

## TITLE SIX - Subdivision and Land Development

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### Chapter 1280 General Provisions

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#### ***CROSS REFERENCES***

General provisions and definitions - see Penna. Mun. Plan. Code, Art. I

Contents of subdivision and land development ordinance - see Penna. Mun. Plan. Code Sec. 503

Approval of plats - see Penna. Mun. Plan. Code Secs. 508 et seq.

Improvements - see Penna. Mun. Plan. Code Secs. 509 et seq.

Remedies to effect completion of improvements - see Penna. Mun. Plan. Code Sec. 511

Recording plats - see Penna. Mun. Plan. Code Sec. 513

Penalties - see Penna. Mun. Plan. Code Sec. 515

Excavations - see S.U. & P.S. Ch. 1026

Sewers and private disposal systems - see S.U. & P.S. Ch. 1042

#### **1280.01 SHORT TITLE; EFFECTIVE DATE.**

This Title shall be known and may be cited as "The Borough of Swarthmore Subdivision and Land Development Code." This Code shall take effect five days after enactment.

(Ord. 961, § 101. Passed 8-13-01.)

### **1280.02 PURPOSES.**

The purposes of this title are:

- (a) To assure that sites are suitable for building purposes and human habitation.
- (b) To assist the orderly, efficient, integrated, and harmonious development of the Borough.
- (c) To coordinate proposed streets with existing streets or other proposed streets of the Borough, and to assure compatibility of such streets that may extend into adjacent municipalities, including provision for walkways that provide ease of pedestrian circulation within the Borough and to surrounding municipalities.
- (d) To provide adequate open spaces for recreation, light and air.
- (e) To assure adequate and coordinated stormwater management, water supply, wastewater management, and other appropriate utility services.
- (f) To ensure coordination of Borough subdivision and land development plans and other municipal, county, and Commonwealth improvement plans.
- (g) To fulfill the purposes of Article I, Section 27 (the Environmental Amendment) of the Pennsylvania Constitution, which reads: "The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and aesthetic values of the environment. Pennsylvania's natural resources are the common property of all the people, including generations yet to come. As trustees of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people."
- (h) To be sure that the development of land will be conducted with due regard to topography and geologic conditions, so that the highest quality environment is obtained.
- (i) To regulate the subdivision and/or development of land within any designated floodplain district in order to promote the general health, welfare, and safety of the community.
- (j) To establish standards and criteria governing the design, construction, alteration, extension, and maintenance of mobile home parks and recreational vehicle parks.
- (k) To secure equitable handling of all subdivision and land development plans by providing uniform procedures and standards within the Borough.
- (l) To protect and conserve the value of land and buildings in the Borough.
- (m) To create conditions favorable to the health, safety, and general welfare of the citizens of the Borough.

(Ord. 961, § 102. Passed 8-13-01.)

### **1280.03 AUTHORITY.**

This Subdivision and Land Development Code has been prepared under the authority 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 under the Borough Code. It is intended to further the objectives of Article I, Section 27 of the Constitution of the Commonwealth of Pennsylvania, and of the Borough Comprehensive Plan.

(Ord. 961, § 103. Passed 8-13-01.)

### **1280.04 INTERPRETATION.**

The provisions of this Subdivision and Land Development Code shall be held to be minimum requirements to meet the above stated purposes. Where the provisions of this Code impose greater restrictions than those of any statute, other ordinance, or regulation, the provisions of this code shall prevail. Where the provisions of any statute, other ordinance, or regulation impose greater restrictions than those of this Subdivision and Land Development Code Ordinance, the provisions of such statute, ordinance, or regulation shall prevail.

(Ord. 961, § 104. Passed 8-13-01.)

### **1280.05 SCOPE AND JURISDICTION.**

(a) From and after the effective date hereof, the Borough Council shall have the authority to regulate subdivision and land development within the Borough.

(b) The Borough Council shall have the jurisdiction of subdivision and land development within the limits of the Borough. In order to aid Borough Council in its consideration of subdivision and land development applications, the Borough Council hereby decrees that the Borough Planning Commission shall serve the following functions:

(1) All plans, whether major or minor, upon submission to the duly authorized representative of the Borough, shall be referred to the Planning Commission for review.

(2) The Planning Commission shall make recommendations to Borough Council concerning approval, disapproval, modification, and/or conditions for approval of such plans.

(3) The Planning Commission shall make recommendations to Borough Council concerning the interpretation of the granting of requested modifications to provisions and standards of this title.

(Ord. 961, § 106. Passed 8-13-01.)

### **1280.06 MUNICIPAL LIABILITY.**

The grant of a permit or approval of a plan for any proposed subdivision and/or land development to be located within any floodplain area shall not constitute a representation, guarantee, or warranty of any kind by the Borough or by any official employee thereof of the practicability or safety of the proposed use, and shall create no liability upon the Borough, or upon its officials or employees.

(Ord. 961, § 107. Passed 8-13-01.)

## **Chapter 1282 Definitions**

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1282.01 General interpretation.

1282.02 Definitions.

### **1282.01 GENERAL INTERPRETATION.**

Unless otherwise expressly stated, the words and phrases listed in this chapter shall be construed throughout this Subdivision and Land Development Code to have the meanings indicated herein. Words in the singular include the plural, and those in the plural include the singular. Words in the present tense include the future tense. The word "person" includes corporation, unincorporated association, firm, organization, limited liability corporation, professional corporation, and partnership, as well as an individual. The word "structure" includes the meaning of "building," and each shall be construed as if followed by the phrase "or part thereof." The word "may" is permissive; the words "shall" and "must" are always mandatory. When words, phrases or terms are not defined in this Code but are defined elsewhere in these Codified Ordinances, the definition in the Codified Ordinances shall be used. If a word is defined differently between this Subdivision and Land Development Code and elsewhere in these Codified Ordinances, the definition in this Code shall prevail. When words, phrases or terms are not defined, they shall have their ordinarily accepted meanings or such as the context shall imply.

(Ord. 961, § 201. Passed 8-13-01.)

### **1282.02 DEFINITIONS.**

The following terms, as used in this Subdivision and Land Development Code, shall have the meanings indicated below:

(1) "Alley." See definition (80)F.: "service street."

(2) "Applicant." A landowner or developer, as hereinafter defined, who has filed an application for development, including the

applicant's heirs, successors, and assigns.

(3) "Application for development." Every application, whether preliminary, tentative or final, required to be filed and approved prior to 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.

(4) "Authority." A body politic and corporate created pursuant to the act of May 2, 1945 (P.L. 382, No. 164), known as the "Municipality Authorities Act of 1945."

(5) "Backlight." Light that causes light trespass onto adjacent properties.

(6) "Block." A tract of land bounded entirely by streets; by streets and a watercourse; by streets and a railroad; by streets and the corporate boundaries of the Borough; by streets and public land or other park or recreation area; or any combination of the above.

(7) "Borough." The Borough of Swarthmore.

(8) "Borough Council." The Borough Council of the Borough of Swarthmore.

(9) "Builder." A person, who is not necessarily the owner of the land or agent of the same, who by contract or other agreement is charged with the responsibility of construction of buildings or other structures, or of making any construction improvements on any parcel of land.

(10) "Building." Any combination of materials forming any structure having walls and a roof that is erected or placed on the ground and designed, intended, or arranged for the housing, sheltering, enclosure, or structural support of persons, animals, or property of any kind. Any shed, mobile home or similar structure constructed off-site prior to placement on the ground also is a building.

(11) "Building setback line." An established line within a property defining the minimum required distance between any structure to be erected and an adjacent right-of-way line or street line.

(12) "Buffer." A strip of required yard space within a property, or to the boundary of a property or district, on which is located a visual barrier of sufficient height and density to appropriately buffer or screen the property or use.

(13) "Caliper." As defined in the "American or U.S.A. Standard for Nursery Stock," American National Standards Institute (ANSI) or U.S.A.S. Z60.1 of the American Association of Nurserymen, as most currently amended.

(14) "Cartway." The portion of a street right-of-way, paved or unpaved, customarily used by vehicles in the regular course of travel over the street.

(15) "Clear sight triangle." An area of unobstructed vision at street intersections, defined by lines of sight between points at a given distance from the intersection of the street center lines, as may be specifically delineated as the "Triangle of Unobstructed Vision" in the Zoning Code.

(16) "Comprehensive Plan." The official public document of current adoption, consisting of maps, charts, and textual matter, that constitutes a policy guide to decisions about the physical and social development of the Borough.

(17) "Condominium." A form of ownership of real property, as defined in the Pennsylvania Uniform Condominium Act of 1980, which includes an undivided interest in a portion of a parcel, together with a separate interest in a space within a structure.

(18) "Crosswalk." A right-of-way, or designated portion of a right-of-way, municipally or privately-owned, intended to furnish access for pedestrians.

(19) "DBH." The diameter of a tree at breast height, usually measured 4.5 feet from the ground surface.

(20) "Detention basin." A structure designed to retard surface (or temporarily store) surface water runoff for a period of time sufficient to cause the deposit of sediment and to reduce the velocity, volume and/or rate of surface flows leaving a site, thus reducing flood potential.

(21) "Developer." Any landowner, agent of such landowner, or tenant with the permission of such landowner, who makes or causes to be made a subdivision of land or a land development. The developer may also be the subdivider as defined herein.

(22) "Development." Any man-made change to improved or unimproved real estate, including but not limited to the erection of buildings or other structures, the placement of mobile homes, streets and other paving, utilities, mining, dredging, filling, grading, excavation, drilling operation, the storage of equipment or materials, and the subdivision of land.

(23) "Development agreement." A written contract between a subdivider or applicant and the landowner, on the one hand, and the

Borough, on the other, specifying the conditions of final approval by the Borough, and providing for the completion and dedication of public improvements.

(24) "Driveway." A private means of vehicular and pedestrian access between a public or private street and a parking area or areas within a lot or group of lots.

(25) "Dwelling." Any building or portion of a building used for human habitation by a family.

(26) "Easement." A permanent right granted for limited use of private land, normally for a public purpose (e.g., utility, drainage, and public access) whereby the owner of the property shall have the right to make any other use of the land that is not inconsistent with the rights of the grantee.

(27) "Easement, conservation." A legal agreement between a property owner and an appropriate conservation organization or governmental entity, through which the property owner establishes certain use restrictions over all or portion(s) of the property for conservation purposes.

(28) "Engineer." A professional engineer, licensed in Pennsylvania, and duly designated by the Borough to perform the duties of engineer as herein specified.

(29) "Erosion." The detachment and movement of soil or rock fragments, or the wearing away of the land surface by water, wind, ice, gravity or other natural elements.

(30) "Excavation." Any act by which earth, sand, gravel, rock, or any other similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated, or moved, including the conditions resulting therefrom.

(31) "Fence." Any permanent structure more than 18 inches in height and more than 42 inches in length, constructed of wood, glass, brick, metal, stone or other material, including earthen berms, but not including planted living materials. Structures commonly known as walls, except retaining walls, are specifically included in this definition.

(32) "Fill."

A. Any act by which earth, sand, gravel, rock, or any other similar material is placed, pushed, dumped, pulled, stockpiled, transported, or moved to a new location above the natural surface of the ground or on top of the stripped surface, including the conditions resulting therefrom;

B. The difference in elevation between a point on the original ground and a designated point of higher elevation on the final grade; or

C. The material used to make a fill.

(33) "Flag lot." See definition (45) "Lot, interior."

(34) "Floodplain." A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river, or watercourse, and/or any area subject to the unusual and rapid accumulation of surface waters from any source. The basis for delineation of the floodplain shall be as prescribed in Chapter 1457, the Floodplain Management Regulations.

(35) "Foot candle." A unit of incident light quantity striking a surface and measurable with an illuminance meter (also called a foot candle meter or light meter). A vertical foot candle, as referred to in this chapter is a unit of incident light quantity striking a vertical surface, such as a building wall.

(36) "Geologic formations." Any natural or geologic feature existing on the property, such as rock outcrops, steep slopes, stream beds and floodplains.

(37) "Glare." The sensation produced by excessive direct or reflected light that can be annoying or visually disabling.

(38) "Guarantee, maintenance." Any security which may be required of an applicant by the Borough after final acceptance by the Borough of improvements installed by the applicant. Such security may include but is not limited to Federal or Commonwealth lending institution irrevocable letter of credit or restrictive or escrow account.

(39) "Guarantee, performance." Any security which may be required of an applicant by the Borough in lieu of a requirement that certain improvements be made before the Borough approves the applicant's subdivision plan or land development plan. Such security may include but is not limited to Federal or Commonwealth lending institution irrevocable letter of credit or restrictive or escrow account.

(40) "Illuminance." The quantity of incident light per unit area, measured with a light meter in foot candles.

(41) "Impervious lot coverage." The total area of the lot or parcel which is covered by impervious surfaces.

(42) "Impervious surface." Material that is impenetrable and prevents absorption of water into the ground.

(43) "Improvements." Buildings, for public or quasi-public use, streets, curbs, gutters, street lights and signs, water mains, hydrants, sanitary sewer mains, including laterals to the street right-of-way line, storm drainage lines, stormwater management structures, walkways, recreational facilities, open space improvements, shade trees, buffer or screen plantings, and all other additions to the tract that are required by this Subdivision and Land Development Code or necessary to result in a complete subdivision or land development in the fullest sense of the term.

(44) "Improvements, public." Improvements, including but not limited to those contained in the definition of "Improvements," that are intended for dedication to the Borough, either in fee or by easement.

(45) "Land development."

A. Any of the following activities:

1. The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:

a. 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

b. 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.

2. A subdivision of land.

3. Development in accordance with § 503(1.1)(i) and (iii) of the Municipalities Planning Code.

B. The addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building shall not be considered a land development for purposes of this Subdivision and Land Development Code.

C. All applications for land development will follow the review process for major subdivisions as outlined in this Code.

(46) "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 condition), a lessee if authorized under the lease to exercise the rights of the landowner, or other person having a proprietary interest in land.

(47) "Light trespass." The light created by a lighting installation which extends beyond the boundaries of the property on which the installation is sited.

(48) "Lot." A designated parcel, tract or area of land established by a plat, subdivision or as otherwise permitted by law to be separately owned, used, developed or built upon.

(49) "Lot area." The area of land included within the title lines of a lot, except that area set aside as a right-of-way for a street. Areas to be excluded from the calculation of minimum lot area shall be as stated in this Subdivision and Land Development Code and the Zoning Code, as applicable.

(50) "Lot, corner." A lot bounded on at least two sides by streets whose lines, when extended, form an interior angle of 135 degrees or less.

(51) "Lot, interior (flag)." A lot which does not adjoin a street but is connected thereto by an access strip of required minimum width. Minimum lot area and other dimensional requirements shall be those of the applicable zoning district, and shall be met on that portion of the lot exclusive of the access strip. The access strip must be a fee simple portion of the lot, but may not be counted as part of the minimum lot area required by applicable zoning provisions.

(52) "Lot, reverse frontage." A lot extending between and having frontage on a through highway or secondary road and a residential street, with vehicular access solely from the latter.

(53) "Lot line, front." The lot line abutting any street and coinciding with any street right-of-way line. In the case of an interior lot, the front lot line shall be the line most parallel and closest to the street right-of-way line at the nearest point to the right-of-way where the lot attains substantially the minimum required lot width.

(54) "Lot line, rear." The lot line not intersecting a front lot line that is most distant from and most closely parallel to the front lot line. A lot bounded by only three lot lines will not have a rear lot line.

(55) "Lot line, side." Any lot line not a front or rear lot line.

(56) "Lot width." The horizontal distance between side lot lines measured along the street line or building setback line. When the street line is curved, the measurement shall be made on the arc, on or parallel to the curve of the street line.

(57) "Lumen." The light output rating of a lamp (light bulb).

(58) "Manufactured home." This definition used for the National Flood Insurance Program only; see definition (62): "Mobile home."

(59) "Manufactured home lot." This definition used for the National Flood Insurance Program only; see definition (63): "Mobile home lot."

(60) "Manufactured home park or subdivision." This definition used for the National Flood Insurance Program only; see definition (64): "Mobile home park."

(61) "Minimize." To reduce to the smallest amount possible using best management practices. "Minimize" shall not mean complete elimination but shall require that the most substantial efforts possible under the circumstances have been taken to reduce the adverse effect of the action required to be minimized. With respect to activities that are adverse to the conservation of the natural features of land, the requirement to minimize shall include but not be limited to the requirement that the placement of dwellings and other structures and the location of roads, sedimentation and erosion control devices, stockpiling and earthmoving activities shall be planned and designed so as to reduce any suspected adverse effect of the activity in question.

(62) "Mobile home." A transportable, single-family dwelling intended for permanent occupancy, contained in one unit, or in two or more 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.

(63) "Mobile home lot." A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home.

(64) "Mobile home park." A parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes.

(65) "Monument." A tapered, permanent survey reference point of stone or concrete, having a rounded top of four inches on each side, a bottom of six inches on each side, and a length of 24 inches.

(66) "MPC." The Municipalities Planning Code, as defined in this Subdivision and Land Development Code.

(67) "Municipalities Planning Code." The Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended and reenacted by Act 170 of 1988. 53 P.S. 10101, et seq, and any subsequent amendments thereto. Hereafter referred to in this Code as the MPC.

(68) "One hundred-year flood." A flood that, on average, is likely to occur once every 100 years (i.e., that has a 1% chance of occurring each year, although the flood may occur in any year).

(69) "Open space, common." A parcel or parcels of land or an area of water, or a combination of land and water, within a development and designed and intended for the use or enjoyment of residents of the development, not including streets, off-street parking areas, areas set aside for public facilities, and private yards.

(70) "Plan." Shall include the following:

A. "As-built." A corrected final plan, showing dimensions and locations of all streets and other improvements as actually constructed.

B. "Conservation." A component of the preliminary and final plan, prepared by a registered engineer, showing existing conditions and disclosing the environmental consequences of the proposed action. The plan includes a natural resources inventory, impact assessment, steep slope analysis, grading plan, and mitigation and maintenance proposals.

C. "Final." An exact and complete site design and layout plan and improvements construction plan prepared by a registered engineer or surveyor, to be recorded upon approval.

D. "Improvements construction." A component of the preliminary and final plan, prepared by a registered engineer, showing the

construction details of streets, drains, sewers, water supply systems, bridges, culverts, and other improvements as required, including a horizontal plan, profiles and cross-sections.

E. "Land development." A sketch, preliminary, or final plan, including written and graphic material, showing the provision for development of a subject tract when a subdivision plan would not be applicable.

F. "Landscaping, buffering and screening and lighting." A component of the preliminary and final plan, prepared by a registered engineer, showing proposed landscaping, including but not limited to number and type of species, spacing, size at time of planting, and planting details, proposals for protection of existing vegetation during and after construction, proposed treatment of hard and soft surfaces, proposed decorative features, grade changes, buffers and screening devices, and isofootcandle diagrams to show level and extent of lighting on the site.

G. "Preliminary." A site design and layout plan and improvements construction plan prepared by a registered engineer, in less detail than a final plan, and prepared for consideration prior to submission of a final plan.

H. "Recorded." A final plan, with accompanying documents as required by this Code, which has been recorded by the applicant in the office of the County Recorder of Deeds.

I. "Site design and layout." A component of the preliminary and final plan, prepared by a registered engineer, showing: property lines, existing and proposed streets, lots, buildings, public areas, drainage facilities, easements, and other details pertinent to the proposal.

J. "Sketch." A plan submitted, at the applicant's option, for review and discussion prior to application for preliminary plan approval, including at minimum the information suggested for sketch plans by this Code.

K. "Stormwater management and erosion and sedimentation control." A component of the preliminary and final plan, prepared by a registered engineer, showing a plan for the management of stormwater and control of erosion and sedimentation during the course of site preparation or any other land disturbance.

(71) "Planning Agency." The Borough Planning Commission.

(72) "Public hearing." A formal meeting held pursuant to public notice by Borough Council or the Planning Commission, intended to inform and obtain public comment, prior to taking action in accordance with the MPC and applicable Borough regulations.

(73) "Public meeting." A forum held pursuant to notice under the act of July 3, 1986 (P.L. 388, No. 84), known as the "Sunshine Act."

(74) "Recreational vehicle." A vehicle which is:

A. Built on a single chassis;

B. Not more than 400 square feet, measured at the largest horizontal projections;

C. Designed to be self-propelled or permanently towable by a light-duty truck;

D. Not designed for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

(75) "Recreational vehicle park." A parcel of land under single ownership which has been planned and improved for the placement of two or more recreational vehicles.

(76) "Reserve strip." A parcel of land separating a street from adjacent properties.

(77) "Resubdivision." A change in the map of an approved or recorded subdivision plat, if such change affects any street layout on such map or area reserved thereon for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

(78) "Right-of-way." The total width of any land reserved or dedicated as a street, alley, or crosswalk, or for any other public or private purpose.

(79) "Seasonally high water table soils." Those soils in which the groundwater surface is within one foot of the ground surface at certain times of the year, according to the Soil Survey of Chester and Delaware Counties, United States Department of Agriculture, Soil Conservation Service (now called the Natural Resource Conservation Service, or NRCS), and/or determined by on-site investigation.

(80) "Sediment." Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by wind, water, or gravity.

(81) "Sedimentation." The depositing of earth or soil that has been transported from its site of origin by water, ice, wind, gravity or other natural means.

(82) "Service facility." A loading dock, garbage storage area, dumpster or similar outdoor facility that serves the principal structure on a lot.

(83) "Sewage facilities." Any public system designed and operated by the Borough or other municipality or municipal authority for the treatment and disposal of sewage, in which sewage is conveyed by a system of pipes to an off-site, publicly-operated treatment facility and disposed of through means approved by the Pennsylvania Department of Environmental Protection.

(84) "Shade tree." A tree in a public place, street, special easement, or right-of-way adjoining a street, as provided in this Code.

(85) "Sight distance." A line of unobstructed vision between two points of specified height above the centerline of a street, the length of which shall be of a minimum specified distance.

(86) "Specimen tree." A unique, rare, or otherwise specifically selected plant or tree designated as such by the Borough, which most typically represents a whole class or group, specifically in shape, form, historical importance, or any other characteristic.

(87) "Stormwater." Water which surfaces, flows, or collects during and subsequent to rain or snowfall.

(88) "Street." Any street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct and any other ways used or intended to be used by vehicular traffic and pedestrians, whether public or private, but not to include a driveway.

A. "Through highway." A street which serves or is designed to serve as a major artery for communication and transportation between municipalities and other large communities.

B. "Secondary road." A street which serves or is designed to serve as a means of communication and transportation between neighborhoods and as a feeder road between through highways and identifiable neighborhoods.

C. "Residential." A street, municipally or privately-owned, which provides vehicular and pedestrian access to adjacent properties and residences.

D. "Cul-de-sac street." A residential street intersecting another street at one end, and terminating at the other end by a permanent vehicular turnaround.

E. "Private street." A residential street, serving only abutting lots, that is:

1. Not offered or required to be offered for dedication; or
2. Not accepted for dedication.

F. "Service street (alley)." A minor right-of-way, on which no principal use fronts, providing secondary vehicular access to the side or rear of two or more properties.

G. "Single-access street." A residential street, including but not limited to a cul-de-sac or loop design, which has only one point of intersection with an existing street or with a proposed street having more than one access point.

(89) "Street line." The dividing line between a lot and the outside boundary or right-of-way line of a public street, road, or highway legally open or officially platted, or between a lot and a privately-owned street, road, or way, over which the owners or tenants of two or more lots, each held in single and separate ownership, have the right-of-way.

(90) "Structure." Any combination of materials forming any construction that is erected on or attached to the ground.

(91) "Subdivider." Any individual, firm, partnership, association, corporation, estate, trust, or any other group or combination acting as a unit (or agent authorized thereby) which undertakes the subdivision or development of land.

(92) "Subdivision."

A. The division or redivision of a lot, tract or parcel of land 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 ten acres, not involving any new street or easement of access or any residential

dwelling, shall be exempted.

B. For purposes of procedure, all applications shall be classified as either minor or major:

1. Minor: any subdivision in which:

- a. No street is to be constructed or widened;
- b. No other public improvement, i.e. one intended to be dedicated to the Borough, is to be constructed;
- c. No land disturbance activities will take place, except those incidental to construction of a single-family dwelling on each lot; and
- d. No more than three lots are created.

2. Major: any subdivision other than a minor subdivision.

(93) "Subdivision officer." That official of the Borough designated by Borough Council to administer the provisions of this Subdivision and Land Development Code.

(94) "Substantially completed." A site condition where, in the judgment of the Borough Engineer, at least 90% (based on the cost of the required improvements for which financial security was posted pursuant to Section 1286.13) of those improvements required as a condition of final approval have been completed in accordance with the approved plan, so that the project will be able to be used, occupied, or operated for its intended use.

(95) "Surveyor." A professional land surveyor licensed in Pennsylvania.

(96) "Swale." A natural channel or other low-lying stretch of land which gathers or carries surface water runoff.

(97) "Temporary lighting." A lighting system which is installed only for the duration of a temporary activity, such as construction, or one-time recreational events, including athletic, social, or entertainment events.

(98) "Topsoil." Natural and friable loam containing sufficient humus and nutrients to support plant growth.

(99) "Uplight." Light that is directed upwards that causes artificial sky glow.

(100) "Watercourse." A permanent stream, intermittent stream, river, brook, creek, or a channel or ditch for water, whether natural or man-made.

(101) "Wetlands." Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, fens and similar areas; or as further defined and delineated by the United States Army Corps of Engineers, the United States Environmental Protection Agency or the Pennsylvania Department of Environmental Protection.

(102) "Woodland." Generally, a land area characterized by a more or less dense and extensive tree cover. More particularly, a plant community predominantly of healthy trees and other woody vegetation, well-stocked and growing more or less closely together.

(103) "Yard." That portion of a lot which is unoccupied and open to the sky.

(104) "Yard, front." The required open space between a structure and the street right-of-way line that extends the full width of the lot.

(105) "Yard, rear." The required open space between a structure and the rear property line that extends the full width of the lot.

(106) "Yard, side." The required open space between a structure and the interior side property line that extends between the front and rear yards.

(Ord. 961, § 202. Passed 8-13-01; Ord. 1044. Passed 8-8-11.)

## **Chapter 1284**

### **Subdivision and Land Development Control**

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## **1284.01 EXTENT OF CONTROL.**

(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 Subdivision and Land Development Code and other applicable Borough ordinances.

(b) No lot in a subdivision may be sold, no permit to build, alter, or repair any building on land in a subdivision or land development may be issued, and no buildings may be erected in a subdivision or land development until a final subdivision or land development plan has been approved and recorded, in accordance with this Code and, where required, improvements have been completed or their completion has been assured by a performance guarantee consistent with the terms of Article V of the MPC and with Sections 1286.13 and 1294.01 of this Code.

(c) The scope of this Subdivision and Land Development Code shall include all matters over which, by law, the Borough is authorized to exercise control by enactment and enforcement of this Code, including, but not limited to:

(1) All improvements within any tract undergoing subdivision or land development;

(2) The improvement of public facilities adjacent to any tract undergoing subdivision or land development, including streets and drainage facilities which border upon any such tract; and

(3) The installation or enhancement of off-site improvements needed to adequately serve the subdivision or land development, provided that the extent of required off-site improvements shall be economically feasible in relation to the size and scope of the proposed subdivision or land development.

(d) The granting of a permit, or the approval of a plan of subdivision or land development shall not constitute a representation, guarantee, or warranty of any kind by the Borough, or by any official, employee, agent, or advisor 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, or upon any officials, employees, agents, or advisors thereof.

(e) No section of this Code shall be construed to prohibit condominium ownership as permitted by the Pennsylvania Uniform Condominium Act of 1980.

(Ord. 961, § 301. Passed 8-13-01.)

## **Chapter 1286 Plan Processing Procedures and Plan Requirements**

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1286.01 Municipal review.

1286.02 Submission to County agencies.

1286.03 Submission of sketch plan.

1286.04 Review of sketch plan.

1286.05 Sketch plan design requirements.

1286.06 Submission of preliminary plan.

1286.07 Review of preliminary plan.

1286.08 Preliminary plan design requirements.

1286.09 Submission of final plan.

1286.10 Review of final plan.

1286.11 Final plan design requirements.

1286.12 Subdivision and land development agreements.

- 1286.13 Performance guarantees.
- 1286.14 Recording of final plan.
- 1286.15 Commencement of development.
- 1286.16 Time limitation of plans.
- 1286.17 Plan amendments.

### **1286.01 MUNICIPAL REVIEW.**

- (a) All preliminary and final subdivision or land development plans shall be reviewed by the Borough Planning Commission and the County Planning Commission and shall be approved or disapproved by the Borough Council in accordance with the procedure specified in this Subdivision and Land Development Code and other applicable Borough ordinances.
- (b) All subdivision or land development applications shall be, for the purposes of procedure, classified as either minor or major.
- (c) Landowners submitting an application for subdivision or land development shall apply for and secure approval in accordance with the following procedures:
  - (1) Minor subdivisions:
    - A. Sketch plan (optional);
    - B. Final plan (mandatory).
  - (2) Major subdivisions or land development proposals:
    - A. Sketch plan (optional);
    - B. Preliminary plan (mandatory);
    - C. Final plan (mandatory).
- (d) Plans of major subdivisions, when first submitted, are preliminary. Final plans of major subdivisions shall not be accepted by the Borough until preliminary plans have been approved.

(Ord. 961, § 401. Passed 8-13-01.)

### **1286.02 SUBMISSION TO COUNTY AGENCIES.**

Plans shall be submitted to the following agencies for review:

- (a) County Planning Department. The required number of prints of all plans, referral letters and sufficient fee to cover the cost of review shall be submitted to the County Planning Department.
- (b) County Conservation District. The required number of prints and sufficient fee to cover the cost of review shall be submitted to the County Conservation District for review of matters relating to drainage and abatement of soil erosion.

(Ord. 961, § 402. Passed 8-13-01.)

### **1286.03 SUBMISSION OF SKETCH PLAN.**

A sketch plan for all proposed subdivisions or development of land located within the Borough may, at the applicant's option, be submitted to the Planning Commission for review. Such plans will be considered as submitted for informal discussion between the applicant and the Planning Commission, Borough Council, Borough Environmental Advisory Council, and Borough Engineer. In the event that any applicant intends to make changes in the contour of any land proposed to be subdivided, developed or changed in use by grading, excavation or the removal or destruction of the natural topsoil, trees, or other vegetative covering thereon, the applicant is strongly urged to consult with the County Conservation District prior to or concurrently with submission of the sketch plan. If submitting a sketch plan, the applicant shall provide the number of copies as indicated on the application form.

(Ord. 961, § 403. Passed 8-13-01.)

#### **1286.04 REVIEW OF SKETCH PLAN.**

(a) The Borough Planning Commission shall, at a meeting with the applicant, consider the suitability of the sketch plan for the development of the land and its relationship to the harmonious extension of streets and utilities, arrangement and density of housing, and compatibility of the plan with the Borough Comprehensive Plan. Based on this meeting, the Planning Commission shall submit its written comments to the applicant; provided however, that the failure of the Planning Commission to submit comments in writing shall not be deemed to be an approval of any application or to vest any rights in the applicant.

(b) The applicant may, but need not request further review of the sketch plan by Borough Council. If further review is requested, Borough Council may consider the sketch plan, may consider the written or other comments of the Planning Commission, may meet with the applicant, and may advise the applicant as to Borough Council's comments with respect to the sketch plan; provided however, that Borough Council is not required to review the sketch plan or to submit comments to the applicant if Borough Council does review the sketch plan.

(c) Nothing contained in this section or any failure of the Planning Commission or Borough Council, or both, to proceed or act in accordance with this section, shall be deemed to be a decision with respect to any subdivision or land development plan, or to vest any rights in the applicant.

(Ord. 961, § 404. Passed 8-13-01.)

#### **1286.05 SKETCH PLAN DESIGN REQUIREMENTS.**

The applicant may choose what information to submit; however, to facilitate the fullest possible response from the Planning Commission, the applicant is encouraged to submit the following items:

- (a) Name of the subdivision or land development;
- (b) Name and address of the owner/applicant;
- (c) Name and address of the applicant's engineer, surveyor, planner, architect, or landscape architect, if available;
- (d) Scale of sketch and graphic scale; the plan need not be exact scale, nor are precise dimensions required, but it should be clearly titled "Sketch Plan" and of adequate scale for purposes of review;
- (e) Approximate tract boundaries;
- (f) North point;
- (g) Location map;
- (h) Streets on and adjacent to the tract;
- (i) Topographical and physical features.
- (j) Proposed general lot, building, and street layout;
- (k) Applicable zoning requirements and possible variances needed; and
- (l) In the case of land development plans, proposed general layout, including building locations, parking lots, and open spaces.

(Ord. 961, § 405. Passed 8-13-01.)

#### **1286.06 SUBMISSION OF PRELIMINARY PLAN.**

Preliminary plan review shall be required only for major subdivisions and land developments. The applicant shall provide the number of copies as indicated on the application form.

(Ord. 961, § 406. Passed 8-13-01.)

#### **1286.07 REVIEW OF PRELIMINARY PLAN.**

(a) Prints of the preliminary plan and all required supplementary data shall be initially and officially submitted to the Borough Manager, together with the required fees as prescribed by resolution of Borough Council.

(b) The Borough Manager shall make a preliminary review of the application. If the Borough Manager decides that the application is defective on its face, the applicant shall be notified. The applicant may then request the return of all submissions for the purpose of correction and resubmission. A request for the return of all submissions shall be in writing and shall be deemed to be a withdrawal of the application.

(c) A review of the plan will not commence, nor the statutory time period for review begin, until the completion of the above items is acknowledged in writing by the Borough Manager and the application is considered complete.

(d) The application and all supporting plans, prints, and other information shall be forwarded to the Borough Council, Borough Planning Commission, Borough Environmental Advisory Council, County Planning Commission, County Conservation District, Borough Engineer, and others whose comments on the plan may be required.

(e) In accordance with time periods provided in the MPC, the Borough Planning Commission shall review the plan and recommendations of the other reviewing agencies as noted in division (d) of this section. In reviewing the application, the Planning Commission may secure the advice or assistance of any expert consultants qualified to evaluate all implications of the proposed development, and to advise as to any conditions and safeguards that should be prescribed to assure the fullest achievable compatibility between the proposed use, its neighborhood, and the community as a whole. The fees charged by any such expert consultant shall be paid for by the applicant. The Planning Commission may recommend alterations to any subdivision or land development plan and specify conditions or additions thereto that it deems necessary, and may make its decision to recommend preliminary approval subject to such conditions, changes, modifications or additions.

(f) After such review and in accordance with time periods provided in the MPC, the Planning Commission shall send written notice of its actions and the reasons therefor, citing specific sections of the statutes or ordinances relied upon, to the applicant and Borough Council.

(g) After the preliminary plan has been officially submitted to the Borough Council by the Planning Commission, such plan shall be placed on Borough Council's agenda for review and action. A public hearing may be scheduled in accordance with applicable Borough ordinances and the MPC. In acting on the preliminary subdivision or land development plan, the Council shall review the plan and written comments of the reviewing agencies, and comments from the public hearings, if any, to determine its conformance with existing ordinances. Borough Council shall withhold action on said plans until the comments of the County Planning Department have been received, or until the expiration of 30 days from the date the plans were forwarded to the County for review. Borough Council may recommend alterations to any subdivision or land development plan and specify conditions or additions thereto, which it deems necessary, and may make its decision to grant preliminary approval subject to such conditions, changes, modifications or additions. Upon the written request of the applicant, 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 this Code will be observed.

(h) After submitting the preliminary plan, the applicant shall be responsible for notifying the abutting property owners that a preliminary plan proposed for the subject lot has been filed, no less than ten days prior to the first Planning Commission meeting for which the plan has been scheduled for review. Notification shall be made by certified mail, return receipt requested, or by other proof of notification, which shall be provided to the Borough. Proof of such notification shall be presented to the Planning Commission at the first meeting for which the plan has been scheduled for review.

(i) The Borough shall provide written notice of the date and time of the first Planning Commission meeting at which the application will be discussed to be conspicuously posted on the affected tract of land at least one week prior to the review. Such notice shall also be posted at Swarthmore Borough Hall, on the Swarthmore Borough website, and in a newspaper of local circulation.

(Ord. 961, § 407. Passed 8-13-01; Ord. 1078. Passed 8-8-16.)

## **1286.08 PRELIMINARY PLAN DESIGN REQUIREMENTS.**

(a) Drafting standards. The preliminary plan shall conform to the following drafting standards:

(1) Subdivision or land development plans submitted for review for preliminary approval shall be clear and legible black or blue on white prints of the drawings. Space shall be provided for signatures on the face of the plans.

(2) Preliminary plans shall be on sheets not larger than 34 inches by 44 inches overall. It is recommended that, as far as practicable, preliminary plan sheets be held to the following overall sizes: 17 inches by 22 inches, 24 inches by 36 inches, 30 inches by 42 inches. Where necessary to avoid sheets larger than the maximum size prescribed above, preliminary plans shall be drawn in two or more sections, accompanied by a key diagram showing relative location of sections.

(3) The scale shall be 1 inch = 20 feet or less, except that, where proposed lots are to be greater than ten acres in size, the scale may be 1 inch = 100 feet.

(4) Dimensions shall be set in feet and decimal parts thereof, bearings in degrees, minutes, and seconds (errors in closures shall not be more than one part per 10,000).

(5) Each sheet shall be numbered and shall show its relationship to the total number of sheets in the plan. Where there are four or more sheets, a key map, on a scale sufficient to show their relationship, shall be furnished.

(6) The plan shall bear an adequate legend to indicate clearly which features are existing and which are proposed.

(b) Site design and layout plan.

(1) A key map for the purpose of locating the site to be subdivided or developed, at a scale that assures readability, shall show the relation of the tract to adjoining property and to all streets and municipal boundaries existing within 1,000 feet of any part of the property proposed to be subdivided or developed.

(2) A series of maps, prepared as noted above, with accompanying narrative as needed, shall show the following:

A. Proposed subdivision or land development name or identifying title.

B. Name and address of the landowner of the tract or of the landowner's authorized agent, if any.

C. Name and address of the registered engineer or surveyor responsible for the plan. If an architect or landscape architect collaborated in the preparation of the plan, that person's name and address also shall appear.

D. Zoning information, including but not limited to applicable district, area and bulk coverage requirements; density, open space, lot coverage, setback and impervious coverage requirements; variances granted or pending; and any zoning boundaries that traverse or are within 200 feet of the tract.

E. Tract boundaries showing bearings and distances.

F. Total acreage of the tract.

G. Original date of preparation, revision dates, north point, and graphic and written scale.

H. The names of all owners and the deed references of all adjacent lands, the names of all proposed and existing subdivisions adjacent, and the locations and dimensions of any streets and/or right-of-way easements shown therein.

I. Areas subject to special deed restrictions.

J. The locations and dimensions of all existing streets, bridges, culverts, pipes, railroads, sewers and sewage systems, aqueducts, water mains and feeder lines, fire hydrants, gas, electric, and oil transmission lines, watercourses, buildings, sources of water supply, easements, trees and other significant features within the property or any adjacent property, or within any other property that may be impacted by the proposed development or subdivision.

K. The locations and widths of any streets or other public ways or places as shown upon an adopted local or county plan, if such plan exists for the area to be subdivided or developed.

L. Identification of all historically significant sites or structures as defined by the Borough within the property or any adjacent property, or within any other property that may be impacted by the proposed development or subdivision.

M. Locations of walkways, paths, and trails (pedestrian, equestrian, bicycle, etc.), traversing the site and extending beyond it, that have been in public use, or that have been proposed on any official Borough plan. Proposals for their continued protection through easement or otherwise shall be included.

N. A full plan of the development, showing proposed lot layout with lots numbered in consecutive order and individual lot dimensions, sufficiently detailed to demonstrate to the Borough how the proposed layout compares to zoning requirements and that it is mathematically attainable within the parcel being subdivided, and location of areas to be subject to easements of any kind. In addition, the plan for a land development shall show, where applicable, proposed building locations, location and size of parking lots, provisions for access and traffic control, locations of loading docks, and provisions for landscaping and lighting of the site.

O. Where the plan submitted covers only a part of the applicant's entire holding and where specifically required by the Borough Planning Commission, a sketch plan of the prospective future street system of the unsubmitted part.

P. In addition to all other requirements, plans for cluster or multi-family developments also must include the following information:

1. Areas that are proposed to remain open or wooded.

2. Recreational areas.

3. Total dwelling units, number of buildings, proposed density, total parking spaces, open space, distance between buildings, offset of buildings, distance between window walls, and number of bedrooms.

(3) All plans shall be accompanied by Sewage Facilities Planning Modules for Land Development provided by the Pennsylvania Department of Environmental Protection, including information with regard to the means of sewage disposal and provision of water supply.

(4) A statement or certificate by the engineer or surveyor, indicating that the plans are or are not in conformity with engineering, zoning, subdivision, building, sanitation, and other applicable ordinances and regulations and, if they are not so conforming, the reasons for requesting an exception. Proposed zoning changes shall note the suggested locations of buildings in connection therewith.

(c) Improvements construction plan.

(1) A statement describing proposed public improvements, including streets and gutters, a typical cross-sectional diagram of proposed street construction, and the means of water supply and sewage disposal to be provided. The size and location of sewer lines, water lines, and fire hydrants shall be included

(2) A plan or plans showing location, width, and names of all proposed streets and street rights-of-way, and including all street extensions or spurs as are reasonably necessary to provide adequate street connections and facilities to adjoining developed or undeveloped areas; preliminary profiles for proposed streets; proposed minimum setback line for each lot; location and dimensions of playgrounds, public buildings, public areas, and parcels of land proposed to be dedicated or reserved for public use.

(3) If land to be subdivided lies partly in another municipality, the applicant shall submit information concerning the location and design of streets, layout and size of lots, and provision of public utilities on land subject to his control within the adjoining municipality. The design of public improvements shall provide for a smooth, practical transition where specifications vary between municipalities. Evidence of approval of this information by appropriate officials of the adjoining municipality also shall be submitted.

(4) Where the applicant proposes to install the improvements in sections, the applicant shall submit with the preliminary plan, pursuant to Section 508(4) of the Municipalities Planning Code, a delineation of the proposed sections and a schedule of deadlines, within which applications for final approval of each section are intended to be filed.

(d) Traffic impact study.

(1) The applicant for any residential subdivision or land development proposed to contain 20 or more dwelling units, or for any nonresidential land development, shall prepare and submit a traffic impact study. The content of the study shall be such as to enable Borough Council to assess the likely impacts of the proposed development on the existing transportation network of the Borough and its surrounding areas. The purpose of the study is to identify any traffic problems likely to result from the proposed development in relation to ingress/egress, road capacities, off-site traffic flow, public transportation, and pedestrian and other non-vehicular circulation.

(2) The study shall include but not necessarily be limited to an analysis of expected motor and pedestrian traffic generation to, from, and upon surrounding roads within a radius of ½-mile from the proposed development site, particularly showing a.m. and p.m. peak hours of existing traffic flow during a normal business day, in comparison with that which is anticipated after the proposed development is fully completed and, if applicable, upon the completion of each stage. Estimated peak hour trip generation shall be based on procedures established in the most recent edition of the Trip Generation Manual (Institute of Transportation Engineers).

(3) Existing traffic flows shall be based on actual counts. If these cannot be obtained, an alternative source must be fully cited and deemed acceptable by the Borough Engineer.

(4) Borough Council shall review the methodology, assumptions, findings, and recommendations of the study. The Council, upon recommendation from the Borough Engineer or its own traffic consultant, may impose upon the applicant additional improvements deemed necessary to accommodate impacts of the proposed development.

(e) Conservation plan. A conservation plan showing existing conditions and disclosing the environmental consequences of the proposed action shall be submitted as part of the preliminary plan application. The plan shall include a natural resources inventory, impact assessment, steep slope analysis, grading plan, and mitigation and maintenance proposals. The plan shall comply with the standards and criteria contained in the Borough's Natural Features Conservation and Landscaping, Buffering and Screening

Ordinance.

(f) Stormwater management and erosion and sedimentation control plan. A plan for the management of stormwater and the control of erosion and sedimentation during the course of site preparation or any other land disturbance shall be submitted as part of the preliminary plan application. The plan shall comply with the standards and criteria contained in the Borough's Stormwater Management and Erosion and Sedimentation Control Ordinance.

(g) Landscaping, buffering, screening and lighting plan. A plan for landscaping, buffering, screening and lighting shall be submitted as part of the preliminary plan application. The plan shall comply with the standards and criteria contained in the Borough's Natural Features Conservation and Landscaping, Buffering, Screening and Lighting Ordinance.

(Ord. 961, § 408. Passed 8-13-01.)

#### **1286.09 SUBMISSION OF FINAL PLAN.**

Final plan review shall be required for both major subdivisions and land developments and minor subdivisions. In the case of major subdivisions and land developments, the final plan shall not be submitted until all conditions required by the preliminary plan approval have been met. The applicant shall provide the number of copies as indicated on the application form.

(Ord. 961, § 409. Passed 8-13-01.)

#### **1286.10 REVIEW OF FINAL PLAN.**

(a) Prints of the final plan and all required supplementary data shall be initially and officially submitted to the Borough Manager, together with the required fees as prescribed by resolution of Borough Council.

(b) The Borough Manager shall make a preliminary review of the application. If the Borough Manager decides that the application is defective on its face, the applicant shall be notified. The applicant may then request the return of all submissions for the purpose of correction and resubmission. A request for the return of all submissions shall be in writing and shall be deemed to be a withdrawal of the application.

(c) A review of the plan will not commence, nor the statutory time period for review begin, until the completion of the above items is acknowledged in writing by the Borough Manager and the application is considered complete.

(d) The application and all supporting plans, prints, and other information shall be forwarded to the Borough Council, Borough Planning Commission, Borough Environmental Advisory Council, County Planning Commission, County Conservation District, Borough Engineer, and others whose comments on the plan may be required.

(e) In accordance with time periods provided in the MPC, the Borough Planning Commission shall review the plan and recommendations of the other reviewing agencies as noted in division (d) of this section. In reviewing the application, the Planning Commission may secure the advice or assistance of any expert consultants qualified to evaluate all implications of the proposed development and to advise as to any conditions and safeguards that should be prescribed to assure the fullest achievable compatibility between the proposed use, its neighborhood, and the community as a whole. The fees charged by any such expert consultant shall be paid for by the applicant. The Planning Commission may recommend alterations to any subdivision or land development plan and specify conditions or additions thereto that it deems necessary, and may make its decision to recommend preliminary approval subject to such conditions, changes, modifications or additions.

(f) After such review, and in accordance with time periods provided in the MPC, the Planning Commission shall send written notice of its actions and the reasons therefor, citing specific sections of the statutes or ordinances relied upon, to the applicant and Borough Council.

(g) After a recommendation on the final plan has been officially submitted to the Borough Council by the Planning Commission, such plan shall be placed on Borough Council's agenda for review and action. A public hearing may be scheduled in accordance with applicable Borough ordinances and the MPC. In acting on the final subdivision or land development plan, the Council shall review the plan and written comments of the reviewing agencies, and comments from the public hearings, if any, to determine its conformance to existing ordinances. The Borough shall withhold action on said plans until the comments of the County Planning Department have been received, or until the expiration of 30 days from the date the plans were forwarded to the County for review, whichever occurs first. Council may recommend alterations to any subdivision or land development plan and specify conditions or additions thereto, which it deems necessary, and may make its decision to grant preliminary approval subject to such conditions, changes, modifications or additions. Upon the written request of the applicant, 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 this Subdivision and Land Development Code will be observed.

(h) Every final plan approval shall be subject to these further conditions:

(1) The applicant shall execute a subdivision and land development agreement in accordance with Section 1286.12.

(2) The applicant shall provide a performance guarantee in accordance with Section 1286.13.

(3) The applicant agrees, if requested, to tender a deed of dedication to the Borough for any required easements for streets, pedestrian facilities, sanitary sewers, water lines, or storm sewers, and improvements thereto, including street paving, sidewalks, shade trees, water mains,

fire hydrants, sanitary and storm sewers, manholes, inlets, pumping stations, and other appurtenances as shall be constructed as public improvements and as are required for the promotion of public welfare, after all streets, sidewalks, sewers, and the like are completed and such completion is certified as satisfactory by the Borough Engineer. Borough Council may require that the applicant supply, at the applicant's cost, a title insurance certificate from a reputable company before any property is accepted for the Borough.

(4) Whenever the applicant is providing open space as part of the development, an easement in perpetuity restricting such open space against further subdivision or development shall be executed between the applicant and the Borough or an organization acceptable to the Borough, and shall run to the benefit of the Borough and lot purchasers in the subdivision or land development. A recorded copy of the deed of easement shall be presented prior to the issuance of building permits.

(5) The applicant shall have applied for all required permits from agencies having jurisdiction over ancillary matters necessary to effect the subdivision or land development, including but not limited to the Pennsylvania Departments of Transportation (PennDOT) and Environmental Protection (DEP) and the Public Utility Commission (PUC). In some cases, approval of permit application(s) may be required before the final plan is approved.

(Ord. 961, § 410. Passed 8-13-01.)

(i) After submitting the final plan, the applicant shall be responsible for notifying the abutting property owners that a final plan proposed for the subject lot has been filed, no less than ten days prior to the first Planning Commission meeting for which the plan has been scheduled for review. Notification shall be made by certified mail, return receipt requested, or by other proof of notification, which shall be provided to the Borough. Proof of such notification shall be presented to the Planning Commission at the first meeting for which the plan has been scheduled for review.

(j) The Borough shall provide written notice of the date and time of the first Planning Commission meeting at which the application will be discussed to be conspicuously posted on the affected tract of land at least one week prior to the review. Such notice shall also be posted at Swarthmore Borough Hall, on the Swarthmore Borough website, and in a newspaper of local circulation.

(Ord. 922 (part). Passed 11-10-97; Ord. 1078. Passed 8-8-16.)

## **1286.11 FINAL PLAN DESIGN REQUIREMENTS**

Final plans shall conform in all important details to preliminary plans, including any conditions specified by Borough Council. A final plan shall consist of and be prepared in accordance with the following:

(a) Drafting standards.

(1) Subdivision or land development plans submitted for review for final approval shall be clear and legible black or blue on white prints of the drawings. Space shall be provided for signatures on the face of the plans.

(2) Final plans shall be on sheets not larger than 34 inches by 44 inches overall. It is recommended that, as far as practicable, final plan sheets be held to the following overall sizes: 17 inches by 22 inches, 24 inches by 36 inches, 30 inches by 42 inches. Where necessary to avoid sheets larger than the maximum size prescribed above, final plans shall be drawn in two or more sections, accompanied by a key diagram showing relative location of the sections.

(3) The scale shall be 1 inch = 20 feet or less, except that, where proposed lots are to be greater than five acres in size, the scale may be 1 inch = 100 feet.

(4) Dimensions shall be set in feet and decimal parts thereof, bearings in degrees, minutes, and seconds (errors of closure shall not be more than one part per 10,000).

(5) Each sheet shall be numbered and shall show its relationship to the total number of sheets in the plan. Where there are four or more sheets, a key map, on a scale sufficient to show their relationships, shall be furnished.

(6) The plan shall bear an adequate legend to indicate clearly which features are existing and which are proposed.

(7) All plans and surveys shall be prepared in accordance with the Act of May 23, 1945 (P.L. 913, No. 367), known as the Professional Engineers Registration Law.

(b) Site design and layout plan. The final plan shall show all of the information required to be shown on the preliminary plan, in addition to the following information:

(1) Sufficient data to determine readily the location, bearing, and length of every lot and boundary line and to produce such lines upon the ground, including all dimensions, angles and bearings of the lines and the total area of each lot, and the total area proposed to be dedicated to public use.

(2) For residential subdivisions, the proposed house locations and names of all streets. The Borough shall assign house numbers throughout the municipality. The applicant may be required to submit a letter(s) from the postmaster, fire company, and/or emergency services personnel confirming the acceptability of proposed street names.

(3) Location of permanent reference monuments.

(4) A certificate of title showing the ownership of the land proposed for development.

(5) A 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 or land development shown on the final plan is made with the free consent of the owner and in accordance with the owner's desires.

(6) All offers of dedication and covenants governing the reservation and maintenance of undedicated open space, as approved by the Borough Solicitor for their legal sufficiency.

(7) A copy of such private deed restrictions, including building setback lines, as may be imposed upon the property as condition of sale, together with a statement of any restrictions previously imposed that may affect the title to the land being subdivided. Such restrictions shall be satisfactory to Borough Council.

(8) Such certificates of approval (or of preliminary approval) by proper authorities of the Commonwealth as may have been required by Borough Council or by this Code.

(9) Certification of the engineer, land surveyor, landscape architect, or land planner who prepared the plan that the plans are in conformity with zoning, building, sanitation, subdivision, and other applicable Borough ordinances and regulations. In any instance in which such plans do not conform, evidence shall be presented that an exception or waiver has been authorized.

(c) Improvements construction plan. The final plan shall show all of the information required to be shown on the preliminary plan, in addition to the following information:

(1) Where public improvements other than monuments and street traffic signs are to be required for any subdivision or land development, an improvements construction plan and specifications prepared by a registered professional engineer shall be filed, setting forth the nature and location of the work and all engineering data necessary for completion of the work. The improvements construction plan and specifications shall be subject to approval by Borough Council as a prerequisite to approval of the final plan.

(2) Where streets are proposed for dedication, a plan is required of street profiles and cross-sections incorporating the following information:

A. The profile plan shall show the vertical section of the existing grade and proposed grade, along with the centerline of the proposed street. Where storm drainage and/or sanitary sewer lines are to be installed, they also shall be indicated on the profile plan.

B. A typical cross-section of street construction shall be shown on the profile plan and shall indicate the following:

1. Right-of-way width and the location and width of paving within a right-of-way.

2. Type, thickness, and crown of paving, including base and sub-base.

3. The location, width, type, and thickness of curbs, sidewalks, and stone sub-base to be installed.

4. Typical location, size, and depth of any underground utilities that are to be installed in the right-of-way, where such information is available.

(3) If required, a plan for location and type of street lights to be installed, together with the necessary contract for street light installation for approval by the Borough.

(d) Conservation plan. A conservation plan as required in Section 1286.08 (e), consistent with the terms of the preliminary plan approval and modified as necessary to reflect the proposal for final approval.

(e) Stormwater Management and Erosion and Sedimentation Control Plan. A stormwater management plan as required in Section 1286.08 (f), consistent with the terms of preliminary plan approval and modified as necessary to reflect the proposal for final approval.

(f) Landscaping, buffering and screening and lighting plan. A plan for landscaping, buffering and screening as required in Section 1286.08 (g), consistent with the terms of preliminary plan approval and modified as necessary to reflect the proposal for final approval. In addition, the plan shall include the final design for lighting of the subject property.

(Ord. 961, § 411. Passed 8-13-01.)

### **1286.12 SUBDIVISION AND LAND DEVELOPMENT AGREEMENTS.**

The applicant shall execute an agreement, to be approved by the Borough, before the final plan is released by Borough Council and filed on record. The agreement shall specify the following, where applicable:

(a) The applicant agrees to lay out and construct all streets and other improvements, including grading, paving, curbs, gutters, sidewalks, street lights, fire hydrants, water mains, street signs, shade trees, storm and sanitary sewers, landscaping, traffic control devices, open space areas, and stormwater management facilities in accordance with the final plan as approved, where any or all of these improvements are required as conditions of approval.

(b) The applicant guarantees completion and maintenance of all improvements by means of a type of financial security acceptable to the Borough, as specified in Section 1286.13.

(c) The applicant agrees to tender a deed or deeds of dedication to the Borough for such streets and for such easements for sanitary and storm sewers, sidewalks, manholes, inlets, pumping stations, and other appurtenances as shall be constructed as public improvements, provided that the Borough shall not accept dedication of such improvements until their completion is certified as satisfactory to the Borough Engineer.

(d) Whenever an applicant proposes to establish or to continue a street which is not offered for dedication to public use, or which is not accepted for public use, Borough Council shall require the applicant to submit, and also to record with the plan, a copy of an agreement made with Borough Council on behalf of the applicant and the applicant's successors and assigns, and signed by the applicant, which shall stipulate, among other things:

(1) That the Borough shall not be responsible for repairing, maintaining, or snow plowing on any undedicated street.

(2) The method of assessing snow plowing, repair, and maintenance costs and establishment of maintenance and repair schedules for undedicated streets, which shall be set forth in a recorded road maintenance agreement and deed covenants for all properties so as to be binding on all successors or assigns. Lien authority shall be provided to ensure that a majority of owners can undertake repairs and maintenance and bill all owners.

(3) The conditions under which the street may later be offered for dedication. At a minimum, if dedication is sought, the street shall conform to applicable Borough specifications.

(Ord. 961, § 412. Passed 8-13-01.)

### **1286.13 PERFORMANCE GUARANTEES.**

(a) The applicant shall deposit with the Borough financial security in an amount sufficient to cover the cost of all improvements (including both public and private improvements) and common amenities, including but not limited to streets, walkways, curbs, gutters, street lights, shade trees, stormwater detention and/or retention facilities, pipes and other related drainage facilities, recreational facilities, open space improvements, buffer or screen plantings and, except as provided for in division (f) of this section, water mains and other water supply facilities, fire hydrants, and sanitary sewage disposal facilities.

(b) Financial security required herein shall be in the form of a Federal or Commonwealth chartered lending institution irrevocable letter of credit, a restrictive or escrow account in such institution, or such other type of financial security that the Borough may, in its reasonable discretion, approve.

(c) The financial security shall provide for and secure to the public the completion of all subdivision improvements for which such security is being posted on or before the date fixed in Borough Council's formal action of approval or accompanying agreement for completion of the improvements. The amount of financial security required shall be based upon an estimate of the cost of completion of the required improvements, submitted by the applicant and prepared by a professional engineer, licensed as such in Pennsylvania, and certified by such engineer to be a fair and reasonable estimate of such cost. Borough Council, upon recommendation of the Borough Engineer, may refuse to accept such estimate for good cause shown. If the applicant and the Borough are unable to agree upon an estimate, the estimate shall be determined in accordance with the terms of § 509(g) of the MPC.

(d) In accordance with § 509(f) of the MPC, the amount of financial security shall be equal to 110% of the estimated cost of completion of the required improvements (including landscaping, stormwater management, trails, and any improvement to private properties which are required by the approved plan) for which financial security is to be posted. If the party posting the financial security requires more than one year from the date of posting to complete the required improvements, the amount of financial security shall 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 estimated cost of completing the required improvements as reestablished on or about the expiration of the preceding one-year period by using the above procedure for estimating cost.

(e) Where development is projected to take place over a period of years, Borough Council may authorize submission of final plans by section or stage of development, subject to such requirements or guarantees as to improvements in the future sections or stages of development as it finds essential for the protection of any finally approved section of the development, and consistent with the terms of § 508(4) of the MPC.

(f) 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 Borough, 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.

(g) As the work of installing the required improvements proceeds, the party posting the financial security may request Borough Council to release or authorize to be released, from time to time, 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 Borough Council, and the Council shall have 45 days from receipt of such request within which to allow the Borough Engineer to certify, in writing, that such portion of the work upon the improvements has been completed in accordance with the approved plans. Upon such certification, Borough Council shall authorize release by the lending institution of an amount as estimated by the Borough Engineer fairly representing the value of the improvements completed. The Borough Engineer, in certifying the completion of work for a partial release, shall not be bound to the amount requested by the applicant, but shall certify to Borough Council his independent evaluation of the proper amount of partial releases. Borough Council may, prior to final release at the time of completion and certification by the Borough Engineer, require retention of 10% of the estimated cost of the aforesaid improvements as per Section 1292.03.

(Ord. 961, § 413. Passed 8-13-01.)

#### **1286.14 RECORDING OF FINAL PLAN.**

Within 90 days of the applicant's execution of the subdivision and land development agreement and performance guarantee, the final plan shall be recorded by the applicant in the office of the County Recorder of Deeds, and a copy of the recorded plan shall be furnished to the Borough. If such plan should fail to be recorded within the specified period of time, and the time for recording the plan has not been extended by written action of Borough Council, then the approval thereof shall be considered null and void. Borough Council may reinstate approval of the plan and authorize its recording where, following expiration of the 90-day period or any approved extension thereof, no significant changes to relevant ordinance provisions or to other circumstances relevant to the proposed plan have been made. Conversely, if Borough Council finds that such changes have occurred, the original plan approval shall continue to be null and void.

(Ord. 961, § 414. Passed 8-13-01.)

#### **1286.15 COMMENCEMENT OF DEVELOPMENT.**

(a) No construction or land disturbance activities (not including soil or percolation testing, well drilling, or similar engineering or surveying activities) shall be commenced until the applicant submits to the Borough Manager a copy of the recorded plan.

(b) No application for a building permit under the Borough Building and Housing Code shall be submitted, and no building permit under the Borough Building and Housing Code shall be issued for any building in any subdivision or land development, and no work

shall be done on any building in any subdivision or land development until the final plans for the subdivision or land development have been approved and recorded as provided for, and until the terms of Section 1286.12(a) have been satisfied. Further, where final subdivision or land development approval has been conditioned upon the submission and approval of individual lot grading plans for some or all of the lots, no building permit shall be issued for construction on any such lot until this condition has been complied with.

(c) No water system or sewer system, including extensions to existing systems, shall be constructed prior to the issuance of any required permits from the Pennsylvania Department of Environmental Protection or from federal or local agencies, as required.

(Ord. 961, § 415. Passed 8-13-01.)

#### **1286.16 TIME LIMITATION OF PLANS.**

The approval of any subdivision or land development plan shall be effective for the five-year period established by § 508(4) of the MPC, as amended from time to time. The aforementioned section of the MPC shall control any phased submission and any vested rights that may accrue from the date of preliminary plan approval.

(Ord. 961, § 416. Passed 8-13-01.)

#### **1286.17 PLAN AMENDMENTS.**

Major modifications of the approved plan, as determined by the Borough, shall be resubmitted and reprocessed in the same manner as the original plan. All site disturbance activities shall cease pending approval of modified plans.

(Ord. 961, § 417. Passed 8-13-01.)

### **Chapter 1288 Design Standards**

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- 1288.01 Application.
- 1288.02 Land requirements.
- 1288.03 Blocks.
- 1288.04 Lots and lot sizes.
- 1288.05 Street and sidewalk system.
- 1288.06 Cul-de-sac and other single- access streets.
- 1288.07 Street and sidewalk width.
- 1288.08 Street alignment.
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- 1288.10 Street and sidewalk construction.
- 1288.11 Private streets.
- 1288.12 Driveways.
- 1288.13 Alleys and service streets.
- 1288.14 Parking areas.
- 1288.15 Curbs.
- 1288.16 Street lights.
- 1288.17 Monuments.
- 1288.18 Sewage treatment and disposal.

1288.19 Public utilities.

1288.20 Public safety.

1288.21 Recreational and open space land.

1288.22 Easements, rights-of-way, reserve strips.

1288.23 Stormwater management and erosion and sedimentation control.

1288.24 Natural features conservation and landscaping, buffering, screening and lighting.

1288.25 Sidewalk, crosswalk, and bicycle requirements.

### **1288.01 APPLICATION.**

(a) The following principles, standards, and requirements shall be applied in evaluating plans for proposed subdivision and land development. In addition, the standards set forth in the Zoning Ordinance for the particular district in which the subdivision or land development is taking place shall govern the layout of lots and/or design of buildings, parking lots, and other facilities.

(b) The standards and requirements outlined herein shall be considered minimum standards and requirements for the promotion of public health, safety, and general welfare. Further discussion of the interpretation and authority of this ordinance and related regulations is contained in Section 1284.01.

(Ord. 961, § 501. Passed 8-13-01.)

### **1288.02 LAND REQUIREMENTS.**

(a) Land shall be suited to the purposes for which it is to be subdivided or developed. Proposed land developments shall be coordinated with existing nearby neighborhoods so that the community as a whole may develop harmoniously.

(b) No land shall be developed unless all hazards to life, health, or property from flood, fire, and disease shall have been eliminated or unless the plans for the development shall provide adequate safeguards against such hazards.

(c) No plan of subdivision or land development shall be approved that would result in lots or land use, or that would in any other way be inconsistent with the Zoning Ordinance then in effect for the zoning district in which the land to be developed or subdivided is located.

(Ord. 961, § 502. Passed 8-13-01.)

### **1288.03 BLOCKS.**

(a) The length, width, and shape of blocks shall be determined with due regard to:

(1) Provision of adequate sites for buildings of the type proposed.

(2) Topography.

(3) Requirements for safe and convenient vehicular and pedestrian circulation.

(4) Thoughtful and innovative design to create an attractive community and opportunities for the utilization of renewable energy sources (e.g. enabling easy pedestrian and bicycle access, designing blocks to take advantage of natural features such as large trees or existing topography to minimize heating and cooling requirements).

(b) In design of blocks over 1,000 feet long, special consideration shall be given to access for fire protection, whether by emergency access easement or otherwise. Pedestrian crosswalks shall be required every 500 feet. Pedestrian and bicycle paths shall be required to connect streets every 500 feet.

(c) Residential blocks shall be of sufficient depth to accommodate two tiers of lots, unless prevented by the size, topographical conditions or other inherent conditions of property, in which case the Borough Council may approve a single tier of lots.

(Ord. 961, § 503. Passed 8-13-01.)

## **1288.04 LOTS AND LOT SIZES.**

(a) Lot dimensions and area and minimum front yard setbacks shall not be less than as required by the Zoning Ordinance.

(b) In general, side lot lines shall be substantially at right angles or radial to street lines and shall continue in a straight line from the front of the lot to the rear of the lot.

(c) In general, all lots shall have frontage along the right-of-way line of a street and direct access to a street or alley, existing or proposed. Each lot shall have, in addition to the required minimum width at the front lot line, sufficient free and complete access to an existing or proposed street cartway to avoid the need to cross any portion of another lot to reach such street, unless topographic conditions do not permit using said frontage as stipulated above. Interior flag lots are discouraged but may be permitted if the applicant can demonstrate sufficient need and/or benefit due to topography or other conditions.

(d) Double frontage lots shall be avoided, except where employed as reverse frontage lots to prevent vehicular access to through highways.

(e) Lot frontage shall not be less than the minimum requirement of the Zoning Ordinance, except that on the outside of a curved residential street a minimum frontage of 50 feet may be deemed acceptable, provided that proper lot width is attained at the building setback line in conformity with the requirements of the Zoning Ordinance.

(f) House numbers shall be assigned to each lot, and street names shall be approved by the Borough in accordance with established methods.

(g) Interior lots.

(1) The applicant shall not be permitted to use interior lot design to avoid constructing or extending streets.

(2) An interior lot shall have an access strip, with a minimum width for its entire depth of 25 feet, which connects to a street.

(3) A flag lot shall not be further subdivided without the provision of direct street access.

(4) Any driveway constructed in the access strip connecting the main portion of a flag lot with a public road shall be provided with full and adequate drainage facilities, which shall be approved by the Borough Engineer.

(Ord. 961, § 504. Passed 8-13-01.)

## **1288.05 STREET AND SIDEWALK SYSTEM.**

(a) Proposed streets and sidewalks shall be in conformance with the Comprehensive Plan of the Borough, considered in relation to existing and planned streets, and located so as to allow proper development of surrounding properties. Secondary roads and through highways shall be connected with such existing roads and highways so as to form continuances thereof. Residential streets shall generally be laid out in a grid pattern and traffic calming methods used so as to discourage their use as secondary roads and through highways. New streets shall be included on the Borough Official Map, and shall be classified according to their function.

(b) Thoughtful and imaginative design of streets and their relationship to the arrangement and shape of lots is required. Wherever possible, streets shall conform to topographical conditions, and shall be logically related to the topography so as to produce usable lots, reasonable grades, proper alignment and drainage, and shall be connected and shall provide for adequate visibility.

(c) The number and location of roads on the interior of a single parcel undergoing land development must be adequate to meet public safety needs, including but not limited to access for emergency vehicles.

(d) If lots resulting from original subdivision are large enough to permit resubdivision, or if a portion of the tract is not subdivided, adequate street rights-of-way to permit further subdivision shall be provided as necessary, to be no less than the rights-of-way then required for minor collector or local streets. Remnants, reserve strips and landlocked areas shall not be created.

(e) Additional right-of-way and improvements.

(1) Where a subdivision or land development abuts or contains an existing or proposed major collector or arterial street, the Borough may request dedication of additional right-of-way to provide the minimum right-of-way specified hereinafter, as well as marginal access streets, rear service alleys, reverse frontage lots, or such other treatment as will provide protection for abutting properties, reduction in the number of intersections with the major street, and separation of local and through traffic.

(2) Where warranted because of additional traffic, drainage, or comparable problem or conditions, both sides of said major street are to be improved as a responsibility of the applicant, or by means of sufficient funds escrowed for use by the Borough to execute

such improvement.

(f) Dead-end streets shall be prohibited, except when designed as cul-de-sac streets.

(g) Continuations of existing streets shall be known by the same name, but names for other streets shall not duplicate or closely resemble names for existing streets in the region. In all cases, however, all street names are subject to the approval of the Borough Council.

(h) Where streets continue into adjoining municipalities, evidence of compatibility of design, particularly with regard to street widths, shall be submitted. The applicant shall coordinate such designs with both municipalities to avoid abrupt changes in cartway width or in improvements provided.

(i) New streets and sidewalks shall be laid out to continue existing streets as regards both cartway and right-of-way, where such continuations are reasonable and practical.

(j) In residential and commercial areas and all office or industrial parks, sidewalks and planting strips shall be required on both sides of the street.

(k) Crosswalks may be required where necessary to provide access to schools, churches, parks, and commercial areas.

(l) At the discretion of Borough Council, with recommendations from the Planning Commission, a system of bicycle, equestrian, and/or pedestrian paths for public use generally unrelated to and separate from streets shall be established and secured by dedication or easement. Such paths shall be designed and located to encourage the formation of interconnecting bicycle, equestrian, and/or pedestrian networks, both within and beyond the Borough. Such paths shall normally not exceed ten feet in width and, at the option of the applicant, shall be located adjacent to existing or proposed lot lines, or in such manner to minimize any obstruction to development. Existing paths may be relocated if a connection with a path on an adjoining property is thereby established.

(m) To facilitate circulation, pedestrian walkways may be required to serve the interior of developments. Such walkways shall be a minimum of four feet in width and shall be of a durable surface satisfactory to Borough Council. Where the walks are not within a street right-of-way, a separate right-of-way at least ten feet wide shall be designated on the subdivision plan. As appropriate, the walks shall be maintained by the homeowners' association (when the walks traverse common areas) or by the abutting property owners (when the walks traverse existing lots).

(Ord. 961, § 505. Passed 8-13-01.)

**1288.06 CUL-DE-SAC AND OTHER SINGLE-ACCESS STREETS.**

(a) Cul-de-sac streets are discouraged and shall not be approved when a through street is reasonably practical.

(b) Cul-de-sac streets shall be provided at the closed end with a paved turnaround having a minimum radius of 40 feet and a minimum right-of-way radius of 50 feet, and shall not be more than 400 feet in length.

(c) The turnaround portion of a cul-de-sac street shall have a maximum slope of 5% across the diameter in any direction.

(d) Cul-de-sac streets with centerline slopes of less than 2% that are level or nearly so across the diameter perpendicular to the centerline must be graded so that there is a minimum 2% fall in all drainage swales around the cul-de-sac.

(Ord. 961, § 506. Passed 8-13-01.)

**1288.07 STREET AND SIDEWALK WIDTHS.**

(a) The minimum width right-of-way and minimum width of paving and sidewalk/ planting strip shall not be less than that of the existing street of which the new street is to be a continuance or in any event not less than the following:

<u>Type of Street</u>	<u>Right-of-Way Width (feet)</u>	<u>Paving Width (feet)</u>	<u>Sidewalk Width (feet)</u>	<u>Planting Strip Width (feet)</u>
Through highways	80	50	4	4

<b>Secondary roads</b>	<b>50</b>	<b>30</b>	<b>4</b>	<b>4</b>
<b>Residential</b>	<b>44</b>	<b>24</b>	<b>4</b>	<b>4</b>

(b) Additional widths for paving, sidewalks, and planting strips may be required by Borough Council in the interest of public safety and convenience, including extra width as may be required to permit on-street parking and bicycle lanes. The location of sidewalks relative to planting strips shall be at the discretion of Borough Council.

(c) Subdivisions abutting existing streets shall provide, for dedication, the minimum right-of-way widths for those streets in accordance with the provisions of this section.

(Ord. 961, § 507. Passed 8-13-01.)

### **1288.08 STREET ALIGNMENT.**

(a) Sight distance. A sight distance of at least 300 feet shall be provided, at driver's eye height of 3½ feet, with respect to both horizontal and vertical alignment.

(b) Horizontal curves. As noted in Section 1288.05, residential streets shall generally be laid out in a grid pattern. Curving streets are therefore discouraged. If needed, horizontal curves must be designed to meet minimum safety standards. Minimum radius curves at the end of long tangents shall be avoided.

(c) Vertical curves. Vertical curves shall be used at changes in grade of more than 1%. For proper transition, the length of the curve shall be 25 feet for each percent of change in grade. Over summits or in sumps, vertical curves shall not produce excessive flatness in grade.

(d) Grade.

(1) Maximum and minimum centerline grade. The maximum centerline grade of residential streets shall be 10%; and of secondary roads and through highways 7%; and the minimum grade shall be 1%.

(2) Street intersections. One hundred feet of grade on either side of an intersection shall not be more than 3%.

(e) Curve-grade combinations. A combination of minimum radius horizontal curves and maximum grades will not be permitted.

(Ord. 961, § 508. Passed 8-13-01.)

### **1288.09 STREET INTERSECTIONS.**

(a) Right angle intersections shall be used whenever practicable, and always when residential streets empty into secondary roads or through highways. There shall be no intersection angle of less than 75 degrees, or more than 105 degrees, measured at the centerline.

(b) No more than two streets shall cross at the same point.

(c) To the fullest extent possible, intersections with through highways shall be located not less than 1,000 feet apart, measured from centerline to centerline. Exceptions shall be those cases deemed to require closer spacing without endangering the public's safety, as approved by the Borough Engineer.

(d) Streets entering from opposite sides of another street shall either be directly across from each other or offset by at least 150 feet on residential streets and secondary roads and 400 feet on through highways, or to that distance required by PennDOT standards, if applicable, measured from centerline to centerline.

(e) Corner curb radii shall be according to the following schedule of minimum lengths: residential streets and secondary roads, 15 feet; through highways, 35 feet. Where streets of different functional classifications intersect, the requirements for the higher classification shall hold.

(f) If necessary, the right-of-way line for corner curbs shall be an arc, concentric with the curb line, with a minimum radius of 20 feet, or shall be a triangle constructed by drawing the chord of an arc concentric with the curb line with a minimum radius of 15 feet.

(g) All necessary street name signs and traffic control signs shall be the responsibility of the applicant to provide and erect. The street signs shall be of the type existing in the neighborhood, shall meet PennDOT safety standards, and shall be subject to approval by the Borough Council. Street signs and traffic control signs shall be erected before the issuance of any certificates of occupancy on that

street.

(h) Clear sight triangles shall be provided at all street intersections. On any lot, no wall, fence, sign, or other structure shall be erected and no hedge, shrub, tree, except for street trees, or other growth over 24 inches in height above the curb level shall be planted or maintained that may cause danger to traffic on a street by obstructing the vision of drivers and/or pedestrians. The triangle of unobstructed vision required at each corner shall be formed by a diagonal straight line drawn from two points on the curb lines, each 30 feet from the point of intersection of the two extended curb lines.

(i) Intersections shall be controlled by stop signs, except that one through street may be designated for each intersection, or by traffic signals.

(Ord. 961, § 509. Passed 8-13-01.)

#### **1288.10 STREET AND SIDEWALK CONSTRUCTION.**

(a) All materials used in the construction of streets and the methods of construction and drainage shall be in accordance with the applicable requirements of the most current PennDOT Specifications, Form 408, and the most current Borough regulations.

(b) Sidewalks shall be constructed in accordance with current Borough regulations, including requirements for handicapped access ramps at intersections and crosswalks.

(Ord. 961, § 510. Passed 8-13-01.)

#### **1288.11 PRIVATE STREETS.**

Private streets may be permitted by the Borough Council under the following circumstances:

(a) There is a recorded agreement between the applicant and the Borough, and in the deed to each lot abutting such street (as stipulated in Section 1286.12) specifying that said streets will not be offered for dedication and will not be accepted by the Borough unless constructed to Borough standards then existing at the time of offer of dedication. In addition, this agreement shall set forth the standards of maintenance and snow removal for the road, the allocation of costs among lot owners, annual fees and the establishment and management of major repair funds, provisions for the taking of legal action in the event of non-payment, and such other provisions as may be deemed prudent to assure proper safety, maintenance and drainage of the road. Under no circumstances, however, is the Borough obligated to accept dedication.

(b) Unless the street is accepted for dedication, owners and all successors of property that is to abut a private street shall be fully responsible for the permanent improvement of the street and for maintenance thereof in a good and safe condition.

(c) Private streets shall adhere to all design standards for a public street, except for right-of-way width.

(d) Lots fronting on private streets shall meet the requirements of the Borough Zoning Ordinance with regard to lot width and setbacks and off-street parking.

(Ord. 961, § 511. Passed 8-13-01.)

#### **1288.12 DRIVEWAYS.**

(a) No more than two dwelling units on separate lots may share a common driveway. Private driveways shall be so located, designed and constructed as to provide a sight distance designed according to reasonable engineering standards at intersections with streets with a stopping space on the drive a minimum length of 18 feet, with a grade not in excess of 5% behind the right-of-way line. Excessive driveway grades that may create a hazard at either street or interior terminus are prohibited. Where difficult problems of driveway curvature and grades in excess of 10% on residential driveways are likely to be present, the applicant shall submit for approval details of driveway location and grade before lot lines and house location and grade are finally determined. Grades of new residential driveways shall not exceed 14%. Grades of new commercial driveways shall not exceed 7%. Crossover easements are required and must be noted on the plan and included on all affected deeds.

(b) Clear sight triangles shall be provided at all driveway entrances and shall be shown on plans.

(c) Driveways shall be constructed and graded in conformance with the Borough's stormwater management regulations.

(d) A minimum 20 foot tangent distance is required between the radius of intersecting streets and the edge of driveways.

(Ord. 961, § 512. Passed 8-13-01.)

### **1288.13 ALLEYS AND SERVICE STREETS.**

(a) Where alleys and service streets are permitted in residential developments, they shall have a minimum right-of-way width of 20 feet and shall be paved for a width of at least 16 feet. No part of any dwelling, garage (except as noted below), or other structure may be located within 20 feet of the centerline of a public alley or service street, or within the applicable setback dimension prescribed in the Zoning Ordinance, whichever is greater. Off-street parking, with or without garages, may be situated adjacent to the alley when deemed by Borough Council.

(b) Alleys and service streets serving commercial and industrial establishments and multi-family developments are encouraged and may be required if deemed necessary. Such alleys shall have a paved cartway of at least 20 feet and right-of-way width of 30 feet. Where necessary, corners shall have a radius of 20 feet or a triangle using the chord of a 15-foot radius, cut back to permit safe use by large vehicles.

(c) If it is impossible for an alley to go through a block, the alley shall be provided with a turnaround at its closed end, having a radius of not less than 25 feet. A hammerhead turnaround shall be permitted as an alternative if a turnaround is not feasible.

(d) Paving shall be the same as that required for street paving. Where alleys intersect other roads, such intersections shall be consistent with the standards for road intersections.

(Ord. 961, § 513. Passed 8-13-01.)

### **1288.14 PARKING AREAS.**

(a) Parking is required to accommodate the parking needs of the proposed use. The developer shall provide a detailed analysis and parking plan, prepared by a professional engineer licensed in the Commonwealth of Pennsylvania, which meets the recommendations of the Institute of Transportation Engineers or proposes an alternate plan that demonstrates to the satisfaction of Borough Council that adequate consideration has been given to minimizing the need for off-street parking, including pedestrian access. For parking within Institutional Zoning Districts, the parking study must demonstrate that parking is adequate for the entire parcel, either by compliance with an overall parking plan or by an incremental update to a previously approved plan.

(b) Parking must be located in the same zoning district in which the project is located and, except as noted below, in no case shall a parking lot be located across a public roadway or other right-of-way from the principal building or buildings it serves, unless allowed at the discretion of Borough Council.

(c) In commercial and industrial districts, provision of "common parking facilities" is encouraged in recognition of their increased flexibility and efficiency. Formal arrangements between the proposed users of the common parking facilities may be required by Borough Council. When common parking facilities are approved, access drives and sidewalks shall be so aligned as to maximize parking efficiency and minimize traffic congestion. Entrances and exits must have clear sight lines and good visibility so that drivers can see and cars can be seen while entering or exiting.

(d) All dead-end parking lots shall be designed with travel lanes extending beyond the end stalls to provide sufficient turnaround space.

(e) No less than a five-foot radius of curvature shall be permitted for all curblines in all parking areas.

(f) Parking areas and site accessibility for handicapped persons shall be provided in accordance with applicable federal and state standards, including in particular the Americans with Disabilities Act and the Pennsylvania Universal Accessibility Act, as each may be amended.

(Ord. 961, § 514. Passed 8-13-01; Ord. 1072. Passed 12-21-15.)

### **1288.15 CURBS.**

(a) Curbs shall generally be provided along all streets. Where, in the opinion of Borough Council, curbs are unnecessary, stabilized shoulders shall be provided. Except when waived by Council in order to preserve existing trees or for other similar reasons, the ground shall be graded to a slope of ½-inch to 1 inch per foot to the right-of-way line and either seeded or sodded to such standards as shall be prescribed by Borough Council. In cut areas, this slope shall be toward the curb; in fill areas, it shall be away from the curb.

(b) All curbs shall be constructed in accordance with current Borough standards and specifications.

(Ord. 961, § 515. Passed 8-13-01.)

### **1288.16 STREET LIGHTS.**

(a) Street lights generally shall be installed:

- (1) At all street intersections (installation shall be mandatory at the ends of all dead-end streets).
- (2) At all other spots considered necessary by Borough Council.

(b) The style, type, and manufacturer of street lights shall be subject to Borough approval. Street lights shall include luminaries that do not allow light to be deflected beyond 90 degrees from vertical.

(Ord. 961, § 516. Passed 8-13-01.)

### **1288.17 MONUMENTS.**

Monuments of stone, concrete, or iron pipe shall be placed at all angles, tangent points or points of curve in the right-of-way lines, and at such other points as may be necessary to make the retracing or the resurveying of the lines shown on the subdivision plan reasonably convenient.

(Ord. 961, § 517. Passed 8-13-01.)

### **1288.18 SEWAGE TREATMENT AND DISPOSAL.**

General requirements shall be as follows:

- (a) Each property in the Borough shall be connected to the municipal public sewer system and constructed in accordance with applicable codes of the Borough.
- (b) Sanitary sewers shall not be used to carry stormwater.
- (c) All sanitary sewage facilities shall be constructed in accordance with applicable PADEP, U.S. EPA, and Borough ordinances and regulations.

(Ord. 961, § 518. Passed 8-13-01.)

### **1288.19 PUBLIC UTILITIES.**

(a) Gas, water, electric, telephone and other public utility services not specifically discussed in this Subdivision and Land Development Code shall be provided by the applicant in a manner approved by Borough Council.

(b) All utility lines including, but not limited to, electric, gas, street light supply, cable TV, and telephone shall be placed underground. Installation of all utilities shall be in strict accordance with the engineering standards and specifications of the Borough. All such underground utilities shall be put in place, connected, and approved before the streets are constructed, where such utilities lie under the proposed cartway and before any person is permitted to occupy any building to be served by such utilities.

(Ord. 961, § 519. Passed 8-13-01.)

### **1288.20 PUBLIC SAFETY.**

(a) Fire hydrants suitable for the coupling of equipment serving the Borough shall be installed as specified by the Insurance Services Office of Pennsylvania and shall comply with local Fire Company standards. Location of hydrants shall be approved by the Borough.

(b) Generally, all fire hydrants shall be located on an 8-inch line or a looped 6-inch line. Where a dead-end line is required to contain a fire hydrant, the portion of the line between the main loop and the hydrant shall be an 8-inch minimum diameter. Water supply for the hydrant shall be as required by the local water service provider.

(c) Fire hydrants shall be spaced in a development so that all proposed building(s) will be no more than 500 feet from the hydrant measured along traveled ways. Closer spacing may be prescribed by the Fire Chief.

(d) The plan shall satisfy needs to provide adequate public safety, including but not limited to sufficient access for public safety equipment.

(Ord. 961, § 520. Passed 8-13-01.)

### **1288.21 RECREATIONAL AND OPEN SPACE LAND.**

(a) In reviewing a plan for subdivision or land development, the Borough Planning Commission shall consider the open space and recreational needs of the additional residents and/or employees proposed by the development. The Planning Commission shall discuss its findings and the further requirements of this section with the applicant as it deems necessary in the public interest.

(b) The Council shall determine its preference for the set-aside of land within the proposed development, or the payment of a fee in lieu of land, in accordance with the following:

(1) In a subdivision or land development proposed to contain 20 or more single-family detached dwellings, the general policy of Borough Council shall be to require that the applicant set aside a minimum of one acre per 20 dwelling units, or the proportional equivalent thereof, as common open space for recreational purposes.

(2) In a subdivision proposed to contain fewer than 20 single-family detached dwellings, the general policy of the Council shall be to require a fee in lieu of the minimum acreage otherwise required, to help the Borough defray the eventual costs of providing public open space and recreational facilities to serve the residents of the community. The fee required shall be as referenced in Chapter 1294.

(3) Borough Council may, as it deems necessary in individual cases, modify its position with regard to the above-stated policies in order to achieve more effectively the objectives of the Borough. In particular, the Borough may consider the following: proximity of the tract to existing or proposed public open space areas; the age of the prospective residents; the natural characteristics of the tract; the size of the proposed lots; and any existing commitments by the Borough to purchase or improve land for recreational purposes.

(c) In designating areas for open space and recreation within the subdivision or land development plan, the following criteria and standards shall be adhered to by the applicant. Areas shall be:

(1) Suitable for active recreational uses to the extent deemed necessary by Borough Council, without interfering with adjacent dwelling units, parking, driveways, and roads.

(2) Comprised of no more than 30% of environmentally-sensitive lands (including floodplains, woodlands, slopes exceeding 15% and surface waters).

(3) Comprised of areas not less than 75 feet in any dimension, and not less than 15,000 square feet of contiguous area, except when part of a trail system or pathway network.

(4) Interconnected with common open space areas on abutting parcels wherever possible, including provisions for pedestrian pathways for general public use to create linked pathway systems within the community.

(5) Provided with sufficient perimeter parking when necessary, and with safe and convenient access by adjoining street frontage or other rights-of-way or easements capable of accommodating pedestrian, bicycle and vehicle traffic, and containing appropriate access improvements.

(6) Undivided by any public or private streets, except where necessary for proper traffic circulation, and then only upon recommendation of the Borough Engineer and Planning Commission.

(7) Free of all structures, except those related to outdoor recreational use or such open space uses as may be permitted by the underlying zoning district. Stormwater retention or detention basins designed and approved as part of the stormwater management system for the development may be located within open space areas, but the area devoted to such facilities shall be excluded from the calculation of the amount of such open space. Subsurface recharge areas will not be excluded from open space calculations.

(8) Suitably landscaped either by retaining existing natural cover and wooded areas and/or by a landscaping plan for enhancing open space areas through plantings which are consistent with the purposes of this section and which minimize maintenance costs.

(9) Made subject to such agreement with the Borough and such deed restrictions duly recorded in the office of the County Recorder of Deeds as may be required by Borough Council for the purpose of preserving the common open space for such use.

(Ord. 961, § 521. Passed 8-13-01.)

## **1288.22 EASEMENTS, RIGHTS-OF-WAY, RESERVE STRIPS.**

(a) Where water and/or sewer facilities are intended for dedication, the requirements for easement shall be determined by the Borough. See Section 1288.05(l) for easements for bicycle, equestrian and pedestrian paths. Easements shall be similarly established as necessary for other utilities, and road construction and maintenance.

(1) Except for driveways serving single-family or two-family dwellings, nothing shall be constructed, placed, planted, set, or installed within the area of an easement. The area shall be kept as lawn or, where necessary, as vegetative buffer.

(2) The owner of any lot, upon written request from the Borough, and at the owner's sole expense, shall remove anything placed, planted, set or installed (regardless of whether such things were placed, planted, set or installed with or without knowledge of this regulation) within the area of any easement.

(3) To the maximum extent possible, such easements shall be adjacent to lot lines.

(4) The required minimum setback and yard dimensions for any lot shall be measured from the lot line, except where the Borough makes a specific determination that such dimension shall be measured from the edge of an easement.

(b) Easements for stormwater management shall be provided in accordance with Section 1288.23.

(c) The Borough may require easements as prerequisites to the approval of common driveways or other access arrangements, or as a condition of approval of the creation of areas of common open space.

(d) No right-of-way or easement for any purpose whatsoever shall be recited or described in any deed unless the same has been shown on the approved plan and any easement required herein shall be made part of the deeds of all affected properties. Any error found in a deed shall be immediately corrected and re-recorded in the office of the County Recorder of Deeds, at the sole expense of the applicant. The applicant shall be solely responsible to the buyer for any failure to record an easement shown on the approved plan, but failure to record an easement shown on the approved plan shall not prevent the utilization of the easement for its intended purpose.

(e) Reserve strips, to control access to streets, alleys, subdivisions, or adjacent areas, are prohibited.

(Ord. 961, § 522. Passed 8-13-01.)

## **1288.23 STORMWATER MANAGEMENT AND EROSION AND SEDIMENTATION CONTROL.**

For provisions regarding stormwater, erosion and sediment control, see the Borough's Stormwater Management and Erosion and Sedimentation Control Ordinance, Part 14, Title 6, Chapter 1459 (Watershed Stormwater Management).

(Ord. 961, § 523. Passed 8-13-01.)

## **1288.24 NATURAL FEATURES CONSERVATION AND LANDSCAPING, BUFFERING, SCREENING AND LIGHTING**

For provisions regarding natural features conservation, landscaping, buffering, screening and lighting, see the Borough's Natural Features Conservation and Landscaping, Buffering, Screening and Lighting Ordinance, Chapter 1293 (Natural Features Conservation).

(Ord. 961, § 524. Passed 8-13-01.)

## **1288.25 SIDEWALK, CROSSWALK, AND BICYCLE REQUIREMENTS.**

A circulation system for pedestrians, bicyclists and other non-motorized traffic shall be constructed along all streets, as shown in the table and described in subsections (a), (b) and (c) below.

<b><i>Non-Motorized Circulation Improvements by Street Classification</i></b>		
<b><i>Street Classification</i></b>	<b><i>Sidewalk</i></b>	<b><i>Bicycle Lane/Paved Shoulder</i></b>
Through highway	Required both sides	Required both sides

Secondary road	Required both sides	Required both sides
Residential	Required both sides	Optional at discretion of Borough Council

(a) Sidewalks.

(1) Sidewalks shall be provided on both sides of all existing and new streets within or adjacent to a lot proposed for subdivision or land development. When an existing lot is subdivided into two or more lots, or is reversely subdivided into fewer lots, sidewalks must be provided on all lots that will exist after the final subdivision is approved, even if none currently exists.

(2) Additional sidewalks may be required to connect subdivisions or land developments with surrounding destinations, such as shopping centers, schools, parks, public transit, and other destinations, so as to reduce the distance pedestrians have to walk to reach those destinations.

(3) The Borough may waive the requirement for installation of the sidewalks, provided that the applicant pays an amount equal to the cost of installing sidewalks on the property that is the subject of the development or subdivision application, as determined by the Borough Engineer, into a fund directly intended for (i) construction of future sidewalks or pedestrian crosswalks or (ii) maintenance or improvement of existing sidewalks or crosswalks in the Borough, at such locations to be decided solely by Borough Council.

(4) Maintenance of sidewalks is the responsibility of the owner of the property directly adjacent to the sidewalk. Sidewalks which are damaged or deteriorating and present a hazard to public safety, as determined by the Borough's Code Enforcement Officer, shall be repaired at the owner's expense. A note must be added to the record plan indicating the sidewalk maintenance responsibilities. At the discretion of Borough Council, repair and/or replacement of existing sidewalks to meet current Borough specifications may be required before filing of the record plan.

(5) The construction of all sidewalks shall be in accordance with the requirements and specifications of the Borough, the Americans with Disabilities Act, the Pennsylvania Universal Accessibility Act, and other applicable laws.

(b) Crosswalks.

(1) Crosswalks shall be provided, as directed by the municipality.

(2) When required, a line-stripped, continental crosswalk shall be painted across any street at intersections.

(3) Crosswalks shall be a minimum of five feet in width.

(c) Bicycle Lanes.

(1) Bicycle lanes shall be provided, if directed by the municipality.

(2) When required, bicycle lanes shall be designed to the prevailing industry standards.

(3) Paved shoulders shall be provided on arterials and collectors to serve as safe bicycling spaces; a minimum of four feet without curbs and a minimum of five feet with curbs.

(Ord. 1078. Passed 8-8-16.)

**Chapter 1290**  
**Mobile Home Parks**

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1290.01 Definitions.

1290.02 Application procedure.

1290.03 Density, dimensional and general layout standards.

1290.04 Street system.

1290.05 Off-street parking areas and walks.

- 1290.06 Stormwater management.
- 1290.07 Public utilities.
- 1290.08 Sewage treatment and disposal.
- 1290.09 Utility distribution system.
- 1290.10 Common open space areas.
- 1290.11 Buffering screening and landscaping.
- 1290.12 Service buildings and facilities.
- 1290.13 Fuel supply and storage.
- 1290.14 Electrical distribution system.
- 1290.15 Public safety.
- 1290.16 Solid waste collection and disposal.
- 1290.17 Miscellaneous structural requirements.
- 1290.18 Recreational vehicles.
- 1290.19 Permits, licenses and inspections.
- 1290.20 Maintenance.
- 1290.21 Revocation or suspension of license.

### **1290.01 DEFINITIONS.**

In addition to the applicable definitions contained in Chapter 1282, the following additional terms are used explicitly in the provisions of this chapter. For purposes of this chapter, they shall be defined as follows:

- (a) "Anchoring." The fastening of a mobile home to its foundation in order to prevent upset or damage due to wind, erosion, flooding, or other natural forces.
- (b) "Hitch." A device which is part of the frame or attaches to the frame of a mobile home and connects it to a power source for the purpose of transporting the unit.
- (c) "Mobile home foundation." Frost-free piers, consistent with current Building Code requirements, on which a mobile home shall be placed and secured.
- (d) "Mobile home park permit." A written permit issued by the Zoning Officer and subject to annual renewal, permitting the mobile home park to operate under this Subdivision and Land Development Code and other pertinent ordinances and regulations.
- (e) "Skirt." A panel specifically designed for the purpose of screening the underside of a mobile home by forming an extension of the vertical exterior walls of the mobile home and covering the entire distance between the bottom of the exterior walls and the ground elevation below.

(Ord. 961, § 601. Passed 8-13-01.)

### **1290.02 APPLICATION PROCEDURE.**

(a) Submission and Review Procedure. An application for development of a tract of land for mobile home park purposes shall be made and approved, or approved as modified, before any mobile home park permit for such use shall be issued. The requirements of Chapter 1286 shall govern the submission, processing, and review of all applications for mobile home park development.

(b) Content of application.

- (1) The requirements of Chapter 1286 shall govern the content of all applications for mobile home park development.
- (2) In addition to the requirements contained in Chapter 1286 , an application for preliminary or final approval of a mobile home

park shall indicate by drawings, diagrams, maps, text, affidavit, or other legal instrument, the following:

A. The tract for which application is made is held in single and separate ownership.

B. The placement, location, and number of mobile home lots and mobile home foundations, consistent with the terms of Section 1290.03, on a layout map of the tract at a scale of 1 inch equals 50 feet.

C. The location and dimension of all driveways, pedestrian ways, sidewalks, and access roads, with notation as to type of impervious cover.

D. The location, dimension, and arrangement of all areas to be devoted to lawns, buffer strips, screen planting, and common open space, including areas for recreation.

(Ord. 961, § 602. Passed 8-13-01.)

### **1290.03 DENSITY, DIMENSIONAL, AND GENERAL LAYOUT STANDARDS.**

(a) Area and density regulations.

(1) Each mobile home lot shall be clearly marked and shall contain a driveway with unobstructed access to a street.

(2) Each mobile home shall be located on the lot so that there will be a minimum of 30 feet between mobile homes and so that no mobile home will be less than 50 feet from any exterior boundary of the mobile home park.

(3) The minimum size of any mobile home lot shall be 6,000 square feet. Lots designed for recreational vehicles shall have an average of not less than 800 square feet provided for each vehicle.

(4) The minimum frontage for any mobile home lot shall be 80 feet.

(5) No mobile home shall be located less than 50 feet from any public or private street right-of-way or so that any part of such mobile home will obstruct any roadway or walkway in a mobile home park.

(6) Each mobile home lot shall be graded and improved to provide a deck/patio for the mobile home, which shall have a minimum size of eight feet by 10 feet.

(7) No service building shall be located within 50 feet of any public or private street right-of-way.

(b) Site layout.

(1) Mobile homes placed on individual lots are encouraged to be placed off-center on the lots, so as to provide a large usable open yard space and outdoor living area in one section of the lot.

(2) Groups or clusters of units, so placed as to create interior spaces and courtyards, shall be incorporated whenever feasible.

(3) There shall be variety in the arrangement and orientation of mobile homes, with particular attention given to topography and existing trees. Site layout shall be designed to ensure that mobile home units are offset to avoid long, uninterrupted corridors between the units.

(4) The applicant is strongly encouraged to design the mobile home park so that many units have their long axis east-west, offering southern exposure to their longest wall and roof areas. When topographic conditions make a street layout for good solar orientation of units difficult or undesirable, lots should be laid out so that units can be oriented to the south to the greatest extent possible.

(Ord. 961, § 603. Passed 8-13-01.)

### **1290.04 STREET SYSTEM.**

With the exception of those standards specified in this section, all standards pertaining to streets in Chapter 1288 shall govern the design and construction of streets in a mobile home park.

(a) Access and street frontage. Access to any mobile home lot shall be from a street interior to the mobile home park. Where mobile home lots are created having frontage on an existing street within the Borough, the mobile home park street pattern shall provide reverse frontage access to an interior street within the mobile home park, and not to the existing street.

(b) Street widths. The mobile home park interior street system shall be functionally classified in terms of residential streets, as defined in this Subdivision and Land Development Code. Street widths shall be as prescribed in Section 1288.07 .

(c) Illumination of streets and walkways. In addition to the standards of Section 1288.16 , all mobile home parks shall be furnished with lighting fixtures so spaced and so equipped with luminaries as will provide adequate levels of illumination throughout the park for the safe movement of vehicles and pedestrians at night, but prevent light pollution above and beyond the property.

(Ord. 961, § 604. Passed 8-13-01.)

#### **1290.05 OFF-STREET PARKING AREAS AND WALKS.**

(a) The requirements for driveways contained in Section 1288.12 shall be applicable to all mobile home parks.

(b) Off-street parking for at least two motor vehicles shall be provided on each mobile home lot. Each parking stall shall be at least 9 feet by 18 feet and shall have an all-weather surface acceptable to the Borough, which shall be specified in the plan.

(c) Additional parking spaces for vehicles of nonresidents shall be provided at the rate of one space for every three mobile home lots. Such parking spaces shall be provided through off-street common parking areas, and shall be in locations that are sufficiently dispersed throughout the park to serve all mobile home units, as determined by Borough Council.

(d) All mobile home parks shall provide safe, convenient, all-season pedestrian walkways of adequate width for their intended use, durable and convenient to maintain, between the park streets and all community facilities for park residents.

(1) Where pedestrian traffic is concentrated, each walk shall have a minimum width of four feet.

(2) All mobile home lots shall be connected to common walks, and to streets or to driveways connecting to a paved street. Each such walk shall have a minimum width of four feet:

(Ord. 961, § 605. Passed 8-13-01.)

#### **1290.06 STORMWATER MANAGEMENT AND EROSION AND SEDIMENTATION CONTROL.**

The provisions of Section 1288.23 shall be applicable to all mobile home park developments.

(Ord. 961, § 606. Passed 8-13-01.)

#### **1290.07 PUBLIC UTILITIES.**

The provisions of Section 1288.19 shall be applicable to all mobile home park developments.

(Ord. 961, § 607. Passed 8-13-01.)

#### **1290.08 SEWAGE TREATMENT AND DISPOSAL.**

The provisions of Section 1288.18 shall be applicable to all mobile home park developments.

(Ord. 961, § 608. Passed 8-13-01.)

#### **1290.09 UTILITY DISTRIBUTION SYSTEM.**

All utilities shall be installed and maintained in accordance with the terms of Section 1288.19.

(Ord. 961, § 609. Passed 8-13-01.)

#### **1290.10 COMMON OPEN SPACE AREAS.**

(a) Minimum amount of common open space. At least 20% of the gross area of each mobile home park shall be set aside as common open space for the use and enjoyment of the residents of the mobile home park. Such common open space shall be substantially free of structures, except for those designed for recreational purposes, and shall be in addition to those areas devoted to meeting the buffer requirements of this Code.

(b) Standards for location and management. Common open space areas shall be located and designed as areas easily accessible to

residents and preserving natural features. Such areas shall comply with the standards for common open space and facilities contained in Section 1288.21 .

(Ord. 961, § 610. Passed 8-13-01.)

### **1290.11 BUFFERING, SCREENING, LANDSCAPING AND LIGHTING.**

For provisions regarding natural features conservation, landscaping, buffering, screening and lighting, see the Borough's Natural Features Conservation and Landscaping, Buffering, Screening and Lighting Ordinance.

(Ord. 961, § 611. Passed 8-13-01.)

### **1290.12 SERVICE BUILDINGS AND FACILITIES.**

(a) Uses and activities. Any park with more than 20 mobile homes shall provide a service building with a toilet and lavatory for each sex and laundry facilities. In addition, the applicant may provide storage facilities, a management office, repair shop, indoor recreational facilities and/or commercial limited uses to supply essential goods and services to park residents. The applicant shall provide sheltered waiting areas for transportation and cluster mail boxes approved by the U.S. Postal Service.

(b) Construction and maintenance. Construction of service buildings shall be in compliance with all applicable building codes, plumbing codes, etc., and shall be maintained in a clean, sanitary and structurally safe condition.

(Ord. 961, § 612. Passed 8-13-01.)

### **1290.13 FUEL SUPPLY AND STORAGE.**

(a) Liquefied petroleum gas system.

(1) The design, installation, and construction of containers and pertinent equipment for the storage and handling of liquefied petroleum gases shall conform to the Act of the Pennsylvania Legislature of December 27, 1951, P.L. 1793, as it may be amended; and to the regulations thereunder promulgated or enacted by the Pennsylvania Department of Labor and Industry, or its successor.

(2) Liquefied petroleum gas systems provided for mobile homes, service buildings or other structures, when installed, shall be maintained in conformance with the rules and regulations of the Pennsylvania Department of Labor and Industry, and shall include the following:

A. Systems shall be provided with safety devices to relieve excessive pressures and shall be arranged so that the discharge terminates at the safe location.

B. Systems shall have at least one accessible means for shutting off gas. Such means shall be located outside the mobile home and shall be maintained in effective operating condition.

C. All liquefied petroleum gas piping outside of the mobile home shall be well supported and protected against mechanical injury. Undiluted liquefied petroleum gas in liquid form shall not be conveyed through piping equipment or systems in mobile homes.

D. Vessels of at least 12 U.S. gallons and less than 60 U.S. gallons gross capacity shall be maintained in a vertical position and shall be securely, but not permanently, fastened to prevent accidental overturning. No vessel shall be placed any closer to a mobile home exit than five feet, and no closer to any window than three feet.

E. No liquefied petroleum gas vessel shall be stored or located inside or beneath any storage cabinet, carport, mobile home, or any other structure.

F. All pipe connections shall be of a flare type.

(b) Fuel oil supply systems.

(1) All fuel oil supply systems provided for mobile homes, service buildings, and other structures shall be installed and maintained in conformance with the rules and regulations of the authority having jurisdiction.

(2) All piping from outside fuel storage tanks or cylinders to mobile homes shall be securely, but not permanently, fastened in place.

(3) All fuel oil supply systems provided for mobile homes, service buildings, and other structures shall have shut-off valves

located within five inches of storage tanks.

(4) All fuel storage tanks or cylinders shall be securely placed and shall not be less than five feet from any mobile home exit, and not less than three feet from any window.

(5) Storage tanks located in areas subject to traffic shall be protected against physical damage by the installation of physical barriers.

(6) Storage tanks shall be protected against causing any environmental damage, such as from fuel spills.

(Ord. 961, § 613. Passed 8-13-01.)

#### **1290.14 ELECTRICAL DISTRIBUTION SYSTEM.**

(a) General requirements. Every park shall contain an electrical wiring system consisting of wiring, fixtures, equipment, and appurtenances, which shall be installed and maintained in accordance with the electric power provider's specifications regulating such systems.

(b) Power distribution lines. Main power lines shall be located underground. All conductors and cables shall be buried at least 36 inches below the ground surface and insulated and specially designed for the purpose. Such conductors shall be located not less than one foot radial distance from water, sewer, gas, or communication lines.

(c) Individual electrical connections.

(1) Each mobile home lot shall be provided with an approved disconnecting device and overcurrent protective equipment. The minimum service per outlet shall be in accordance with applicable codes.

(2) The mobile home shall be connected to the outlet receptacle by an approved type of flexible cable with connectors and a male attachment plug.

(3) Where the calculated load of the mobile home is more than 60 amperes, either a second outlet receptacle shall be installed or electrical service shall be provided by means of permanently installed conductors.

(d) Required grounding. All exposed non-current-carrying metal parts of mobile homes and all other equipment shall be grounded by means of an approved grounding conductor run with branch circuit conductors or other approved method of grounded metallic wiring. The neutral conductor shall not be used as an equipment ground for mobile homes or other equipment.

(Ord. 961, § 614. Passed 8-13-01.)

#### **1290.15 PUBLIC SAFETY.**

(a) All mobile home parks shall be provided with fire hydrants, as specified under the terms of Section 1288.20.

(b) Where the water supply system does not provide at least a 6-inch water main, there shall be provided a 2-inch frost-protected water riser within 300 feet of each mobile home or building.

(c) Portable hand-operated fire extinguishers of a type suitable for use on oil fires and approved by the local fire prevention authority shall be kept in each service building under park control. Two 12-pound portable fire extinguishers shall be placed in each mobile home in the park, located inside the mobile home in a fixed location, preferably near a door, but not in close proximity to cooking facilities. It shall be the responsibility of the mobile home park operator to enforce this requirement.

(d) The mobile home park manager shall consult periodically with the local fire prevention authority as to proper fire prevention practices, accessibility of streets, testing of fire hydrant pressure, location and operation of equipment, community education programs, and the like.

(Ord. 961, § 615. Passed 8-13-01.)

#### **1290.16 SOLID WASTE COLLECTION AND DISPOSAL.**

(a) The storage, collection, and disposal of solid waste in any mobile home park shall be so managed as to create no health hazard, rodent harborage, insect-breeding area, accident or fire hazard, or air pollution.

(b) All mobile home parks shall be provided with solid waste collection stations at convenient but inconspicuous locations, each

serving not more than 15 mobile homes, and consisting of self-closing containers, with separate containers for garbage and trash, placed on a concrete slab and accessible for truck pick-up, and completely screened from view by solid fencing.

(Ord. 961, § 616. Passed 8-13-01.)

### **1290.17 MISCELLANEOUS STRUCTURAL REQUIREMENTS.**

(a) Additions and alterations. No permanent addition shall be built onto or become a part of any mobile home, and no plumbing or electrical alteration or repair shall be made, unless in accordance with all applicable state, county and Borough laws, ordinances, and regulations.

(b) Mobile home foundation. Frost-free piers with dimensions sufficient to support the intended unit shall be provided for all mobile homes. Such foundation shall be properly graded, placed, and compacted so as to be durable and adequate for the support of the maximum anticipated loads during all seasons.

(c) Anchoring. Every mobile home placed within a mobile home park shall be anchored in accordance with the applicable requirements of the Borough Building Code.

(d) Skirts. Each mobile home placed within a mobile home park shall, prior to occupancy or other use, have a skirt installed which is designed to complement the appearance of the mobile home and is coordinated with other units throughout the park.

(e) Hitch. If a hitch or towbar is attached to a mobile home for transport purposes, it shall be removed and remain removed from the mobile home when it is placed on its mobile home foundation.

(Ord. 961, § 617. Passed 8-13-01.)

### **1290.18 RECREATIONAL VEHICLES.**

No recreational vehicle shall be situated and maintained for living purposes within the Borough except in a duly licensed mobile home park. No such vehicle within a mobile home park shall be occupied for a period of time in excess of 60 days in a year. Unoccupied recreational vehicles may be parked or stored in a private garage, carport, front, rear, or side yard, but the same shall not be stored or parked on a public street. If stored in a front or side yard, the unoccupied recreational vehicle shall be placed at least 25 feet behind the right-of-way line of all streets.

(Ord. 961, § 618. Passed 8-13-01.)

### **1290.19 PERMITS, LICENSES AND INSPECTIONS.**

(a) Permits required. It shall be unlawful for any person to construct, alter, extend, or operate a mobile home park within the Borough unless and until that person obtains:

(1) A permit issued by the Borough in the name of the operator, which shall not be issued until a copy of all required permits have been furnished, all permits for water supply and sewage systems have been obtained, and all other requirements contained herein have been complied with, and final approval of the application has been granted by Borough Council; and

(2) A building permit issued by the Borough for the placement of any mobile home on a mobile home lot, including the relocation of an existing mobile home from one lot to another within a mobile home park.

(b) Annual licenses. In addition to the initial permits, the operator of a mobile home park shall apply to the Borough on or before December 1 of each year for an annual license to continue operation of the mobile home park. The Borough shall issue the annual license upon satisfactory proof that the park continues to meet the standards prescribed by state and county agencies having jurisdiction and the standards of this Subdivision and Land Development Code. The license so issued shall be valid for one year from the date of issuance.

(c) Fees.

(1) Fees for the initial application, preliminary and final approvals, and the annual license shall be prescribed by resolution of Borough Council.

(2) The fee for the annual license shall be submitted to the Borough with the application for the annual license.

(3) The amount and submission of the fee required for a building permit shall be in accordance with the fee schedule for such

permits established by Borough Council.

(d) Inspections.

(1) Upon notification to the licensee, operator, or other person in charge of a mobile home park, a representative of the Borough may inspect a mobile home park at any reasonable time to determine compliance with this Code.

(2) Upon receipt of the application for annual license and before issuing such annual license, the Zoning Officer or other designated representative of the Borough shall make an inspection of the mobile home park to determine compliance with this Code. The Zoning Officer or other representative shall thereafter notify the licensee of any instances of noncompliance with this Code and shall not issue the annual license until the licensee has corrected all such violations.

(e) Register of occupants. The park operator shall maintain a register containing the number of occupied mobile home lots and the names of all park occupants. Such register shall be available to any authorized person inspecting the park. The operator shall notify the appropriate offices, in accordance with state and local taxation laws, of the arrival and departure of each mobile home. The register shall be submitted to the Borough as part of the application for renewal of the mobile home park's annual license.

(f) Removal of mobile homes. No mobile home shall be removed from the Borough without a permit first being obtained from the Borough Tax Collector as required by Act No. 54 of 1969 of the Pennsylvania General Assembly. Such permit shall be issued upon payment of any required fees and real estate taxes assessed against the home and unpaid at the time the permit is requested.

(g) Appeal of mobile home park permit denial. Any applicant or licensee who believes that the Borough has failed to follow procedures or has misinterpreted or misapplied any provision of this Code in the review of an application for mobile home park permit or an annual license renewal may appeal such action to the Borough Zoning Hearing Board, in accordance with § 909 of the MPC, as amended.

(h) Transfer or change in terms of permit. No permit issued under this Code shall be transferable to a different location. No person holding a permit under this Code shall extend or reduce the area of any mobile home park, add any new facility or structure, or eliminate any existing facility or structure until notice of such proposed change shall have been given to the Borough, and the Borough has ascertained, after investigation as in the case of an original application for a permit, that such proposed change is in accordance with all requirements of this Code, and shall have signified that fact by written approval.

(i) Limitations on sales. The applicant or licensee for a mobile home park shall provide an affidavit from the chief executive officer attesting that the applicant or licensee is not engaged in the sale of mobile homes or, if the applicant or licensee is so engaged, that the lease of a lot shall not be conditioned upon a lessor's purchase of a mobile home from the applicant or licensee, and that no requirements have been or shall be established that would prevent a lessor with a mobile home of comparable quality and size from leasing a lot.

(Ord. 961, § 619. Passed 8-13-01.)

## **1290.20 MAINTENANCE.**

(a) Maintenance of facilities. The operator and owner of a mobile home park shall be responsible for maintaining all common facilities, including but not limited to roads, parking areas, sidewalks or pathways, common open space, water supply and sewage disposal systems and service buildings, in a condition of proper repair and maintenance. If, upon inspection by the Zoning Officer or other representative, it is determined that the mobile home park is not in compliance with this standard of maintenance, the licensee shall be considered to be in violation of this Code, and the Zoning Officer shall notify the operator or licensee of the particulars of any such violation.

(b) Failure to maintain. The operator and licensee shall thereafter have 30 days in which to correct any such violations, except that if the violation is determined by the Zoning Officer or other representative to constitute a hazard to the health or safety of the residents of the mobile home park, the Zoning Officer shall order that the violation be corrected forthwith.

(c) Maintenance guarantee.

(1) The licensee of a mobile home park shall, prior to issuance of any certificate of occupancy pursuant to final approval of an application, provide the Borough a maintenance guarantee in accordance with the terms of Section 1292.06.

(2) In the event of noncompliance with an order pursuant to Section 1290.20(b), whether a 30-day order or an order to correct violations forthwith, the Borough may deem the maintenance bond forfeited and use the proceeds thereof to effect correction of the violations.

(Ord. 961, § 620. Passed 8-13-01.)

### **1290.21 REVOCATION OR SUSPENSION OF LICENSE.**

Upon repeated violations by the same licensee, the right to the issuance of a permit, or to continued operation under a permit, may be suspended for a fixed term or permanently revoked, after notice and hearing, subject to the right of appeal to the Delaware County Court of Common Pleas.

(Ord. 961, § 621. Passed 8-13-01.)

## **Chapter 1292 Construction and Acceptance of Improvements**

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1292.01 Construction required.

1292.02 Inspections.

1292.03 Release from performance guarantee.

1292.04 As-built plans.

1292.05 Dedication and acceptance of public improvements.

1292.06 Maintenance guarantee.

### **1292.01 CONSTRUCTION REQUIRED.**

The applicant shall construct all streets, together with all other improvements, including grading, paving, curbs, gutters, sidewalks, street lights, fire hydrants, water mains, street signs, shade trees, storm drainage facilities, sanitary sewers, landscaping, traffic control devices, open space and restricted areas, and erosion and sediment control measures in conformance with the final plan as approved, the applicable provisions of the most current Borough regulations, PennDOT Specifications, Form 408, and all other applicable regulations.

(Ord. 961, § 701. Passed 8-13-01.)

### **1292.02 INSPECTIONS.**

(a) The construction or installation of all improvements shall at all times be subject to inspection by representatives of the Borough. If such inspection reveals that work is not in accordance with approved plans and specifications, that construction is not being done in a workmanlike manner, or that erosion or sediment controls are failing to prevent accelerated erosion or sediment from leaving the site of construction, the representative is empowered to require corrections to be made and/or the suspension of subdivision approval, and to issue a cease and desist order that may include any or all of the following sanctions:

- (1) That no lot in the subdivision shall be conveyed or placed under agreement of sale;
- (2) That all construction on any lots for which a building permit has been issued shall cease; and/or
- (3) That no further building permits for any lots shall be issued.

(b) The cease and desist order shall be terminated upon determination by the Borough that the defects or deviations from plan requirements have been corrected.

(c) It shall be the responsibility of the applicant, builder, or contractor to notify the Borough Engineer or other duly authorized person a minimum of two working days in advance of the commencement of any construction or installation of any facility or utility required by this Code or by the approved subdivision or land development plan, in order that provisions may be made for inspection by the Borough.

(d) In addition to the advance notice required in division (c), above, it shall be the responsibility of the applicant, builder, or contractor to call, at minimum, for the following specific inspections, by notifying the Borough Engineer, Building Inspector, or other duly authorized person a minimum of one working day in advance of the time anticipated for the required inspection:

- (1) Key trench for stormwater retention or detention basins, following excavation but prior to the placement of any backfill.
- (2) Footings for structures, following excavation but prior to the commencement of any further construction work on the structure.
- (3) All pipe work, including pipe spillways in stormwater retention or detention basins, storm drains, and utilities before pipes are covered by backfill.
- (4) Street subgrade when completed, but before the start of installation of curbs or base course.
- (5) Stormwater recharge facilities after excavation and again before backfilling over stone or pipe storage areas.
- (6) Curbs and/or sidewalks, when crushed stone or gravel base is in place, and during the subsequent concrete pours.
- (7) Crushed aggregate base course, during its installation.
- (8) Bituminous surface binder course, during its installation.
- (9) Bituminous surface wearing course, during its installation.
- (10) Final inspection.

(Ord. 961, § 702. Passed 8-13-01.)

### **1292.03 RELEASE FROM PERFORMANCE GUARANTEE.**

(a) When the applicant has completed all of the necessary and appropriate improvements, the applicant shall notify the Borough, in writing, by certified or registered mail, of the completion of the aforesaid improvements, and shall send a copy thereof to the Borough Engineer. The Borough Manager shall, within ten days after receipt of such notice, direct and authorize the Borough Engineer to inspect all of the aforementioned improvements. The Borough Engineer shall thereupon file a written report with the Borough Manager, and shall promptly mail a copy of the same to the applicant by certified mail. The report shall be made and mailed within 30 days after receipt by the Borough Engineer of the aforesaid authorization from the Borough Manager; the report shall be detailed and shall indicate approval or rejection of improvements, either in whole or in part. If the improvements, or any portion thereof, shall not be approved or shall be rejected by the Borough Engineer, the report shall contain a statement of reasons for such nonapproval or rejection, either in whole or in part.

(b) Approval of improvements shall not be given until all construction debris has been disposed of through appropriate measures. No such debris shall be buried, burned, or otherwise disposed of on the site, except in compliance with properly issued regulatory permits.

(c) Borough Council shall, within 15 days of receipt of the Borough Engineer's report prepared under division (a), above, notify the applicant by certified or registered mail of the action of Borough Council with regard to approval, nonapproval, or rejection of improvements.

(d) If any portion of the improvements shall not be approved or shall be rejected by Borough Council, the applicant shall proceed to complete those improvements and, upon completion, the same procedure of notification as outlined herein shall be followed.

(e) The applicant shall be responsible for maintenance of all subdivision or land development improvements until such improvements are offered for dedication and are accepted by the Borough. In addition, 15% of a performance guarantee (as adjusted) shall be held back by the Borough until the applicant has posted a maintenance guarantee, as provided for in Section 1292.06, and as-built plans are verified and accepted by the Borough.

(f) Partial releases of the performance guarantee during the period of construction shall be authorized as per Section 1286.13(g).

(Ord. 961, § 703. Passed 8-13-01.)

### **1292.04 AS-BUILT PLANS.**

After completion and Borough approval of subdivision or land development improvements as shown on final plans, and before Borough acceptance of such improvements, the applicant shall submit to Borough Council a corrected copy of the plans showing actual dimensions and conditions of streets and all other improvements, certified by an engineer or surveyor to be in accordance with actual construction.

(Ord. 961, § 704. Passed 8-13-01.)

### **1292.05 DEDICATION AND ACCEPTANCE OF PUBLIC IMPROVEMENTS.**

(a) Upon completion of any public or private improvements shown on an approved subdivision plan and within 90 days after approval of such public improvements as herein provided, the applicant shall submit written offer of such public improvements for dedication to the Borough. The offer shall include a deed of dedication covering all public improvements, together with satisfactory proof establishing the applicant's clear title to the property. Such documents are to be filed with the Borough Secretary for review by the Borough Solicitor. Deeds of dedication for public improvements may be accepted by resolution of Borough Council at a regular meeting thereof. Borough Council shall require proof that all easements have been properly recorded on the individual deeds of properties. Borough Council may require that at least 75% of the lots in any approved subdivision or land development (or phase thereof, if final plan approval has been in phases) have certificates of occupancy issued for buildings thereon prior to acceptance of dedication. Should the streets, even though constructed according to the specifications of this Subdivision and Land Development Code, deteriorate before 75% of the lots have certificates of occupancy issued, such streets shall be repaired in a manner acceptable to Borough Council before being accepted by the Borough.

(b) Where it appears that the 75% occupancy level will be extended beyond a 12-month period, the applicant may delay placing the final wearing course of a roadway until the 75% level is attained. The applicant will be responsible for all maintenance and repair of the roadway, which will include but not necessarily be limited to pothole repair, cleaning, snow plowing, cindering, mowing, drainage maintenance, and removal of debris, in a manner acceptable to Borough Council. For certain maintenance functions, such as snow plowing and cindering, Borough Council shall require an escrow fund and maintenance agreement in order to assure the occupants of the undedicated street that it will be opened within 24 hours after the end of a snowfall for emergency vehicles, and general usage after a snowfall, during icing conditions, or any other form of blockage or emergency.

(c) Borough Council may require that certain subdivision and 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.

(Ord. 961, § 705. Passed 8-13-01.)

### **1292.06 MAINTENANCE GUARANTEE.**

(a) Where Borough Council accepts dedication of all or some of the required improvements following completion (whether such dedication is of the fee or of an easement), it 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 plan. The security shall be in the form as is authorized for the deposit of the performance guarantee, as described in Section 1286.13, shall be for a term of 18 months 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 retention facilities or private streets is to be the responsibility of individual lot owners, a homeowners' association or similar entity, or an organization capable of carrying out maintenance responsibilities, Borough Council shall require that maintenance responsibilities be set forth in perpetual covenants or deed restrictions binding on the landowners' successors in interest, and may further require that an initial maintenance fund be established in a reasonable amount.

(Ord. 961, § 706. Passed 8-13-01.)

## **CHAPTER 1293**

### **Natural Features Conservation and Landscaping, Buffering, Screening and Lighting**

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1293.01 Purpose.

1293.02 Applicability.

1293.03 Natural features conservation requirements.

1293.04 Landscaping requirements.

1293.05 Buffering and screening requirements.

1293.06 Street tree requirements.

1293.07 Requirements for replacement of vegetation (trees and shrubs).

1293.08 Outdoor lighting requirements.

1293.09 Plan requirements.

1293.10 Guarantee and maintenance.

### **1293.01 PURPOSE.**

The purpose of this chapter is to ensure that any lot or tract affected by subdivision or land development shall:

- (a) Protect the rights of the residents of the Borough to enjoy clean air, pure water, and the natural, scenic and aesthetic values of the environment, as set forth in the Pennsylvania Constitution and other Commonwealth and Federal statutes;
- (b) Conserve natural features to the greatest practical extent possible;
- (c) Be adequately landscaped or left in its natural state (e.g. forest, meadow or hedgerow);
- (d) Provide adequate protection, by appropriate buffering and screening, to adjoining areas against noise, lighting glare, and sight views that are incompatible with the existing character of the surrounding area;
- (e) Provide street trees in accordance with Borough standards;
- (f) Provide for the replacement of trees and shrubs displaced by subdivision or land development;
- (g) Provide for the following as related to outdoor lighting:
  - (1) Provide for and control lighting in outdoor public places where public health, safety and welfare are potential concerns.
  - (2) Protect drivers and pedestrians from the disabling glare of non-vehicular light sources.
  - (3) Protect neighbors and the night sky from nuisance glare and light trespass from poorly shielded, aimed, placed, applied or maintained light sources.
  - (4) Promote energy efficient lighting design and operation.

(Ord. 1044. Passed 8-8-11.)

### **1293.02 APPLICABILITY.**

The requirements of this chapter apply to any lot, tract, or portion thereof affected by subdivision or land development.

(Ord. 1044. Passed 8-8-11.)

### **1293.03 NATURAL FEATURES CONSERVATION REQUIREMENTS.**

#### **(a) Conservation of Surface and Groundwater Resources.**

(1) Any encroachment on streams shall be regulated by the Borough's Floodplain Management Regulations and applicable State and Federal law.

#### **(2) The following activities shall be minimized:**

A. Disturbance to natural swales and channels.

B. Disturbance to areas with seasonably high water tables and areas where surface water naturally concentrates or collects.

#### **(b) Conservation of Woodlands and Other Vegetation.**

(1) Disturbance of wooded areas shall be minimized.

(2) Disturbance to vegetation other than woodlands which provides wildlife food and cover or visual amenity shall be minimized.

(c) Conservation of Sloping Lands.

(1) Any site disturbance on slopes exceeding fifteen percent shall be minimized.

(2) No site disturbance shall be allowed on slopes exceeding twenty-five percent, except under the following circumstances:

A. Selective logging and woodcutting shall be allowed by specific approval of the Borough and shall be limited to highly selective removal of trees. Maximum precautions shall be taken to avoid destruction or injury of understory brush and trees.

B. Grading for a portion of a driveway accessing a single-family detached dwelling when it can be demonstrated that no other routing which avoids slopes in excess of twenty-five percent is feasible.

(3) Tillage and nursery operations shall not be conducted on slopes exceeding fifteen percent, and sod operations shall not be conducted on slopes exceeding eight percent, except where minimum tillage methods recommended by the USDA Natural Resource Conservations Service or the Delaware County Conservation District are followed.

(4) Grading or earthmoving on all sloping lands exceeding fifteen percent shall not result in earth cuts or fills whose highest vertical dimensions exceed ten feet, except where no reasonable alternatives exist for construction of public roads, drainage structures, and other public improvements, in which case such vertical dimensions shall not exceed twenty feet. Finished slopes of all cuts and fills shall not exceed three to one, unless the applicant can demonstrate that steeper slopes can be stabilized and maintained adequately. The landscape shall be preserved in its natural state insofar as practicable.

(d) Conservation of Wetlands.

(1) Unless it is clearly evident that no wetlands exist on the site, the applicant shall submit a wetlands assessment performed by a qualified professional experienced in wetlands ecology. The qualifications of the professional are subject to review and approval of the Borough. The determination of the need for such assessment shall be made by the Borough.

(2) At its discretion, the Borough may require the applicant to obtain verification of the wetlands assessment and/or delineation report from the Pennsylvania Department of Environmental Protection and the U.S. Army Corps of Engineers. The determination of the regulatory agency shall govern the wetlands boundary.

(3) The applicant shall be required to obtain any and all Federal, State and local permits and approvals for disturbance and encroachments of any wetlands. Approval from the Borough shall be contingent upon the applicant receiving the necessary wetlands permits and approvals.

(Ord. 1044. Passed 8-8-11.)

#### **1293.04 LANDSCAPING REQUIREMENTS.**

All areas which are not to be occupied by buildings or structures or used for loading, parking spaces and aisles, pedestrian circulation, designated storage areas, and other permitted impervious or semi-pervious surfaces shall be landscaped according to an overall landscaping scheme or left in their natural state. The landscaping scheme shall comply with the following:

(a) Existing vegetation and natural features shall be preserved wherever feasible.

(b) Landscaping plantings shall make use of native and non-invasive species unless otherwise specifically approved by the Borough.

(c) The landscaping scheme shall comply with all requirements for replacement of trees and shrubs as set forth in Section 1293.06.

(Ord. 1044. Passed 8-8-11.)

#### **1293.05 BUFFERING AND SCREENING REQUIREMENTS.**

Buffer screens are required to screen lighting glare, noise, and sight views that are incompatible with the existing character of the surrounding area by creating a visual and/or acoustic barrier between conflicting land uses. The proposed construction shall not detract from the character or desirability of the surrounding area, and the applicant shall provide and maintain attractively landscaped grounds or make any other suitable screening provision that is necessary to adequately safeguard the residential character of adjacent districts. Flexibility of development to complement the existing neighboring properties and the Borough as a whole is a prime objective of this section.

(a) The Borough may require buffer areas along rear and side property lines in non-residential districts which directly abut

residential zoning districts in the Borough or an adjoining municipality. The buffer should be sufficient to constitute an effective screen and give maximum protection to the abutting district. Such buffer areas may consist of a planting strip of not less than thirty-five feet in width on which shall be placed shrubbery, trees or other suitable planting. However, existing planting, topography, or man-made structures remaining on the property may be deemed to be partially or fully acceptable for screening purposes by the Borough.

(b) Parking areas in excess of 8,000 square feet shall be buffered from view from adjacent residential zoning districts. The buffer shall be opaque, primarily using evergreen plantings of at least six feet in height and three feet in depth at time of planting and shall be maintained by the property owner. If fencing is incorporated in any parking lot, it shall comply with other rules in this chapter and any other Borough regulations relating to fencing. Buffer screens shall not be required in parking areas if the Borough deems existing planting, topography, or man-made structures remaining on the property acceptable for screening purposes.

(c) Service facilities shall be adequate and unobtrusive. Buffer screens shall be required and be such as to minimize noise and visual impact on the surrounding area, and at a minimum be opaque, primarily using evergreen plantings of at least six feet in height and three feet in depth at time of planting.

(d) All mechanical equipment not enclosed in a structure shall be fully and completely screened from view in a manner compatible with the architectural and landscaping style of the remainder of the lot.

(e) Water towers, storage tanks, processing equipment, stand fans, skylights, cooling towers, vents and any other structures or equipment which rise above the roof line shall be architecturally compatible or effectively shielded from view from any public or private street and from surrounding residences by an architecturally sound method which shall be approved by the Borough before construction or erection of said structures or equipment.

(Ord. 1044. Passed 8-8-11.)

### **1293.06 STREET TREE REQUIREMENTS.**

(a) All subdivisions and land developments shall provide street trees along the entire length of any existing or proposed public street that forms a property boundary and on both sides of any street within the subdivision or land development, except where the Borough agrees that suitable street trees are already in place.

(b) One street tree shall be provided for every thirty-five feet on average of street frontage or fraction thereof.

(c) Either paragraph (1) or (2) below shall be used for street tree planting, although the Borough maintains the right to choose one of the two options at any given location:

(1) Formal alley of street trees.

A. Use uniform street tree variety.

B. Coordinate new plantings with existing street tree plantings, street signage, utility poles, and other permanent and necessary obstructions where applicable. A uniform canopy from both sides of the street shall be provided.

C. Street trees shall be located within the tree lawn within the right-of-way. The width of the tree lawn (the planted area between the sidewalk and the curb) shall be no less than five feet.

D. Use a minimum of three species of trees.

(2) Naturalized street tree planting.

A. Vary street tree varieties, spacing three to fifteen feet from the curb line.

B. An average of one street tree shall be planted for every thirty-five feet of street frontage, provided that lots with less than twenty-five feet of frontage shall have at least one street tree.

C. Planting design shall accentuate views and integrate important landscape elements.

(d) Street trees shall meet the following standards:

(1) Minimum size - Two to two and one-half inches caliper.

(2) Branching height - The height of branching shall bear a relationship to the size and species of tree; those trees selected for street tree usage shall have a minimum clearance height of seven feet above grade before branching begins.

(3) All trees to be installed shall be balled and burlapped or in nursery cages/baskets in accordance with American Association of Nurserymen Standards. Those in nursery cages/baskets should have the cage/basket completely removed at the time of planting. The ball depth shall be not less than sixty percent of the ball diameter and in all cases contain the maximum of the fibrous roots of the tree. Bare root material is not acceptable. Minimum ball diameter shall be twenty-four inches for two to two and one-half inches of caliper and shall comply with American Association of Nurserymen Standards for all trees of greater caliper.

(4) Planting, tree guying, mulching and pruning procedures shall conform with best industry standards, and as approved by the Borough. Plantings shall be pruned to preserve the natural character of the planting.

(5) Plant material.

A. Plantings and their measurement shall conform to the standards of the publications "American or U.S.A. Standard for Nursery Stock", American National Standards Institute (ANSI) or U.S.A.S. Z60.1 of the American Association of Nurserymen, as currently amended. All plant material used on the site shall be hardy to the U.S. Department of Agriculture (USDA) Zone 6 designation, shall be free of disease, and shall be nursery grown, unless it is determined by the Borough that the transplanting of trees partially fulfills the requirements of this section.

B. The selection of required street trees shall be subject to approval by the Borough. Where street trees shall be planted under utility wires, only street trees suitable for such location shall be selected.

(Ord. 1044. Passed 8-8-11.)

### **1293.07 REQUIREMENTS FOR REPLACEMENT OF VEGETATION (TREES AND SHRUBS).**

(a) Calculation of Required Vegetation Replacement. Where earth disturbance exceeds 500 square feet, applied independently and cumulatively, replacement plantings shall be installed in accordance with the standards set forth in both paragraphs (1) and (2) below. Street trees and trees planted in buffer zones shall count towards replacement tree requirements. The selection of acceptable replacement plantings shall be subject to approval by the Borough.

(1) Replacement of trees removed: For each tree with a caliper greater than eight inches to be removed, required replacement trees shall be calculated in accordance with the following schedule.

For each tree to be removed,            Minimum number & Caliper

at the following calipers:            of replacement trees:

One, 8" to 18" caliper            One 3½" caliper

One, greater than 18", to 24" caliper    Two 3½" caliper

One, greater than 24", to 36" caliper    Three 3½" caliper

One, greater than 36" caliper            Four 3½" caliper

(2) Additional tree planting requirements: For each two thousand square feet, applied independently and cumulatively, of new impervious surface that will be created as a result of development, one tree of at least two inches to two and one-half inches caliper shall be planted.

(b) In the event that the applicant establishes to the satisfaction of the Borough that constraints incident to the land itself (including, but without limitation, extreme topography, unsuitable soils, rock outcrops and existing uninterrupted dense canopy) render it impracticable to locate on the lot the required number of replacement plantings or street trees, then, at the election of the Borough and where approved by the Borough as a condition of any applicable subdivision or land development approval, the applicant shall undertake one or a combination of the following:

(1) Install fewer, larger or more valuable trees with an aggregate cost as installed and guaranteed not less than the estimated aggregate cost of the required number of plantings.

(2) Install required replacement plantings at a site or sites other than that subject to replacement planting.

(3) In lieu of actual installation of replacement plantings, place the equivalent cash value, as agreed upon by the Borough and the applicant, for required replacement plantings into a Borough fund established for that purpose. Such fund shall be utilized at the discretion of the Borough for the management and maintenance of public street trees and/or public park areas within the Borough.

(c) Required replacement vegetation and their measurement shall conform to the standards of the publication "American or U.S.A.

Standard for Nursery Stock", American National Standards Institute (ANSI) or U.S.A.S. Z60.1 of the American Association of Nurserymen, as currently amended. All plant material used on the site shall be hardy to the United States Department of Agriculture (USDA) Zone 6 designation and shall be nursery grown, unless it is determined by the Borough that the transplanting of plant material partially fulfills the requirements of this section.

(d) Selection of the species of replacement plantings and determination of planting locations shall reflect careful site evaluation, including the site's geology, hydrology, soils and microclimate, shall promote the design objectives of the plantings including visual screening, noise abatement and energy conservation, and shall utilize as much as possible native plant material.

(e) The locations, selected species, and sizes of all replacement plantings, along with a planting schedule tied to the timing and/or phasing of the construction, shall be indicated on the final subdivision/land development landscape plan or building permit application, as applicable, and shall be subject to approval by the Borough.

(f) Vegetation intended to remain post-disturbance shall be protected from damage during construction, including, but not limited to, damage to above-ground vegetation structure, damage to root structure, and pollution of soil impacting the vegetation.

(g) Where any tree greater than twelve inches caliper is removed without prior Borough approval, replacement plantings in addition to any otherwise required shall be installed in a manner acceptable to the Borough at a rate of ten trees of at least three and one-half inch caliper for each tree so removed. Any other applicable penalty under law also shall be imposed.

(Ord. 1044. Passed 8-8-11.)

### **1293.08 OUTDOOR LIGHTING REQUIREMENTS.**

(a) Applicability.

(1) Outdoor lighting shall be required for safety and personal security for uses that operate during hours of darkness where there is public assembly and/or traverse, including, but not limited to the following uses: commercial, industrial, public-recreational, institutional and multifamily residential developments.

(2) Borough Council may require lighting to be incorporated for other uses and locations than those identified above or may restrict lighting in any of the uses or locations identified above, as deemed necessary.

(3) Street lights are regulated elsewhere in the Borough of Swarthmore Subdivision and Land Development Regulations (see Section 1288.16) and are specifically excluded from these regulations.

(4) Temporary lighting is exempt from the requirements of this section. Such lighting shall be discontinued immediately upon completion of the construction work.

(5) Nothing in this section shall apply to lighting required by the Federal Aviation Administration (FAA) or any other Federal regulatory authority.

(b) Illumination Levels and Lighting Fixture Design.

(1) Lighting shall have intensities and uniformity ratios in accordance with the recommended practices of the Illuminating Engineering Society of North American (IESNA) as contained in the most current edition of the IESNA Handbook, or as contained in current publications of the IESNA Recommended Practices or Design Guides.

(2) The intensity of illumination projected onto a residential property from another property shall not exceed 0.1 vertical foot candle measured line-of-site from any point on the adjacent residential property.

(3) Fixtures shall be of a type and design appropriate to the lighting application and aesthetically acceptable to the Borough.

(4) Fixtures must be installed so as to minimize light trespass, backlight, uplight, and glare, as defined by current standards from the IESNA. This includes, but is not limited to, lighting used for parking areas, buildings, building overhangs, canopies, signs, displays, and landscaping.

(5) Lighting shall conform to current American Society for Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) criteria for energy efficiency.

(c) Installation.

(1) Electrical feeds for fixtures mounted on poles shall be run underground, not overhead.

(2) Lighting standards at the rear of parking spaces shall be placed a minimum of five feet outside the paved area, curbing or tire stops, or on concrete pedestals at least thirty inches high above the pavements, or suitably protected by other approved means.

(d) Recreational Lighting. When facilities for outdoor recreational activities are permitted by the Borough to operate during hours of darkness, excluding recreational accessory uses which are permitted on properties in residential zoning districts, the following lighting requirements shall apply:

(1) Lighting shall be approved by the Borough based on suitable control of backlight, uplight, and glare.

(2) Lighting shall be timed to be extinguished by 11:00 p.m. (lighting may be left on to finish a game or event in progress that was scheduled to be over by that time but has been extended due to overtime, weather delay, or other unforeseen events.)

(3) Outdoor recreational activities shall not be illuminated if located within any residential zoning district or sited on a nonresidential property within 1,200 feet of a residential use.

(4) The maximum mounting heights for recreational lighting shall be seventy feet.

(5) The permissible illumination for lights at recreational venues shall not exceed IESNA standards and shall be suited to the intended purpose of the recreational facility, both in terms of activity and class of play.

(Ord. 1044. Passed 8-8-11.)

### **1293.09 PLAN REQUIREMENTS.**

(a) Conservation Plan. The purpose of the conservation plan is to show an inventory of existing conditions, disclose the environmental impact of the proposed development, and provide information on mitigation measures. The conservation plan shall include the following minimum information.

(1) Inventory of existing natural features, including:

A. Geologic formations, based upon available published information or more detailed information obtained by the applicant.

B. Existing contours at intervals of two feet. In areas of steep slopes (greater than fifteen percent), five foot contour intervals may be used. Location and elevation to which contour elevations refer shall be identified; where reasonably feasible, this shall be a known, established benchmark. Slopes exceeding fifteen percent shall be clearly indicated.

C. The location and delineation of ponds, streams, springs, areas of wet soils and natural drainage swales, both perennial and seasonal, on the applicant's property and within 200 feet of such.

D. The 100-year floodplain boundaries and elevations, which shall be those determined by the Federal Insurance Administration or from other known sources or, in the absence of such, as calculated by the applicant with standards set forth in the Borough of Swarthmore Floodplain Management Regulations.

E. Wetlands.

F. Soil series, types and phases, as mapped by the National Resource Conservation Service for the Delaware County Soil Survey, and accompanying data tabulated for each soil, including its name, depth to seasonal high water table, depth to bedrock, agricultural capability class, erodibility (if available), limitations of soil type (including load-bearing capacity, drainage and plant growth) and hydrologic group.

G. Vegetative cover conditions on the property according to general cover type, e.g., cultivated land, permanent grassland, old field, hedgerow, woodland, individual freestanding trees over six inch caliper, wetland vegetation, etc.

H. Existing structures and other improvements.

I. Boundaries of any Scenic Rivers Corridor or Streams of High Quality, as designed by the Commonwealth of Pennsylvania.

J. Existing wildlife habitat, including food sources.

(2) Impact assessment. All applicants shall assess the on-site and off-site impacts of their proposed activities, the scale and/or magnitude of such impacts and improvements on existing natural features. The assessment shall, at minimum, include the following:

A. Delineation of the location and tabulation of the acreage of natural features which would be disturbed.

B. Delineation of the location and dimensions of all improvements proposed by the applicant, including tabulations of gross

square foot coverage of any proposed impervious surfaces.

C. Grading plans which clearly show all proposed alterations to the property's existing topography.

D. Consideration of all alternatives to minimize disturbances to natural features that were not used by the applicant. The applicants shall furnish evidence that such alternatives were considered and the reason they were not implemented.

(b) Landscaping, Buffering, Screening and Lighting Plan.

(1) Plan requirements for landscaping, buffering, and screening:

A. The plan must show the character of buffer areas and screening devices to be maintained, including the dimensions and arrangements of all areas devoted to planting of trees, shrubbery, fences or other elements of similar purpose.

B. The landscaping scheme shall be accompanied by a topographic survey of the entire site showing all existing vegetation, including specification of vegetation to be removed and vegetation to be preserved, and identifying all trees of six inch caliper and greater, by type and size. All existing and proposed impervious surfaces shall be shown on the plan.

C. The type, height, density and amount of the plantings, fences or other elements, which shall be selected, in consultation with and by approval from the Borough.

(2) Plan requirements for lighting include:

A. A layout of all proposed fixtures by location, mounting height, and type. Backlight, uplight and glare (BUG) ratings should be included, if available.

B. Ten feet by ten feet illuminance grid (point-by-point) plot of maintained foot candles, plotted out to 0.0 foot candles, with sufficient detail to determine light trespass, uplight, and glare. The lamp lumen rating and type, maintenance (light-loss) factors and IESNA file names in calculating illuminance levels shall be documented in the plan. In addition, if applicable, an illuminance grid plot of maintained vertical foot candles, plotted out to 0.0 foot candles, shall be documented in the plan.

C. Description of the proposed equipment, including fixture catalog cuts, photometrics, glare-reduction devices, lamps, on/off control devices, mounting heights, pole foundation details and mounting methods.

(Ord. 1044. Passed 8-8-11.)

### **1293.10 GUARANTEE AND MAINTENANCE.**

(a) All plantings included on the landscaping, buffering, screening and lighting plan shall be maintained in a healthy and/or sound condition or shall be replaced. In addition, the applicant may be required to escrow for eighteen months from the date of final completion and certification by the Borough Engineer sufficient additional funds for the maintenance and/or replacement of the proposed vegetation during such eighteen-month period and to provide for the removal and replacement of trees damaged during construction. All fencing or man-made element of similar purpose shall be maintained by the property owner in such fashion as to ensure its continued good functionality and appearance.

(b) Lighting fixtures and ancillary equipment shall be maintained so as to always meet the requirements this chapter.

(Ord. 1044. Passed 8-8-11.)

## **Chapter 1294 Administration of Provisions for Open Space**

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1294.01 Standards for fees in lieu of land.

1294.02 Ownership of common open space and facilities.

1294.03 Maintenance and operation of common open space and facilities.

### **1294.01 STANDARDS FOR FEES IN LIEU OF LAND.**

(a) Where a fee is to be contributed in lieu of the set-aside of land for open space, such fee shall be required to be paid for each

new lot or dwelling unit created through subdivision or land development.

(b) The amount of the fee shall be as established by resolution of Borough Council and may be adjusted from time to time. Criteria for establishing the fee shall bear a direct relationship to the projected financial need of the Borough for community-serving recreational lands and facilities. Factors shall include:

- (1) Plans and associated costs for creating or improving community or neighborhood parks;
- (2) The timing, status, and planned dates of accomplishment of park land acquisition or recreational facility improvements in relation to the timing of the subdivision or land development application submission;
- (3) The level of future population growth projected for the Borough;
- (4) The proportion of funding support for future park land and recreational facilities deemed appropriate for future residents to contribute;
- (5) The average cost to purchase an acre of land at the time of contribution, prorated to reflect the proportion established in division (b)(4) above.

(c) Where a fee in lieu of land is to be paid, in accordance with the terms of this section, a note shall be placed on the final plan prepared for recording, stipulating the amount of the fee, as established by Borough Council resolution, and the means and timing of payment, consistent with the terms of this section.

(d) For any major subdivision, the full amount of the fee shall be placed in escrow, or otherwise secured in a manner deemed acceptable under the terms of Section 1286.13, as a condition of final plan approval by Borough Council. Actual payment of the fee for any lot shall be made at one of the following points, whichever shall occur first:

- (1) At the time of conveyance of the lot;
- (2) At the time of application for a building permit; or
- (3) At the time any public improvements are offered for dedication.

(e) For any minor subdivision, the full amount of the fee for any lot shall be paid at the time of conveyance of the lot.

(f) All fees received pursuant to this section shall be placed in a Special Capital Reserve Fund for Open Space, the purposes of which shall be to hold, invest, and disburse such monies. Disbursements from this fund shall be made from time to time as Borough Council shall deem appropriate, only in connection with the planning, purchase, improvement, replacement, maintenance of land and structures and addition to Borough lands for use as open space, conservation, recreation, and education for the benefit of the citizens of the Borough as provided for in the Borough Code, or other applicable rules, regulations, or statutes. All sums received for and deposited in the Open Space Fund shall be held, invested, and reinvested in the same manner as other funds of the Borough, but shall not be considered part of the general revenues of the Borough.

(Ord. 961, § 801. Passed 8-13-01.)

## **1294.02 OWNERSHIP OF COMMON OPEN SPACE AND FACILITIES**

(a) The terms and arrangements for ownership of any open space created under the requirements of this section shall be consistent with the provisions of this division. The specific arrangement for a particular tract shall be established, to the satisfaction of Borough Council, at the time of final plan approval, and incorporated into the terms of the development agreement.

(b) The following methods may be used, either individually or in combination, to preserve, own, and maintain common facilities: condominium, homeowners' association, dedication to the municipality in fee simple, grant of conservation easements to the municipality, and transfer to a private conservation organization. Such land or facilities shall not be eligible for transfer to another party, except for transfer to another method of ownership permitted under this division, and then only where there is no change in the common facilities. The following specific requirements are associated with each of the various methods:

(1) Condominium. Common facilities may be controlled through the use of condominium agreements. Such agreements shall be in conformance with the Pennsylvania Uniform Condominium Act of 1980, as amended.

(2) Fee simple dedication. Borough Council, or other public agency acceptable to Borough Council, may, but shall not be required to accept any portion or portions of the common facilities, provided:

A. Any common facilities so dedicated are accessible to the residents of the Borough;

B. There is no cost of acquisition to the Borough;

C. Borough Council, or other public agency acceptable to Borough Council, agrees to and has access to maintain such common facilities.

(3) Dedication of easements. Borough Council may, but shall not be required to accept easements for public use of any portion or portions of the common facilities, title of which is to remain in ownership by the applicant, or by the condominium or homeowners' association, provided:

A. Any common facilities so dedicated are accessible to the residents of the Borough;

B. There is no cost of easement acquisition (other than any costs incidental to the transfer of ownership, such as title insurance);

C. A satisfactory maintenance agreement is reached between the owner and Borough Council.

(4) Grant of conservation easements and transfer of fee title to private conservation organization. With permission of Borough Council, any owner may transfer title to open space lands to a private, nonprofit organization, among whose purposes is to conserve open space land and/or natural resources, provided that:

A. The organization is acceptable to Borough Council and is a bona fide conservation organization, with perpetual existence;

B. The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions;

C. A maintenance arrangement acceptable to Borough Council is established between the owner and the grantee.

D. A conservation easement granted to the municipality ensures that the land will not be developed or used for purposes inconsistent with open space purposes provided herein.

(5) Homeowners' association. The common facilities may be held in common ownership by a homeowners' association. This method shall be subject to all of the provisions for homeowners' associations set forth herein. In addition, if a homeowners' association is formed, it shall be governed according to the following regulations:

A. The owner or applicant proposing to establish a homeowners' association shall provide to the Borough a description of the organization, including its by-laws and documents governing maintenance requirements and use restrictions for common facilities.

B. The organization shall be established by the owner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) before the sale of any dwelling units within the development.

C. Membership in the organization is mandatory for all purchasers of dwelling units therein and their successors.

D. The organization shall be responsible for maintenance of and insurance on common facilities.

E. The organization shall be responsible for paying all applicable real estate taxes on common facilities only where the following preferred alternative is not utilized: The owner or applicant for any tract proposed to contain any common facilities shall arrange with the County Board of Assessment a method of assessment of the common facilities which will allocate to each tax parcel in the development a share of the total assessment for such common facilities. Where this alternative is to be utilized, the method of allocation shall be approved by Borough Council.

F. The members of the organization shall share equitably the costs of maintaining, insuring and operating common facilities, and of developing additional common facilities, if any, in accordance with the procedures established by them.

G. In the event of any proposed transfer of common facilities by the homeowners' association or of the assumption of maintenance of common facilities by the Borough as hereinafter provided, notice of such action shall be given to all members of the homeowners' association by the association.

H. The organization shall have or hire adequate staff, as necessary, to administer, maintain and operate common facilities.

I. The homeowners' association may lease back open space lands to the applicant, the applicant's heirs or assigns, or to any other person or corporation qualified to manage open space for operation and maintenance of open space lands, but such lease agreement shall provide:

1. That the common open space to be leased shall be maintained for the purposes set forth in this Subdivision and Land Development Code; and

2. That the operation of open space facilities may be for the benefit of the residents of the development only or may be open to the residents of the Borough. The lease shall be subject to the approval of the Borough, as shall any transfer or assignment of the lease. Lease agreements so entered into shall be recorded with the County Recorder of Deeds within 30 days of their execution and a copy of the recorded lease shall be filed with the Borough.

(6) At the time ownership of the open space is to be transferred from the applicant, the natural and/or developed characteristics of that open space shall be as stipulated under the terms of the approved plan. No construction waste shall be buried or otherwise disposed of within the open space. Whenever the required open space will not be dedicated in fee simple to the municipality, a conservation easement perpetually restricting the property's open space use shall be granted to the municipality. No transfer shall occur until the receiving party is satisfied that such terms have been met.

(Ord. 961, § 802. Passed 8-13-01.)

### **1294.03 MAINTENANCE AND OPERATION OF COMMON OPEN SPACE AND FACILITIES.**

(a) The applicant for any development proposed to contain common open space and/or facilities shall, where applicable, provide to the Borough, at the time of preliminary plan submission, a plan for maintenance and operation of such open space and/or facilities. The plan shall:

- (1) Define ownership;
- (2) Establish necessary regular and periodic maintenance responsibilities; and
- (3) Estimate staffing needs, insurance requirements, and associated costs, and define the means for funding same on an ongoing basis.

(b) In the event that the organization established to own and maintain common facilities, or any successor organization, shall, at any time after establishment of the common facilities or the use attendant thereto, fail to maintain all or any portion of the aforesaid in reasonable order and condition in accordance with the development plan and all applicable laws, rules and regulations, the Borough may serve written notice upon such organization or upon the residents and owners of the uses relating thereto, setting forth the manner in which the organization has failed to maintain the aforesaid common facilities in reasonable condition, and such notice shall include a demand that such deficiencies of maintenance be cured within 30 days thereof, and shall state the date and place of a hearing thereon which shall be held within 14 days of the notice. At such hearing the Borough may modify the terms of the original notice as to the deficiencies, and may give an extension of time within which the deficiencies shall be corrected. If the deficiencies set forth in the original notice or in the modifications thereof are not corrected within the 30 days or any extension thereof, the Borough, in order to preserve the taxable values of the premises and to prevent the common facilities from becoming a public nuisance, may enter upon the same and maintain the same for a period of one year. Said entry and maintenance shall not constitute a taking of the common facilities and shall not vest in the public any rights to use the common facilities, except when the same is voluntarily dedicated to the public by the residents and owners, and such dedication is acceptable to Borough Council. Before the expiration of the year, the Borough shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common facilities, call a public hearing upon notice to the organization, or to the residents and owners of the dwelling units attendant thereto, at which hearing such organization or the residents and owners of the aforesaid dwelling units shall show cause why such maintenance by the Borough shall not, at the election of Borough Council, continue for a succeeding year. If Borough Council shall determine that such organization is ready and able to maintain the common facilities, the Borough shall cease to maintain the common facilities at the end of the year. If the aforesaid are not ready and able to maintain the common facilities in a reasonable condition, the Borough may, at the discretion of Borough Council, continue to maintain the common facilities during the next succeeding year and subject to a similar hearing and determination in such year thereafter. The decision of Borough Council in any such case shall constitute a final administrative decision subject to judicial review.

(c) The cost of such maintenance and enforcement proceedings by the Borough shall be assessed ratably, in accordance with the tax assessments, against the properties that have the right of enjoyment of the common facilities and shall become a lien on the properties. The Borough, at the time of entering upon such common facilities for the purpose of maintenance, shall file a notice of such lien in the office of the County Prothonotary, upon the properties affected by such lien.

(Ord. 961, § 803. Passed 8-13-01.)

- 1296.01 Relief from unnecessary hardship
- 1296.02 Records.
- 1296.03 Fees and costs.
- 1296.04 Enforcement.
- 1296.05 Penalties.
- 1296.06 Appeals.
- 1296.07 Revision and amendment.

### **1296.01 RELIEF FROM UNNECESSARY HARDSHIP.**

- (a) Borough Council may grant a modification of the requirements of one or more provisions of this Subdivision and Land Development Code if the literal enforcement would 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 purposes and intent of this Code are observed. Such modifications may be recommended by the Planning Commission in the written comments following their review as outlined in Chapter 1286.
- (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 ordinance involved, and the minimum modification necessary.
- (c) In granting modifications, Borough Council may impose such conditions, acceptable to the applicant, as will, in its judgment, secure substantially the objectives of the standards and requirements so modified.
- (d) The Borough shall keep a written record of all actions on all requests for modifications.

(Ord. 961, § 901. Passed 8-13-01.)

### **1296.02 RECORDS.**

- (a) The Borough shall assign a subdivision application number to all subdivision and land development applications, and all matters referring to an application should be filed in accordance with the applicant name and subdivision case number. The Borough shall keep a record of its findings, decisions, and recommendations relative to all plans filed with it for review.
- (b) All such records shall be public records.

(Ord. 961, § 902. Passed 8-13-01.)

### **1296.03 FEES AND COSTS.**

- (a) 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.
- (b) A subdivision or land development application fee (non-refundable) and an escrow deposit shall be submitted with any application for preliminary or final plan approval to cover the costs of plan review and processing. Amounts of the application fee and escrow deposit shall be fixed through adoption of a resolution by Borough Council. The escrowed 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 legal fees in excess of the fee for review of the Borough's 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 division (c) of this section.
- (c) As a condition of final plan approval and recording and following the establishment of any required performance guarantee, 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), 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 of dedication of improvements by the Borough shall be returned to the applicant. The amount of the escrow deposit shall be fixed by resolution of Borough Council.

(Ord. 961, § 903. Passed 8-13-01.)

#### **1296.04 ENFORCEMENT.**

(a) In addition to other remedies, Borough Council may institute and maintain appropriate actions at 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 that has been developed or that has resulted from a subdivision of real property in violation of this Subdivision and Land Development Code. 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.

(Ord. 961, § 904. Passed 8-13-01.)

#### **1296.05 PENALTIES.**

Any individual, partnership, or corporation who or that has violated any provision of this Subdivision and Land Development Code shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough, pay a judgment in the amount of the maximum permitted under provisions of the MPC, plus all court costs, including reasonable attorney fees incurred by the Borough as a result therefor. No judgment shall commence or be imposed, levied, or be payable until the date of the determination of a violation by the district justice or other judicial authority. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. 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 individual, partnership, or corporation violating this Code to have believed that there was no 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. 961, § 905. Passed 8-13-01.)

#### **1296.06 APPEALS.**

Appeals from the actions of Borough Council with respect to any application for subdivision or land development approval shall be governed by the provisions of the Municipalities Planning Code as they may be amended from time to time, or any successor legislation thereto.

(Ord. 961, § 906. Passed 8-13-01.)

#### **1296.07 REVISION AND AMENDMENT.**

(a) Borough Council may, from time to time, review, modify, or amend the terms of this Subdivision and Land Development Code. Except for an amendment proposed by the Borough Planning Commission, Borough Council shall submit any proposed amendment to the Borough Planning Commission for review and recommendation. At least 30 days prior to the hearing on the proposed amendment, Borough Council shall submit any proposed amendment to the County Planning Commission for review and recommendation. Borough Council shall take no action to approve or deny any proposed amendment until it has received a report on the proposed amendment from the County Planning Commission, or until 30 days have been allowed for the receipt of such a report.

(b) Notice of the date, time, and place of the public hearing on the proposed amendment, and the content of such notice shall be in accordance with the MPC.

(c) In the event substantial amendments are made in the proposed ordinance or amendment, before voting on enactment, Borough Council, at least ten days prior to enactment, shall re-advertise a brief summary setting forth all the provisions in reasonable detail, together with a summary of the amendments.

(d) Within 30 days following adoption, the Borough shall forward a certified copy of any amendment to this Subdivision and Land Development Code to the County Planning Commission.

(Ord. 961, § 907. Passed 8-13-01.)