereto.
- (3) If the municipal governing body or the Municipal Engineer fails to comply with the time limitation provisions contained herein, all improvements will be deemed to have been approved, and the landowner and/or developer shall be released from all liability pursuant to its performance guaranty bond or other security agreement.
- (4) If any portion of the said improvements shall not be approved or shall be rejected by the municipal governing body, the landowner and/or developer shall proceed to complete the same; and upon completion, the same procedure of notification as outlined herein shall be followed.
- (5) Nothing herein, however, shall be construed in limitation of the landowner and/or developer's right to contest or question, by legal proceedings or otherwise, any determination of the municipal governing body or the Municipal Engineer.
- (6) Where herein reference is made to the Municipal Engineer, he shall be a duly registered professional engineer employed by the municipality or engaged as a consultant thereto.
- (7) The municipality may prescribe that the applicant shall reimburse the municipality for the reasonable and necessary expense incurred in connection with the inspection of improvements. The applicant shall not be required to reimburse the governing body for any inspection which is duplicative of inspections conducted by other governmental agencies or public utilities. The burden of proving that any inspection is duplicative shall be upon the objecting applicant. Such reimburse-



ment shall be based upon a schedule established by ordinance or resolution. Such expense shall be reasonable and in accordance with the ordinary and customary fees charged by the municipality's professional consultant for work performed for similar services in the community, but in no event shall the fees exceed the rate or cost charged by the professional consultant to the municipality for comparable services when fees are not reimbursed or otherwise imposed on applicants.

- (a) The governing body shall submit to the applicant an itemized bill showing the work performed in connection with the inspection of improvements performed, identifying the person performing the services and the time and date spent for each task. In the event that the applicant disputes the amount of any such expense in connection with the inspection of improvements, the applicant shall, no later than 30 days after the date of transmittal of a bill for inspection services, notify the municipality and the municipality's professional consultant that such inspection expenses are disputed as unreasonable or unnecessary and shall explain the basis of their objections to the fees charged, in which case the municipality shall not delay or disapprove a request for release of financial security, a subdivision or land development application or any approval or permit related to development due to the applicant's dispute of inspection expenses. Failure of the applicant to dispute a bill within 30 days shall be a waiver of the applicant's right to arbitration of that bill under this section.

[1] Subsequent to the final release of financial security for completion of improvements for a subdivision or land development, or any phase thereof, the professional consultant shall submit to the governing body a bill for inspection services, specifically designated as a final bill. The final bill shall include inspection fees incurred through the release of financial security.

- (b) If, the professional consultant and the applicant cannot agree on the amount of expenses which are reasonable and necessary, then the applicant shall have the right, within 45 days of the transmittal of the final bill or supplement to the final bill to the applicant, to request the appointment of another professional consultant to serve as an arbitrator. The applicant and professional consultant whose fees are being challenged shall, by mutual agreement, appoint another professional consultant to review any bills the applicant has disputed and which remain unresolved and make a determination as to the amount thereof which is reasonable and necessary. The arbitrator shall be of the

## SUBDIVISION AND LAND DEVELOPMENT

same profession as the professional consultant whose fees are being challenged.

- (c) The arbitrator so appointed shall hear such evidence and review such documentation as the arbitrator in his or her sole opinion deems necessary and shall render a decision no later than 50 days after the date of appointment. Based on the decision of the arbitrator, the applicant or the professional consultant whose fees were challenged shall be required to pay any amounts necessary to implement the decision within 60 days. In the event that the municipality has paid the professional consultant an amount in excess of the amount determined to be reasonable and necessary, the professional consultant shall, within 60 days, reimburse the excess payment.
- (d) In the event that the municipality's professional consultant and applicant cannot agree upon the arbitrator to be appointed within 20 days of the request for appointment of an arbitrator, then, upon application of either party, the President Judge of the Court of Common Pleas of the judicial district in which the municipality is located (or if at the time there be no President Judge, then the senior active judge then sitting) shall appoint such arbitrator, who, in that case, shall be neither the municipality's professional consultant nor any professional consultant who has been retained by, or performed services for, the municipality or the applicant within the preceding five years.
- (e) The fee of the arbitrator shall be paid by the applicant if the review fee charged is sustained by the arbitrator; otherwise it shall be divided equally between the parties. If the disputed fees are found to be excessive by more than \$5,000, the arbitrator shall have the discretion to assess the arbitration fee in whole or in part against either the applicant or the professional consultant. The governing body and the consultant whose fees are the subject of the dispute shall be parties to the proceeding.

(Ord. 1113, 1/19/2010)

### **§22-711. Maintenance Guaranty.**

- A. Where the Borough Council accepts dedication of all or some of the required improvements following completion, the Borough shall require the posting of financial security to secure the structural integrity of the improvements and the functioning of the improvements in accordance with the design and specifications as depicted on the final plat. The security shall be in the form as is authorized for the deposit of the performance guaranty, shall be for the term of two years from the date of the acceptance of dedication and shall be

in an amount equal to 15% of the actual costs of installation of the improvements so dedicated.

- B. Where maintenance of stormwater management facilities, private streets or other improvements is to be the responsibility of individual lot owners, a homeowners' association or similar entity or an organization capable of carrying out maintenance responsibilities, the Borough Council shall require that maintenance responsibilities be set forth in recorded perpetual covenants or deed restrictions binding on the landowner's successors in interest and may, as deemed necessary, further require that an initial maintenance fund be established in a reasonable amount.

(Ord. 1113, 1/19/2010)

**§22-712. Enforcement.**

- A. In addition to other remedies, the Borough Council may institute and maintain appropriate actions by law or in equity to restrain, correct or abate violations, to prevent unlawful construction, to recover damages and to prevent illegal occupancy of a building, structure or premises.
- B. The Borough may refuse to issue any permit or grant any approval necessary to further improve or develop any real property which has been developed or which has resulted from a subdivision of real property in violation of this chapter. This authority to deny such a permit or approval shall apply to any of the following applicants:
  - (1) The owner of record at the time of such violation.
  - (2) The vendee or lessee of the owner of record at the time of such violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.
  - (3) The current owner of record who acquired the property subsequent to the time of violation without regard as to whether such current owner had actual or constructive knowledge of the violation.
  - (4) The vendee or lessee of the current owner of record who acquired the property subsequent to the time of violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.
- C. As an additional condition for issuance of a permit or the granting of an approval to any such owner, current owner, vendee or lessee for the development of any such real property, the Borough may require compliance with the conditions that would have been applicable to the property at the time the applicant acquired an interest in such real property

## SUBDIVISION AND LAND DEVELOPMENT

(Ord. 1113, 1/19/2010)

### **§22-713. Violations and Penalties.**

- A. Any person, partnership or corporation who or which has violated the provisions of this chapter shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than \$500, plus all court costs, including reasonable attorneys' fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or be payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure.
  
- B. Each day that a violation continues shall constitute a separate violation, unless the District Justice determining that there has been a violation further determines that there was a good-faith basis for the person, partnership or corporation violating the 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 District Justice, and, thereafter, each day that a violation continues shall constitute a separate violation.

(Ord. 1113, 1/19/2010)

### **§22-714. Appeals.**

Upon exhaustion of all administrative remedies, a landowner and/or developer may appeal an adverse decision of Council, as provided by law.

(Ord. 1113, 1/19/2010)

**PART 8**

**PENALTIES/SEVERABILITY**

**§22-801. Penalties.**

Any person, partnership or corporation who or which, being the owner or agent of the owner of any lot, tract or parcel of land, shall lay out, construct, open or dedicate any street, sanitary sewer, storm sewer, water main or other improvements for public use, travel or other purposes or for the common use of occupants of buildings abutting thereon, or who sells, transfers or agrees or enters into an agreement to sell any land in a subdivision and/or land development, whether by reference to or by other use of a plat of such subdivision and/or land development, or erects any building thereon, unless and until a final plat has been prepared in full compliance with the provisions of this chapter and has been recorded as provided herein, shall be guilty of a misdemeanor; and upon conviction thereof, such person, or the members of such partnerships, or the officers of such corporation, or the agents of any of them responsible for such violation shall pay a fine not exceeding \$1,000 per lot or parcel or per dwelling within each lot or parcel. All fines collected for such violations shall be paid over to the Borough. The description by metes and bounds in the instruments of transfer or other document used in the process of transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.

(Ord. 1113, 1/19/2010)

**§22-802. Severability.**

The provisions of this chapter are severable; and if any section, clause, sentence, part or provision thereof shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair any of the remaining sections, clauses, sentences, parts or provisions of this chapter. It is hereby declared to be the intent of the Borough Council that this chapter would have been adopted if such illegal, invalid or unconstitutional section, clause, part or provision had not been included herein.

(Ord. 1113, 1/19/2010)