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## **PART 1**

### **SHORT TITLE, PURPOSE, AUTHORITY AND JURISDICTION**

#### **§101. Short Title.**

This Chapter shall be known and may be cited as the “Elizabethtown Borough Subdivision and Land Development Ordinance.”

(Ord. 663, 6/20/1985, §101)

#### **§102. Purpose.**

This Chapter has been designed and adopted to provide uniform standards and procedures for the regulation of subdivision and land development within the Borough of Elizabethtown. The purpose of such regulation is to provide for the harmonious development of the Borough by:

- A. Assisting in the orderly, efficient and integrated development of land in accordance with the Comprehensive Plan of 1978.
- B. Assuring the coordination and conformance of subdivision and land development plans with the public improvement plans of the Borough.
- C. Coordinating proposed streets and other proposed public improvements with those existing.
- D. Assuring equitable and uniform handling of subdivision and land development plans by providing uniform standards and procedures.
- E. Assuring the efficient and orderly extension of community facilities and services at minimum cost and maximum convenience.
- F. Assuring that documents prepared as part of a land ownership transfer fully and accurately describe the parcel of land being subdivided and the new parcel(s) thus created.
- G. Assuring the greater health, safety, convenience and welfare of the citizens of the Borough of Elizabethtown.

(Ord. 663, 6/20/1985, §102)

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### **§103. Authority.**

1. The Borough Council shall have the authority to approve or disapprove all preliminary and final subdivision or land development plan applications as required herein.
2. The Borough Planning Commission is hereby designated as the agency which shall review and make recommendations of all subdivision and land development plan applications as required herein.

(Ord. 663, 6/20/1985, §103)

### **§104. Jurisdiction.**

1. This Chapter shall apply to all subdivision and land development plans submitted after the effective date of this Chapter.
2. This Chapter shall apply to all subdivision and land development plans, previously approved in accordance with any law or regulation then applicable, the development of which has not been completed in accordance with the terms of such approval within five years of such approval.
3. No subdivision or land development of any lot, tract or parcel of land in the Borough of Elizabethtown shall be effected; no street, sanitary sewer, storm sewer, water main, or other facilities in connection herewith shall be laid out, constructed, opened or dedicated for public use or travel, or for the common use of occupants of buildings thereon unless and until a final subdivision or land development plan has been approved by the Borough Council and publicly recorded in the manner prescribed herein; nor otherwise in strict accordance with the provisions of this Chapter.
4. No lot in a subdivision may be sold; no permit to erect or alter any building upon land in a subdivision or land development may be issued; and no building may be erected or altered in a subdivision or land development, unless and until a final subdivision or land development plan has been approved by the Borough Council and recorded, and until the improvements required in connection therewith have been either constructed or guaranteed in a manner prescribed herein.
5. All subdivision and land development plans are subject to the zoning regulations as they apply to use and density requirements, setbacks, height, parking and other such features.

(Ord. 663, 6/20/1985, §104)

**§105. Exemptions.**

The following are exempt or partially exempt from the provisions of this Chapter:

- A. The conversion of an existing single family detached dwelling or single family dwelling semi-detached dwelling into not more than three residential units, unless such units are intended to be a condominium;
- B. The addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building; or,

(Ord. 663, 6/20/1985; as added by Ord. 829, 11/15/2001)





## PART 2

### DEFINITIONS

#### **§201. General.**

Unless otherwise expressly stated, the following terms shall, for the purpose of this Chapter, have the meaning indicated below. Words used in the singular include the plural, and words used in the plural include the singular. The word “person” indicates a corporation, an unincorporated association, a partnership or any other entity, as well as an individual. The word “buildings” includes structures and shall be construed as if followed by the words “or a part thereof.” The word “street” includes “highway,” “road,” “avenue” and “lane.” The word “watercourse” includes “drain,” “ditch” and “stream.” The word “may” is permissive; the words “shall” and “will” are mandatory.

(Ord. 663. 6/20/1985, §201)

#### **§202. Specific Terms.**

**APPLICANT** — a landowner or developer, as hereinafter defined, who has filed an application for development including his heirs, successors and assigns.

**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.

**BLOCK** — property bounded on one side by a street, and other three sides, by a street, railroad right-of-way, waterway, unsubdivided area or other definite barrier.

**BOARD** — any body granted jurisdiction under a land use ordinance or under this Chapter to render final adjudications.

**BOROUGH COUNCIL** — The Borough Council of the Borough of Elizabethtown.

**BUILDING** — any enclosed or open structure, other than a boundary wall or fence, occupying more than four square feet of area and/or having a roof supported by columns, piers, or walls.

**BUILDING, ACCESSORY** — a detached, subordinate building, the use of which is customarily incidental and subordinate to that of the principal building, which is located on the same lots as that occupied by the principal building.

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**BUILDING, PRINCIPAL** — a building which is enclosed within exterior walls or fire walls, which is built, erected, and framed of component structural parts, which is designated for housing, shelter, enclosure and support of individuals, animals, or property of any kind, and which is a main structure on a given lot.

**BUILDING SETBACK LINE** — a line within a lot, designated on a plan as the minimum required distance between any structure and the adjacent street centerline.

**CARTWAY** — the surface of a street, drive or alley available for vehicular traffic.

**CHANNEL** — a natural or artificial watercourse with a definite bed and banks which confine and conduct continuously or periodically flowing water.

**CLEAR SIGHT TRIANGLE** — an area of unobstructed vision at a street intersection defined by a line of sight between points at a given distance from the intersection of the street centerlines.

**COMMISSION** — the Borough of Elizabethtown Planning Commission or, as authorized, the Commission's staff.

**COMMON OPEN SPACE** — a parcel or parcels of land or an area of water, or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of a development, not including streets, off-street parking areas, and areas set aside for public facilities.

**COMPREHENSIVE PLAN** — the official public document prepared in accordance with the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended, consisting of maps, charts, and textual material, that constitutes a policy guide to decisions about the physical and social development of a municipality.

**CROSSWALK** — a right of way, municipally or private owned, intended to furnish access for pedestrians.

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

**DEDICATION** — the deliberate appropriation of land by its owner for general public use.

**DEED** — a written instrument whereby an estate in real property is conveyed.

**DECISION** — final adjudication of any board or other body granted jurisdiction under any land use ordinance or this Chapter to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be appealable to the court of common pleas of the county and judicial district wherein the Borough of Elizabethtown lies.

DETENTION BASIN — a reservoir which temporarily contains storm water run-off and releases it gradually into a watercourse or storm water facility.

DETERMINATION — final action by an officer, body or agency charged with the administration of any land use ordinance or applications thereunder, except the following:

- A. The Borough Council;
- B. The Zoning Hearing Board; or,
- C. The Planning Commission, only if and to the extent the Planning Commission is charged with final decision on preliminary or final plans under the subdivision and land development or planned residential development ordinances. Determinations shall be appealable only to the boards designated as having jurisdiction for such appeal.

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.

DEVELOPMENT PLAN — the provisions for development including a planned residential development, a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways and parking facilities, common open space and public facilities. The phrase “provisions of development plan” when used in this Chapter shall mean the written and graphic materials referred to in this definition.

DOUBLE FRONTAGE LOT — a lot with front and rear street frontage.

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

DWELLING TYPES –

- A. APARTMENT — a room or suite of rooms in a multiple family structure which is arranged, designed, used or intended to be used as a housekeeping unit for a single family.
- B. GARDEN APARTMENT — a multiple family dwelling of up to three stories in height designed for rental or condominium ownership of each housekeeping unit.

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- C. MULTIPLE FAMILY DWELLING — a building containing three or more dwellings each accommodating one family.
- D. MULTIPLE FAMILY DEVELOPMENT — two or more buildings containing multiple family dwellings which are constructed upon the same tract of land.
- E. QUADRAPLEX — a building containing four dwellings, each sharing two common party walls which are constructed upon the same tract of land.
- F. RESIDENTIAL CONVERSION UNIT — a building which has been altered to accommodate one or more dwelling units provided that such alteration is confined to the already existing structural shell and that such alteration may not include an extension of the sides or an increase in the height of the existing structure.
- G. SINGLE FAMILY ATTACHED (TOWNHOUSES) — three or more dwelling units each accommodating one family and attached side by side through the use of a party wall with side yards adjacent to each end unit.
- H. SINGLE FAMILY DETACHED — a dwelling unit accommodating a single family and having two side yards.
- I. SINGLE FAMILY SEMIDETACHED — two dwelling units each accommodating one family which are attached side by side through the use of a party wall with each dwelling unit having one side yard.
- J. TWO FAMILY DETACHED — two dwelling units each accommodating one family which are located one over the other with the building having two side yards.

EASEMENT — a right-of-way granted for limited use of private land for a public or quasi-public or private purpose, and within which the owner of the property shall not have the right to make use of the land in a manner that violates the right of the grantee.

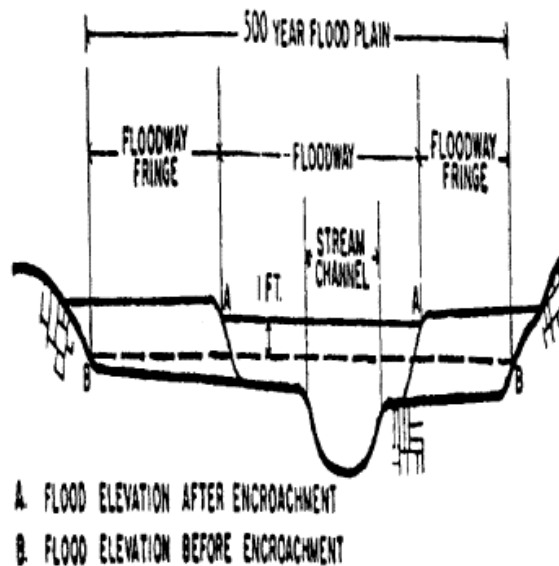
EAWA — the Elizabethtown Area Water Authority or any agency successor thereto.

ENGINEER — a professional engineer registered by the Commonwealth of Pennsylvania.

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

FLOODPLAIN — the area of inundation which functions as a storage or holding area for floodwater to a width required for a 500 year flood. The location of the floodplain shall be established in accordance with §610.

**FLOODWAY** — the channel of a stream, plus any adjacent floodplain area, that must be kept free of encroachment in order that the 500 year flood level will not increase 1/2 foot in flood height. (See figure below)



A. FLOOD ELEVATION AFTER ENCROACHMENT

B. FLOOD ELEVATION BEFORE ENCROACHMENT

**FLOODWAY FRINGE** — that portion of the floodplain which could be completely obstructed without increasing the water surface elevation of the 500 year flood more than 1/2 foot at any point.

**FLOOD PROOFING** — any combination of structural and/or nonstructural provisions, additions, changes or adjustments to structures or contents which are designed or adapted primarily to reduce or eliminate flood damage to those structures or contents. Flood proofing shall be in accordance with U.S. Army Corps of Engineers report entitled "EP 1165-2-314; Flood Proofing Regulations".

**IMPROVEMENTS** — Physical changes to the land, including but not limited to, grading, paving, curbs, gutters, storm sewers and drains, improvements to existing watercourses, sidewalks, street signs, monuments, water supply facilities and sewage disposal facilities.

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

- A. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
  - (1) A group of two Or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential

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building on a lot or lots regardless of the number of occupants or tenure; or,

- (2) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features;

B. A subdivision of land.

C. "Land development" does not include development which involves:

- (1) The conversion of an existing single family detached dwelling or single family semidetached dwelling into not more than three residential units, unless such units are intended to be a condominium;
- (2) The addition of an accessory building, including farm building, on a lot or lots subordinate to an existing principal building; or,
- (3) The addition or conversion of buildings or rides within the confines of an enterprise which would be considered an amusement park. For the purposes of this subsection, an amusement park is defined as a tract or area used principally as a location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved by the proper authorities.

**LANDOWNER** — the legal, beneficial, equitable owner or owners of land, including the holder of an option or contract to purchase (whether or not such option or contract is subject to any conditions), a lessee (if he is authorized under the lease to exercise the right of the landowner), or another person having a proprietary interest in land.

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

**LOT AREA** — the area contained within the property line of a lot (as shown on the plan), excluding space within all streets and within all permanent drainage easements, but including the areas of all other easements.

**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.

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.

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.

MONUMENT — a stone or concrete monument with a flat top at least four inches in diameter or square. It is recommended that the bottom sides or radius be at least two inches greater than the top to minimize movements caused by frost. The monument should contain a copper or brass dowel and be at least 30 inches in length.

MPC — the Pennsylvania Municipalities Planning Code, the Act of July 31, 1968, P.L. 805, No. 247, as amended and reenacted by the Act of December 21, 1988, P.L. 1329, No. 170, as amended, 53 P.S. §10101 et seq.

MUNICIPAL AUTHORITY — a body politic and corporate created pursuant to the Act of May 2, 1945 (P.L. 382, No. 164), known as the “Municipalities Authority Act of 1945.”

OFFICIAL MAP — an official map prepared in accordance with the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended.

PENNDOT — the Pennsylvania Department of Transportation or any agency successor thereto.

PERFORMANCE GUARANTEE — any security which may be accepted by the Borough Council to guarantee that the proper construction of improvements be made by the developer as a condition for the approval of the final plan, including corporate bonds, escrow agreements and other similar collateral or surety agreements.

PLAN –

- A. FINAL PLAN — a complete and exact subdivision and/or land development plan, including all supplementary data specified in this Chapter.
- B. LOT ADD-ON PLAN — a complete and exact subdivision plan including all supplementary data specified in this Chapter.
- C. MINOR SUBDIVISION PLAN — a complete and exact subdivision plan including all supplementary data specified in this Chapter.
- D. PRELIMINARY PLAN — a subdivision and/or land development plan including all required supplementary data specified in this Chapter, showing approximate locations.

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- E. **SKETCH PLAN** — an informal plan, not necessarily to exact scale, indicating salient existing features of a tract and its surroundings, with the general layout of a proposal prepared in accordance with this Chapter.

**PLANNED RESIDENTIAL DEVELOPMENT** — an area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, or combination of residential and nonresidential uses, the development plan for which does not correspond in lot size, bulk, type of dwelling or use, density or intensity, lot coverage and required open space to the regulations established in any one district created, from time to time, under the provisions of this Chapter.

**PUBLIC** — owned, operated or controlled by a government agency, whether Federal, State or local, and including any corporation created by law for the performance of certain specialized governmental functions, and the school district.

**PUBLIC GROUNDS** — includes:

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

**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,” 53 P.S. §§271 et seq.

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

**REPORT** — Any letter, review, memorandum, compilation or similar writing made by any body, board, officer or consultant other than a solicitor to any other body, board, officer or consultant for the purpose of assisting the recipient of such report in the rendering of any decision or determination. All reports shall be deemed recommendatory and advisory only and shall not be binding upon the recipient, board, officer, body or agency, nor shall any appeal lie therefrom. Any report used, received or considered by the body, board, officer or agency rendering a determination or decision shall be made available for inspection to the applicant and all other parties to any proceeding upon request, and copies thereof shall be provided at cost of reproduction.



**RETENTION BASIN** — a reservoir designed to retain stormwater runoff with its primary release of water being through the infiltration of said water into the ground.

**REVERSE FRONTAGE LOT** — a lot with front and rear street frontage, where vehicular access is prohibited to and from the higher density street.

**RIGHT-OF-WAY** — the total width of any land reserved or dedicated as a street, alley, pedestrian way, or for other public or private use.

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

**SEDIMENTATION** — the process by which soil or other surface material is accumulated or deposited by wind, water, or gravity.

**STORMWATER MANAGEMENT DATA** — the plan information, designed in accordance with this Chapter, which identifies design and construction details for managing the quantity and quality of stormwater runoff.

**STORMWATER MANAGEMENT FACILITIES** — those controls and measures (e.g., storm sewers, berms, terraces, bridges, dams, basins, infiltration systems, swales, watercourses, and floodplains) used to effect a stormwater management program.

**SIGHT DISTANCE** — the length of road visible to the driver of a passenger vehicle at any given point in the road when viewing is unobstructed by traffic.

**STREET** — includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct or any other ways used or intended to be used by vehicular traffic or pedestrians whether public or private. Streets are further classified according to the functions they perform:

- A. **ARTERIAL STREET** — a street serving a large volume of comparatively high-speed and long-distance traffic, including all facilities classified as main and secondary highways by the Pennsylvania Department of Transportation.
- B. **COLLECTOR STREET** — a street which, in addition to providing access to abutting properties, intercepts local streets to provide a route giving access to community facilities and/or other collector and arterial streets (streets in industrial and commercial subdivisions shall generally be considered collector streets).
- C. **LOCAL STREET** — a street used primarily to provide access to abutting properties.

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- D. HALF (PARTIAL) STREET – a street, generally parallel and adjacent to a property line, having a lesser right-of-way width than normally required for improvement and use of the street.
- E. MARGINAL ACCESS STREET – a local street, parallel and adjacent to a major street (but separated from it by a reserve strip) which provides access to abutting properties and control of intersections with the major street.
- F. SERVICE STREET (ALLEY) – a minor right-of-way providing secondary vehicular access to the side or rear of two or more properties.

STREET, PRIVATE – a street not offered for dedication or whose dedication was not accepted by the Borough of Elizabethtown.

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

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

SUBSTANTIALLY COMPLETED – 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 the requirements of this Chapter) of those improvements required as a condition for 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.

SURVEYOR – a surveyor registered in the Commonwealth of Pennsylvania.

SWALE – a wide shallow ditch which gathers or carries surface water.

TRANSFERABLE DEVELOPMENT RIGHTS – the attaching of development rights to specified lands which are desired by the Borough to be kept undeveloped, but permitting those rights to be transferred from those lands so that the development potential which they represent may occur on other lands within the Borough of Elizabethtown where more intensive development is deemed by the Borough of Elizabethtown to be appropriate.

UNDEVELOPED LAND – any lot, tract or parcel of land which has not been graded or in any other manner prepared for the construction of a building.

WATERCOURSE – a permanent or intermittent stream, river, brook, creek or swale, whether natural or man-made, for gathering or carrying surface water.

WATER SURVEY – an inventory of the source, quantity, yield and use of groundwater and surface-water resources within the Borough of Elizabethtown.

(Ord. 663, 6/20/1985, §202; as amended by Ord. 829, 11/15/2001; and by Ord. 897, 7/17/2008)



## **PART 3**

### **PLAN PROCESSING PROCEDURES**

#### **§301. General Statement.**

Whenever a subdivision or land development is desired to be effected in the Borough of Elizabethtown, Lancaster County, Pennsylvania, a plan of the layout of such proposal shall be prepared, filed and processed with the Borough Planning Commission and Borough Council in compliance with the requirements of this Chapter.

(Ord. 663, 6/20/1985, §301)

#### **§302. Sketch Plan.**

1. Prior to the filing of a subdivision or land development plan for review and approval, the applicant is encouraged to submit a sketch plan to the Planning Commission for advice on the requirements necessary to achieve conformity with the standards of this and other applicable Borough ordinances, as well as, to alert the applicant to other factors which must be considered in the design of the subdivision or land development.
2. The plan shall be clearly labeled "SKETCH PLAN" and should include sufficient information to clearly indicate the character and extent of the proposed subdivision or land development and its relationship to existing conditions and facilities within the area in which it is to be located. It is recommended that sketch plan submissions include a map covering sufficient area to establish the location of the site and an informal plan of any existing or proposed streets, buildings, lot arrangement, utilities, significant natural features and other elements within the subdivision or land development including topographic contours.
3. At this stage, the Commission shall assist the applicant in determining whether or not the site is located in an identified flood hazard area, in which case, applicable floodplain management regulations shall be complied with. The applicant shall also be advised of the accessibility of public sewerage and public water to the development site.
4. Such discussions and sketch plan review will be considered as confidential between the developer and Commission. Submission of a sketch plan shall not constitute formal filing of a plan with the Commission.

(Ord. 663, 6/20/1985, §302)

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### §303. Preliminary Plan.

A preliminary plan is required for applications which propose new streets, all land development plans, and subdivision plans of seven or more lots. All other plans may be submitted as final plans as required herein.

#### A. Submission of Preliminary Plan.

- (1) The applicant, at least 14 calendar days prior to the meeting of the Planning Commission at which consideration is desired, shall file with the Borough Manager nine paper copies and one electronic copy of the preliminary plan containing the data required by this chapter.
- (2) In addition to filing with the Borough Planning Commission, the applicant shall concurrently submit such plans to the Lancaster County Planning Commission for review and report and to the Borough Engineer for review and comment. The Planning Commission will not make a recommendation and the Borough Council will not act on the preliminary plan until the County report is received or until the time period for receiving such report has expired.
- (3) All preliminary plans shall be prepared in accordance with the provisions of Part 4 of this Chapter.

#### B. Distribution.

- (1) The Borough Planning Commission shall distribute the preliminary plans in the following manner:
  - (a) Borough staff: two copies.
  - (b) Planning Commission: five copies.
  - (c) Borough Council: two copies.
- (2) If the subject site of the preliminary plan abuts a State highway, the applicant shall submit one additional copy to the Pennsylvania Department of Transportation.

#### C. Review of the Preliminary Plan.

- (1) At their next regularly scheduled meeting, the Planning Commission shall review the plan content in respect to completeness. If the plan submission is found to be complete in accordance with the requirements of this Chapter, the submission shall be accepted with said acceptance to constitute official plan filing by the applicant as of that meeting date, and the Commission may proceed with plan review.

- (2) If the plan documentation is found to be incomplete in respect to the requirements of this Chapter, the Planning Commission shall suspend review and the plan shall not be considered as being officially filed. Within five business days thereafter, the applicant shall be notified of the additional information required.
  - (3) The Planning Commission shall review the preliminary plan to determine its conformance with the standards contained in this Chapter and other applicable Borough ordinances, and shall require or recommend such changes and modifications as it deems necessary.
  - (4) Act or recommendation of the Planning Commission which involves engineering consideration shall be subject to review and comment by the Borough Engineer, which shall be incorporated and separately set forth with the analysis and recommendations of the Commission to the Borough Council.
- D. Planning Commission Action. The Planning Commission shall render a decision on the preliminary plan within 60 days after the plan filing date and submit copies of the plan documents and their recommendations to the Borough Council for action.
- E. Borough Council Action. The Borough Council will act upon preliminary plans and render decisions within the time limits and in the manner required by the MPC.
- F. Preliminary Approval.
  - (1) Approval of the preliminary plan constitutes approval of the proposed subdivision of land development in respect to the general design, the approximate dimensions, and other planned features. Preliminary approval binds the developer to the general scheme of the plan as approved. Preliminary approval does not authorize the recording, sale or transfer of lots or the installation of improvements.
  - (2) Preliminary approval shall expire within five years after being granted unless, due to extenuating circumstances an extension is requested by the applicant and approved by the Borough Council. Requests for extensions shall be submitted to the Borough Manager 30 days prior to any prevailing expiration date.
  - (3) Following preliminary plan approval, the applicant shall submit to the Borough Office two final paper copies and one final electronic copy of the approved preliminary plan documenting any and all revisions.

(Ord. 663, 6/20/1985, §303; as amended by Ord. 829, 11/15/2001; and by Ord. 897, 7/17/2008)

## SUBDIVISION AND LAND DEVELOPMENT

### **§304. Final Plan.**

The following procedure shall be followed in the submission and processing of final plans for proposed subdivisions and land developments.

#### A. Submission of the Final Plan.

- (1) The applicant shall, not later than five years after the date of approval of the preliminary plan, submit nine paper copies and one electronic copy of the required final plan documentation to the Borough Manager at least 14 calendar days prior to the meeting of the Planning Commission at which consideration is desired. Such documentation shall include all specifications and data required under this Chapter.
- (2) In addition to filing with the Borough Planning Commission, the applicant shall concurrently submit such plans to the Lancaster County Planning Commission for review and report and to the Borough Engineer for review and comment; provided, however, that if the procedures of the Lancaster County Planning Commission require any certification from the Borough as part of this submission, the applicant may submit such plan to the Lancaster County Planning Commission after receipt of the certification from the Borough. The Planning Commission will not make a recommendation and the Borough Council will not act on the final plan until the County report is received or until the time period for receiving such report has expired or until the Borough has been provided with confirmation that the applicant has submitted the plan to the Lancaster County Planning Commission if the applicant requires a certification from the Borough and cannot submit the plan concurrently to the Lancaster County Planning Commission.
- (3) All final plans shall be prepared in accordance with the provisions of Part 4 of this Chapter. Final plan submission may constitute only that portion of the approved preliminary plan which the applicant proposes to record and develop at the time, provided that such portion conforms with all of the requirements of this Chapter. In such cases, the applicant shall submit a tentative schedule for the development of the balance of the tract.

#### B. Distribution. The final plan copies shall be distributed in the manner set forth in §303B of this Part 3.

#### C. Review of the final plan. The Borough Planning Commission shall review the final plan in the same manner as set forth for review of preliminary plans in §303.



- D. Planning Commission action. The Planning Commission shall submit its recommendations and copies of the final plan to Borough Council for action within the time periods required by the MPC.
- E. Borough Council action. The Borough Council will act upon final plans and render decisions within the time limits and in the manner required by the MPC.

(Ord. 663, 6/20/1985, §304; as amended by Ord. 829, 11/15/2001; and by Ord. 897, 7/17/2008)

**§305. Final Plan Recordation.**

1. Upon approval and certification of a final plan, the applicant shall record the plan in the office of the Lancaster County Recorder of Deeds. Should the applicant fail to record the final plan within 90 days of the Borough Council's final plan approval, the Council action on the plan shall be null and void unless the Council grants a waiver by extending the effective time period of the approval.
2. The final plan shall be filed with the Lancaster County Recorder of Deeds before proceeding with the sale of lots.
3. The final plan shall be recorded with the Lancaster County Recorder of Deeds before proceeding with construction of any improvements and before issuance of any permits under the Zoning Ordinance [Chapter 27] or the Uniform Construction Code.
4. No subdivision or land development plan may be recorded unless it bears the endorsement of the Borough Planning Commission and Borough Council.
5. Recording of the final plan, after approval of the Borough Council, shall have the effect of an irrevocable offer to dedicate all streets and other areas designated for public use shown thereon unless reserved by the developer as hereinafter provided. The approval of Council shall not impose any duty upon the Borough concerning maintenance or improvement of any such dedicated street, or public use, until the Council shall have accepted the same by ordinance or resolution.
6. The developer may place a notation on the final plan to the effect that there is no offer of dedication to the public of certain designated uses, areas or streets, in which event the title to such areas shall remain with the owner, and the Borough Council shall assume no responsibility for improvements or maintenance thereof, which fact shall also be noted on the final plan.

(Ord. 663, 6/20/1985, §305; as amended by Ord. 897, 7/17/2008)

## SUBDIVISION AND LAND DEVELOPMENT

### **§306. Minor Subdivision Plan.**

In the case where six or fewer lots are proposed to be subdivided from a tract of land, the Borough Council, in response to a written request by the applicant, may waive the submission of a preliminary plan provided such proposal abuts an existing street and no new streets are involved. In such case, the applicant shall submit a final plan as detailed in this Chapter.

(Ord. 663, 6/20/1985, §306)

### **§307. Lot Add-On Plan.**

In the case where land is being transferred to be combined with an adjacent parcel involving fewer than three principal structures, for the sole purpose of increasing the lot size of an adjacent contiguous lot, the Borough Council, in response to a written request by the applicant, may waive the submission of a preliminary plan provided such proposal abuts an existing street and no new streets are involved. In such case, the applicant shall submit a final plan as detailed in this Chapter.

(Ord. 663, 6/20/1985, §307)

### **§308. Modifications.**

1. The Borough Council may grant a modification of the requirements of one or more provisions of this Chapter if the literal enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question, provided that such modification will not be contrary to the public interest and that the purpose and intent of this Chapter is observed.
2. All requests 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 this Chapter involved and the minimum modification necessary.
3. The request for modification shall be referred to the Planning Commission for advisory comments.
4. The Borough Council shall keep a written record of all action on all requests for modifications.

(Ord. 663, 6/20/1985, §308; as amended by Ord. 829, 11/15/2001)

**PART 4**  
**PLAN REQUIREMENTS**

**§401. General Statement.**

The following information is to be shown on or submitted with subdivision and land development plans by the applicant.

(Ord. 663, 6/20/1985, §401)

**§402. Sketch Plan.**

The scale and sheet size of sketch plans shall be as required for preliminary plans in §§403(1) and 403(4). The sketch plan shall show or be accompanied by the following data, legible in every detail and drawn to scale, but not necessarily containing precise dimensions:

- A. Name and address of the developer (if applicable) and landowner.
- B. Name of the individual and/or the firm that prepared the plan.
- C. Location map with sufficient information to enable the Commission to locate the property.
- D. North arrow.
- E. Written and graphic scales.
- F. Existing tract boundaries accurately labeled with the name(s) of adjacent landowner(s) and adjacent plan(s) of record.
- G. Name of the municipality or municipalities in which the project is located, including the location of any municipal boundary line(s) if located within the vicinity of the tract.
- H. Significant topographical and manmade features (e.g. bodies of water, quarries, floodplains, tree masses, structures).
- I. Proposed street, parking, building and lot layout.
- J. Proposed land use; if several land uses are proposed, the location of each land use shall be indicated.
- K. Statement explaining the methods of water supply and sewage disposal to be used.

## SUBDIVISION AND LAND DEVELOPMENT

(Ord. 663, 6/20/1985, §402)

### **§403. Preliminary Plan.**

Preliminary subdivision and land development plans shall be prepared by an engineer or surveyor. The preliminary plan shall show, or be accompanied by, or be prepared in accordance with the following:

#### **A. Drafting Standards.**

- (1) The plan shall be clearly and legibly drawn at a scale of 10 feet, 20 feet, 50 feet or 100 feet to the inch.
- (2) Dimensions shall be in feet and decimals; bearings shall be in degrees, minutes and seconds. Lot line descriptions shall read in a clockwise direction.
- (3) The survey shall not have an error of closure greater than one foot in 10,000 feet.
- (4) The sheet size shall be no smaller than 18 x 22 inches and no larger than 34 x 44 inches. If the plan is prepared in two or more sections, a key map showing the location of the sections shall be placed on each sheet. If more than one sheet is necessary, each sheet shall be the same size and numbered to show the relationship to the total number of sheets in the plan (e.g. Sheet 1 of 5).
- (5) Plans shall be legible in every detail.

#### **B. Location and Identification.**

- (1) The proposed project name or identifying title.
- (2) The municipality in which the project is to be located. (If the tract of land is located in the vicinity of a municipal boundary line, the location of the boundary shall be shown.
- (3) The name and address of the owner of the tract (or his authorized agent), the developer/subdivider, and the firm that prepared the plans.
- (4) The file or project number assigned by the firm that prepared the plan, the plan date and the date(s) of all plan revisions.
- (5) A north arrow, a graphic scale, and a written scale.

- (6) The entire existing tract boundary with bearings and distances. (If a landowner is going to retain a single lot with a lot area in excess of 10 acres, the boundary of that lot may be identified as a deed plotting and may be drawn at any legible scale; if the retained lot has a lot area of 10 or less acres, it must be described to the accuracy requirements of this Chapter.
- (7) The district and lot size and/or density requirements of the prevailing zoning ordinance or a note that a zoning ordinance does not exist.
- (8) The location of existing lot line markers along the perimeter of the entire existing tract.
- (9) A location map, drawn to scale, relating the subdivision to at least two intersections of road centerlines, including the approximate distance to the intersection of the centerlines to the nearest improved street intersection.

C. Existing Features.

- (1) Existing contours at a minimum vertical interval of two feet for land with average natural slope of 4% or less and at a minimum vertical interval of five feet for more steeply sloping land. Contours shall be accompanied by the location of the bench mark and a notation indicating the datum used. Contours plotted from the United States Geodetic Survey will not be accepted.
- (2) The names of all immediately adjacent landowners and the names and plan book record numbers of all previously recorded plans for adjacent projects.
- (3) Within 200 feet of the subject tract, the location of all existing legal rights-of-way for public or private streets or drives, railroads, public or private sewer mains, aqueducts, water mains and feeders, fire hydrants, electric transmission lines, gas transmission lines, oil transmission lines, watercourses, storm drainage facilities, and other significant features.
- (4) Within the subject tract, the locations, names and dimensions of existing streets and alleys, location and sizes of existing sanitary sewers and storm drains, domestic water locations, locations and sizes of utilities, all buildings, floodplains, watercourses and approximate locations of all tree masses.

D. Plan Information.

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- (1) Location, width and approximate grade of all proposed streets, alleys, rights-of-way and easements, including cartway and right-of-way widths.
- (2) Layout of lots, lot numbers, proposed lot lines with approximate dimensions and lot areas.
- (3) Playgrounds, public buildings, public areas and parcels of land proposed to be dedicated or reserved for public use.
- (4) Location of any proposed site improvement such as curbs, sidewalks, drives, street trees, fire hydrants and other relevant data.
- (5) Block and lot numbers in consecutive order (e.g. Block "A", Lots one through 10; Block "B", Lots 11 through 22).
- (6) In the case of land developments, the location and configuration of proposed buildings, parking compounds, streets, access drives, drive-ways, and all other significant planned facilities.
- (7) Total number of lots, units of occupancy, density and proposed land use (if a multiple land use is proposed, an indication of the location of each land use).
- (8) All existing property lines, easements and rights-of-way and the purpose for which easements or rights-of-way will be or have been established.
- (9) Building setback lines, with distances from the street centerline.
- (10) Identification of buildings to be demolished.
- (11) Typical street cross-section for each proposed street and typical cross-section for any existing street which will be improved as part of the application. Each cross-section shall include the entire right-of-way width.
- (12) Street centerline profile for each proposed street shown on the preliminary plan.
- (13) The preliminary design of the proposed sanitary sewer mains, water supply mains, and storm water management facilities. In addition to the design calculations, assumptions, and supporting data, a general plan shall include the approximate size, vertical location, and horizontal location of all facilities.
- (14) A statement on the plan indicating any proposed zoning amendment or variance, if applicable.

- (15) A statement on the plan indicating any existing or proposed waivers granted by the Council.
- (16) Proposed street names.

E. Certificates, Notifications and Reports.

- (1) Where the preliminary plan covers only a part of the entire landholdings, a sketch of the future street system of the unsubmitted part shall be furnished. The street system of the submitted part will be considered in light of adjustments and connections with future streets in the part not submitted.
- (2) Where applicable, a plan revision module for land development shall be the responsibility of the applicant and shall be prepared in accordance with the rules and regulations of the Pennsylvania Department of Environmental Protection. The completed module shall accompany the preliminary plan submission.
- (3) Where the subdivision and/or land development lies partially or completely within any identified floodplain area or district or where such activities border on any identified floodplain area or district, the preliminary plan shall include the following information:
  - (a) The location and elevation of proposed roads, utilities and building sites, fills, flood or erosion protection facilities.
  - (b) The 500 year flood elevations along with reference material and/or calculations in a form and/or method acceptable to the Borough Engineer.
  - (c) Areas subject to special deed restrictions.
  - (d) Contours at intervals of two or five feet depending upon the slope of the land and identify accurately the boundaries of the floodplain areas or districts.
- (4) Certificate, signature and seal of the engineer or surveyor to the effect that the survey and/or plan are correct.
- (5) If water is to be provided by means other than private wells owned and maintained by the individual owners of lots within the subdivision or development, applicants shall present evidence to the Borough Council that the subdivision is to be supplied by a certified public utility, a bona fide cooperative association of lot owners, or by a municipal corporation, authority or utility. A copy of a Certificate of Public Convenience from the Pennsylvania Public Utility Commission or an ap-

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plication for such certificate, a cooperative agreement or a commitment or agreement to serve the area in question, whichever is appropriate, shall be acceptable.

- F. Filing Fee. The preliminary plan shall be accompanied by a check or money order drawn to Elizabethtown Borough in an amount specified on the fee schedule, adopted by resolution of the Borough Council.

(Ord. 663, 6/20/1985, §403; as amended by Ord. 829, 11/15/2001)

### **§404. Final Plan.**

Final subdivision and land development plans shall be prepared by an engineer or surveyor. The final plan shall show, be accompanied by, or prepared in accordance with the following:

- A. Drafting Standards. The same standards shall be required for a final plan as specified for a preliminary plan in §403(A) of this Chapter.
- B. Location and Identification. The same standards shall be required for a final plan as specified for a preliminary plan in §403(B) of this Chapter.
- C. Existing Features.
  - (1) Existing contours, if a preliminary plan was required and the contours identified with the preliminary plan were altered, at a minimum vertical interval of two feet for land with average natural slope of 4% or less and at a minimum vertical interval of five feet for more steeply sloping land. Contours shall be accompanied by the location of the bench mark and a notation indicating the datum used. Contours plotted from the United States Geodetic Survey will not be accepted. This information may be provided on separate sheets and is not subject to recording with the final plans.
  - (2) The names of all immediately adjacent landowners and the names and plan book record numbers of all previously recorded plans for adjacent projects.
  - (3) Within the area immediately contiguous to the subject tract, the locations, names and dimensions of existing streets and alleys, the locations and sizes of existing storm drainage facilities, floodplains, and all buildings.
- D. Plan Information.



- (1) Complete description of the centerline and the right-of-way line for all new streets. This description shall include distances and bearings with curve segments comprised of radius, tangent, arc, and chord.
- (2) Lot lines, with accurate bearings and distances, and lot areas for all parcels. Curve segments shall be comprised of arc, chord, bearing and distance. Along existing street rights-of-way the description may utilize the existing deed lines or road centerlines; along all proposed street rights-of-way, the description shall be prepared to the right-of-way lines.
- (3) Block and lot numbers in consecutive order (e.g. Block "A", Lots 1 through 10; Block "B", Lots 11 through 22).
- (4) In the case of land development plans, the location and configuration of proposed buildings, parking compounds, streets, access drives, driveways, and all other significant facilities.
- (5) Total number of lots, units of occupancy, density, and proposed land use (if a multiple land use is proposed, an indication of the location of each land use).
- (6) Playgrounds, public buildings, public areas and parcels of land proposed to be dedicated or reserved for public use.
- (7) Location of any proposed site improvements such as curbs, sidewalks, drives, street trees, fire hydrants and other relevant data.
- (8) All existing property lines, easements and rights-of-way and the purposes for such easements, and the purpose for which easements or rights-of-way will be or have been established.
- (9) Building setback lines, with distances from the street centerline.
- (10) Identification of buildings to be demolished.
- (11) Typical street cross-section for each proposed street and a typical crosssection for any existing street which will be improved as part of the application. Each cross-section shall include the entire right-of-way width.
- (12) Final vertical and horizontal alignment for each proposed street, sanitary sewer, storm sewer, and water distribution system. All street profiles shall show at least the existing (natural) profile along the centerline, proposed grade at the centerline, and the length of all proposed vertical curves for streets. All water distribution, storm sewer, and sanitary sewer systems shall provide manhole locations and size and

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type of material. This information may be provided on separate sheets and is not subject to recording with the final plans.

- (13) Source of title to the land included within the subject application, as shown by the books of the Lancaster County Recorder of Deeds.
- (14) Final street names.
- (15) Location and material of all permanent monuments and lot line markers, including a note that all monuments and lot line markers are set or indicating when they will be set.
- (16) In the case of land development plans, a grading plan. The grading plan shall include finished grades and ground-floor elevations. This information may be provided on separate sheets and is not subject to recording with the final plans. The plan shall comply with all provisions of the Elizabethtown Borough Stormwater Management and Earth Disturbance Ordinance of 2006 and as may be amended from time to time.<sup>1</sup>
- (17) Identification of any waivers granted by the Council.
- (18) The following stormwater management data for all plans, which shall be designed in accordance with the Elizabethtown Borough Stormwater Management and Earth Disturbance Ordinance of 2006 and as may be amended from time to time.<sup>2</sup> This information may be provided on a sheet with other data or on separate sheets and need not necessarily be recorded with the final plan. In the case of any dispute in the methodology used in the design of any stormwater management plan and/or in the presentation of such information, the Borough Council shall make the final determination on the design criteria, methodology, and form of presentation.
  - (a) All calculations, assumptions, criteria and references used in the design of the stormwater management facilities, the establishment of existing facilities' capacities, and the pre- and post-development peak discharges.
  - (b) All plans and profiles of the proposed stormwater management facilities, including the horizontal and vertical location, size, and type of material. This information shall be to a detail required for construction of the facilities.

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<sup>1</sup> Editor's Note: See Ch. 17, Stormwater Management.

<sup>2</sup> Editor's Note: See Ch. 17, Stormwater Management.

- (c) For all basins, a plotting or tabulation of the storage volumes and discharge curves with corresponding water-surface elevations, inflow and outflow hydrographs.
- (d) For all basins which hold two acre-feet or more of water and have an embankment that is six feet or more in height, soil structure and characteristics shall be provided. An engineer shall prepare plans and data. These submissions shall provide design solutions for the frost-heave potential, spring-swell potential, soil-bearing strength, water infiltration, soil setting characteristics, fill and backfilling procedures, and soil treatment techniques as required to protect the improvements for adjacent structures.
- (e) All erosion and sedimentation control measures, temporary as well as permanent, including the staging of earth-moving activities, in sufficient detail to clearly indicate their function. The erosion and sedimentation control plan shall meet all requirements of the DEP Erosion and Sedimentation Control Manual. The applicant shall demonstrate that the applicant has submitted the erosion and sedimentation control plan to the Conservation District for review.
- (f) The guidelines for lot grading within subdivisions. This information shall identify the direction of stormwater runoff flow within each lot and the areas where stormwater flows will be concentrated.
- (g) Finished first-floor elevations for all residential units shall be shown on the plan.
- (h) A note on the plan indicating any area that is not to be offered for dedication, along with a statement that the Borough is not responsible for maintenance of any area not dedicated to and accepted for public use and that no alteration to swales or basins or placement of structures shall be permitted within easements.
- (i) Designation of limits of on-site watershed areas, including a map which shows the off-site watershed areas.
- (j) Description of any ownership and maintenance program, in a recordable form, that clearly sets forth the ownership and maintenance responsibilities for all temporary and permanent stormwater management facilities, including the following:
  - 1) Description of the method and extent of the maintenance requirements.

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- 2) When maintained by a private entity, identification of an individual, corporation, association, or other entity responsible for ownership and maintenance.
- 3) When maintained by a private entity, a copy of the legally binding document, in recordable form, which provides that the Borough shall have the right to:
  - a) Inspect the facilities at any time.
  - b) Require the private entity to take corrective measures and assign the private entity reasonable time periods for any necessary action.
  - c) Authorize maintenance to be done and lien the cost of the work against the properties of the private entity responsible for maintenance.
- 4) Establishment of suitable easements for access to storm-water management facilities.

### E. Certificates, Notifications and Reports.

- (1) Notification from the Department of Environmental Protection that approval of the Sewer Facility Plan Revision (Plan Revision Module for Land Development) or supplement has been granted.
- (2) Certificate, signature and seal of the engineer to the effect that the survey and/or plan are correct.
- (3) A statement, duly acknowledged before an officer authorized to take acknowledgment of deeds and signed by the landowner, to the effect that the subdivision or land development shown on the plan is the deed of the owner, that all those signing are all owners of the property shown on the survey and plan, and that they desire the same to be recorded as such. This must be dated following the last change or revision of said plan.
- (4) A certificate of dedication of streets and other public property.
- (5) A note to be placed on the plan indicating any area that is not to be offered for dedication, if applicable.
- (6) The submission of a controlling agreement in accordance with the provisions of this Chapter when an application proposes to establish a street which is not offered for dedication to the public use.
- (7) Proposed protective covenants in conjunction with the land, if any.

- (8) A final erosion and sedimentation control plan pursuant to the rules and regulation of the Pennsylvania Department of Environmental Protection and evidence that any required erosion and sedimentation control permit has been issued, if applicable.
- (9) When any portion of the tract proposed for subdivision or land development is located within an identified flood district or floodplain area, the following information shall be required as part of the final plan and shall be prepared by a registered engineer or surveyor:
  - (a) Report on how the floodplain areas are determined and what effect the proposed improvements will have on the floodplain. The report shall include any references, design criteria, and/or calculators which are needed by the Borough Engineer to verify the flood elevations.
  - (b) The exact location and elevation of all proposed buildings, structures, roads, and public utilities to be constructed within any identified floodplain area or district. All such maps shall show contours at intervals of two feet and identify accurately the boundaries of the floodplain areas, and shall be verified by the Borough Engineer.
  - (c) Submission of the final plan shall also be accompanied by all required permits and related documentation from the Department of Environmental Protection and any other Commonwealth agency where any alteration or relocation of a stream or watercourse is proposed. In addition, documentation shall be submitted indicating that all affected adjacent municipalities have been notified of the proposed alteration or relocation. The Department of Community Affairs and the Federal Insurance Administrator shall also be notified by the applicant whenever any such activity is proposed.
- (10) Any other certificates, affidavits, endorsements, or reports as may be required by the Borough Council or Borough Planning Commission in the enforcement of this Chapter. The Lancaster County Planning Commission Certificate (Appendix No. 4 or other certificate language as may be approved by the Lancaster County Planning Commission) must also be placed on the plan.
- (11) If water is to be provided by means other than private wells owned and maintained by the individual owners of lots within the subdivision or development, applicants shall present evidence to the Borough Council that the subdivision is to be supplied by a certified public utility, a bona fide cooperative association of lot owners, or by a municipal corporation, authority or utility. A copy of a Certificate of Public Con-

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venience from the Pennsylvania Public Utility Commission or an application for such certificate, a cooperative agreement or a commitment or agreement to serve the area in question, whichever is appropriate, shall be acceptable.

- F. Filing Fee. The final plan shall also be accompanied by a check or money order drawn to Elizabethtown Borough in an amount specified on the fee schedule adopted by resolution of the Borough Council.
- G. Reports. The applicant shall provide the same reports as required to be submitted with a preliminary plan as set forth in §403E(3) and shall also provide:
  - (1) A final hydrologic report as required by the Stormwater Management and Earth Disturbance Ordinance of 2006 and as may be amended from time to time.<sup>3</sup>
  - (2) A stormwater management and declaration of easement in the form required by the Stormwater Management Ordinance.
- H. If the final plan proposes an enlargement of an existing lot, the applicant shall provide a copy of the proposed deed to transfer the land and a copy of the proposed deed with a perimeter description for the lot as enlarged.

(Ord. 663, 6/20/1985, §404; as amended by Ord. 829, 11/15/2001; by Ord. 872, 5/18/2006, Arts. I-III; and by Ord. 897, 7/17/2008)

### **§405. Minor Subdivision Plan.**

Minor subdivision plans shall be prepared by an engineer or surveyor and shall include the following information:

- A. Drafting Standards. The same standards shall be required for a minor subdivision plan as specified for a preliminary plan in §403(A) of this Chapter.
- B. Location and Identification. The same standards shall be required for a minor subdivision plan as specified for a preliminary plan in §403(B) of this Chapter.
- C. Plan Information. The same standards shall be required for a minor subdivision plan as specified for a final plan in §404(D) of this Chapter.
- D. Certificates, Notifications and Reports.
  - (1) Certificate, signature and seal of the engineer or surveyor to the effect that the survey and/or plan are correct.

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<sup>3</sup> Editor's Note: See Ch. 17, Stormwater Management.

- (2) Notification from the Department of Environmental Protection that approval of the sewer facility plan revision (plan revision module for land development) or supplement has been granted, or notice from the Borough Engineer that a plan revision or supplement is not necessary.
- (3) A statement, duly acknowledged before an officer authorized to take acknowledgement of deeds and signed by the landowner, to the effect that the subdivision or land development shown on the plan is the act and the deed of the owner, that all those signing are all the owners of the property shown on the survey and plan, and that they desire the same to be recorded as such.
- (4) Proposed protective covenants in conjunction with the land, if any.
- (5) A final erosion and sedimentation control plan pursuant to the rules and regulations of the Pennsylvania Department of Environmental Protection and evidence that any required erosion and sedimentation control permit has been issued, if applicable.
- (6) When any portion of the tract proposed for subdivision or land development is located within an identified flood district or floodplain area, the following information shall be required as part of the final plan and shall be prepared by a registered engineer or surveyor:
  - (a) The exact location and elevation of all proposed buildings, structures, roads, and public utilities to be constructed within any identified floodplain area or district. All such maps shall show contours at intervals of two feet and identify accurately the boundaries of the floodplain areas, and shall be verified by the Borough Engineer.
  - (b) Submission of the final plan shall also be accompanied by all required permits and related documentation from the Department of Environmental Protection and any other Commonwealth agency where any alteration or relocation of a stream or watercourse is proposed. In addition, documentation shall be submitted indicating that all affected adjacent municipalities have been notified of the proposed alteration or relocation. The Department of Community Affairs and the Federal Insurance Administrator shall also be notified by the applicant whenever any such activity is proposed.
- (7) Any other certificates, affidavits, endorsements or reports as may be required by the Borough Council or Borough Planning Commission in the enforcement of this Chapter.

## SUBDIVISION AND LAND DEVELOPMENT

- (8) If water is to be provided by means other than private wells owned and maintained by the individual owners of lots within the subdivision or development, applicants shall present evidence to the Borough Council that the subdivision is to be supplied by a certified public utility, a bona fide cooperative association of lot owners, or by a municipal corporation, authority or utility. A copy of a Certificate of Public Convenience from the Pennsylvania Public Utility Commission or an application for such certificate, a cooperative agreement or a commitment or agreement to serve the area in question, whichever is appropriate, shall be acceptable.
- E. Filing Fee. The minor subdivision plan shall also be accompanied by a check or money order drawn to Elizabethtown Borough in an amount specified on the fee schedule adopted by resolution of the Borough Council.
- F. If the final plan proposes an enlargement of an existing lot, the applicant shall provide a copy of the proposed deed to transfer the land and a copy of the proposed deed with a perimeter description for the lot as enlarged.

(Ord. 663, 6/20/1985, §405; as amended by Ord. 829, 11/15/2001; and by Ord. 897, 7/17/2008)

### **§406. Lot Add-On Plan.**

Lot add-on plans shall be prepared by an engineer or surveyor and shall include the following information:

- A. Drafting Standards. The same standards shall be required for a lot add-on plan as specified for a preliminary plan in §403(A) of this Chapter.
- B. Location and Identification. The same standards shall be required for a lot add-on plan as specified for a preliminary plan in §403(B) of this Chapter.
- C. Plan Information. The same standards shall be required for a lot add-on plan as specified for a final plan in §404(D) of this Chapter.
- D. Certificates, Notifications and Reports.
  - (1) Certificate, signature and seal of the engineer or surveyor to the effect that the survey and/or plan are correct.
  - (2) Notification from the Department of Environmental Protection that approval of the sewer facility plan revision (plan revision module for and development) or supplement has been granted, or notice from the Borough Engineer that a plan revision or supplement is not necessary.
  - (3) A statement, duly acknowledged before an officer authorized to take acknowledgment of deeds and signed by the landowner, to the effect



that the subdivision or land development shown on the plan is the act and the deed of the owner, that all those signing are all the owners of the property shown on the survey and plan, and that they desire the same to be recorded as such.

- (4) Proposed protective covenants in conjunction with the land, if any.
- (5) A final erosion and sedimentation control plan pursuant to the rules and regulation of the Pennsylvania Department of Environmental Protection and evidence that any required erosion and sedimentation control permit has been issued, if applicable.
- (6) When any portion of the tract proposed for subdivision or land development is located within an identified flood district or floodplain area, the following information shall be required as part of the final plan and shall be prepared by a registered engineer or surveyor:
  - (a) The exact location and elevation of all proposed buildings, structures, roads and public utilities to be constructed within any identified floodplain area or district. All such maps shall show contours at intervals of two feet and identify accurately the boundaries of the floodplain area and shall be verified by the Borough Engineer.
  - (b) Submission of the final plan shall also be accompanied by all required permits and related documentation from the Department of Environmental Protection and any other Commonwealth agency where any alteration or relocation of a stream or watercourse is proposed. In addition, documentation shall be submitted indicating that all affected adjacent municipalities have been notified of the proposed alteration or relocation. The Department of Community Affairs and the Federal Insurance Administrator shall also be notified by the applicant whenever any such activity is proposed.
- (7) Any other certificates, affidavits, endorsements or reports as may be required by the Borough Council or Borough Planning Commission in the enforcement of this Chapter.
- (8) If water is to be provided by means other than private wells owned and maintained by the individual owners of lots within the subdivision or development, applicants shall present evidence to the Borough Council that the subdivision is to be supplied by a certified public utility, a bona fide cooperative association of lot owners, or by a municipal corporation, authority or utility. A copy of a Certificate of Public Convenience from the Pennsylvania Public Utility Commission or an application for such certificate, a cooperative agreement or a commitment or agreement to serve the area in question, whichever is appropriate, shall be acceptable.

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- E. Filing Fee. The lot add-on plan shall also be accompanied by a check or money order drawn to Elizabethtown Borough in an amount specified on the fee schedule adopted by resolution of the Borough Council.
- F. If the final plan proposes an enlargement of an existing lot, the applicant shall provide a copy of the proposed deed to transfer the land and a copy of the proposed deed with a perimeter description for the lot as enlarged.

(Ord. 663, 6/20/1985, §406; as amended by Ord. 829, 11/15/2001; and by Ord. 897, 7/17/2008)

## PART 5

### IMPROVEMENT GUARANTEE

#### **§501. Completion of Improvements or Guarantee thereof Prerequisite to final Plat Approval.**

1. No plat shall be finally approved unless the streets shown on such plat have been improved to a mud-free or otherwise permanently passable condition, or improved as may be otherwise required by this Chapter and any walkways, curbs, gutters, street lights, fire hydrants, shade trees, water mains, sanitary sewers, storm sewers and other improvements as may be required by this Chapter have been installed in accordance with this Chapter. In lieu of the completion of any improvements required as a condition for the final approval of a plat, including improvements or fees otherwise required by this Chapter, the developer may deposit with the Borough of Elizabethtown financial security in an amount sufficient to cover the costs of such improvements or common amenities including basins and other related drainage facilities, recreational facilities, open space improvements, or buffer or screen plantings which may be required.
2. When requested by the developer, in order to facilitate financing, the Borough Council, shall furnish the developer with a signed copy of a resolution indicating approval of the final plat contingent upon the developer obtaining a satisfactory financial security. The final plat or record plan shall not be signed nor recorded until the financial improvements agreement is executed. The resolution or letter of contingent approval shall expire and be deemed to be revoked if the financial security agreement is not executed within 90 days unless a written extension is granted by the Borough Council; such extension shall not be unreasonably withheld and shall be placed in writing at the request of the developer.
3. Without limitation as to other types of financial security which the Borough of Elizabethtown may approve, which approval shall not be unreasonably withheld, Federal or Commonwealth chartered lending institution irrevocable letters of credit and restrictive or escrow accounts in such lending institutions shall be deemed acceptable financial security for the purposes of this Section.
4. Such financial security shall be posted with a bonding company or Federal or Commonwealth chartered lending institution chosen by the party posting the financial security, provided said bonding company or lending institution is authorized to conduct such business within the Commonwealth.
5. Such bond, or other security shall provide for, and secure to the public the completion of any improvements which may be required on or before the date fixed in the formal action of approval or accompanying agreement for completion of the improvements.

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6. The amount of financial security to be posted for the completion of the required improvements shall be equal to 110% of the cost of completion estimated as of 90 days following the date scheduled for completion by the developer. Annually, the Borough of Elizabethtown may adjust the amount of the financial security by comparing the actual cost of the improvements which have been completed and the estimated cost for the completion of the remaining improvements as of the expiration of the ninetieth day after either the original date scheduled for completion or a rescheduled date of completion. Subsequent to said adjustment, the Borough or Elizabethtown may require the developer to post additional security in order to assure that the financial security equals said 110%. Any additional security shall be posted by the developer in accordance with this subsection.
7. The amount of financial security required shall be based upon an estimate of the cost of completion of the required improvements, submitted by the applicant or developer and prepared by a professional engineer licensed as such in this Commonwealth and certified by such engineer to be a fair and reasonable estimate of such cost. The Borough of Elizabethtown, upon the recommendation of the Borough engineer, may refuse to accept such estimate for good cause shown. If the applicant or developer and the Borough of Elizabethtown are unable to agree upon an estimate, then the estimate shall be recalculated and recertified by another professional engineer licensed as such in this Commonwealth and chosen mutually by the Borough of Elizabethtown and the applicant or developer. The estimate certified by the third engineer shall be presumed fair and reasonable and shall be the final estimate. In the event that a third engineer is so chosen, fees for the services of said engineer shall be paid equally by the Borough of Elizabethtown and the applicant or developer.
8. If the party posting the financial security requires more than one year from the date of posting of the financial security to complete the required improvements, the amount of financial security may be increased by an additional 10% for each one year period beyond the first anniversary date from posting of financial security or to an amount not exceeding 110% of the cost of completing the required improvements as reestablished on or about the expiration of the preceding one year period by using the above bidding procedure.
9. In the case where development is projected over a period of years, the Borough Council may authorize submission of final plats by sections or stages of development subject to such requirements or guarantees as to improvements in future section or stages of development as it finds essential for the protection of any finally approved section of the development.
10. As the work of installing the required improvements proceeds, the party posting the financial security may request the Borough Council to release or authorize the release, from time to time, of such portions of the financial security necessary for payment to the contractor or contractors performing the work. Any such requests shall be in writing addressed to the Borough Council, and the Borough Council shall have 45 days from receipt of such request within which to allow the Borough engineer to certify, in writing, to the Borough Council that such portion of the

work upon the improvements has been completed in accordance with the approved plat. Upon such certification the Borough Council shall authorize release by the bonding company or lending institution of an amount as estimated by the Borough engineer fairly representing the value of the improvements completed or, if the Borough Council fails to act within said 45 day period, the Borough Council shall be deemed to have approved the release of funds as requested. The Borough Council may, prior to final release at the time of completion and certification by its engineer, require retention of 10% of the estimated cost of the aforesaid improvements.

11. Where the Borough Council accepts dedication of all or some of the required improvements following completion, the Borough Council may require the posting of financial security to secure structural integrity of said improvements as well as the functioning of said improvements in accordance with the design and specifications as depicted on the final plat for a term not to exceed 18 months from the date of acceptance of dedication. Said financial security shall be of the same type as otherwise required in this Section with regard to installation of such improvements, and the amount of the financial security shall not exceed 15% of the actual cost of installation of said improvements.
12. 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 of Elizabethtown, 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.
13. If financial security has been provided in lieu of the completion of improvements required as a condition for the final approval of a plat as set forth in this Section, the Borough of Elizabethtown shall not condition the issuance of building, grading or other permits relating to the erection or placement of improvements, including buildings, upon the lots or land as depicted upon the final plat upon actual completion of the improvements depicted upon the approved final plat. Moreover, if said financial security has been provided, occupancy permits for any building or buildings to be erected shall not be withheld following the improvement of the streets providing access to and from existing public roads to such building or buildings to a mud-free or otherwise permanently passable condition, as well as the completion of all other improvements as depicted upon the approved plat, either upon the lot or lots or beyond the lot or lots in question if such improvements are necessary for the reasonable use of or occupancy of the building or buildings.
14. All forms of improvement guarantees, as listed herein, shall contain language acceptable to the Borough insuring that the respective guarantee is automatically renewable, and shall not expire or terminate without the expressed prior written approval of the Borough.

(Ord. 663, 6/20/1985; §502; as amended by Ord. 829, 11/15/2001)

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### **§502. Release from Improvement Bond.**

1. When the developer has completed all of the necessary and appropriate improvements, the developer shall notify the Borough Council, 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 Council shall, within 10 days after receipt of such notice, direct and authorize the Borough engineer to inspect all of the aforesaid improvements. The Borough engineer shall, thereupon, file a report in writing, with the Borough Council, and shall promptly mail a copy of the same to the developer by certified or registered mail. The report shall be made and mailed within 30 days after receipt by the Borough engineer of the aforesaid authorization from the Borough Council; said report shall be detailed and shall indicate approval or rejection of said improvements, either in whole or in part, and if said improvements, or any portion thereof, shall not be approved or shall be rejected by the Borough engineer, said report shall contain a statement of reasons for such nonapproval or rejection.
2. The Borough Council shall notify the developer, within 15 days of receipt of the engineer's report, in writing by certified or registered mail of the action of said Borough Council with relation thereto.
3. If the Borough Council or the Borough engineer fails to comply with the time limitation provisions contained herein, all improvements will be deemed to have been approved and the developer shall be released from all liability, pursuant to its performance guaranty bond or other security agreement.
4. If any portion of the said improvements shall not be approved or shall be rejected by the Borough Council, the developer shall proceed to complete the same and, upon completion, the same procedure of notification, as outlined herein, shall be followed.
5. Nothing herein, however, shall be construed in limitation of the developer's right to contest or question by legal proceedings or otherwise, any determination of the Borough Council or the Borough engineer.
6. Where herein reference is made to the Borough engineer, he shall be as a consultant thereto.
7. The applicant or developer shall reimburse the Borough of Elizabethtown for the reasonable and necessary expense incurred for the inspection or improvements according to a schedule of fees adopted by resolution of the Borough Council and as from time to time amended. Such expense shall be reasonable and in accordance with the ordinary and customary fees charged by the Borough engineer or consultant for work performed for similar services in the community, but in no event shall the fees exceed the rate or cost charged by the engineer or consultant to the

Borough of Elizabethtown when fees are not reimbursed or otherwise imposed on applicants.

- A. In the event the applicant disputes the amount of any such expense in connection with the inspection of improvements, the applicant shall, within 10 working days of the date of billing, notify the Borough of Elizabethtown that such expenses are disputed as unreasonable or unnecessary, in which case the Borough of Elizabethtown shall not delay or disapprove a subdivision or land development application or any approval or permit related to development due to the applicant's request over disputed engineer expenses.
  - B. If, within 20 days from the date of billing, the Borough of Elizabethtown and the applicant cannot agree on the amount of expenses which are reasonable and necessary, then the applicant and the Borough of Elizabethtown shall jointly, by mutual agreement, appoint another professional engineer licensed as such in the Commonwealth of Pennsylvania to review the said expenses and make a determination as to the amount thereof which is reasonable and necessary.
  - C. The professional engineer so appointed shall hear such evidence and review such documentation as the professional engineer in his or her sole opinion deems necessary and render a decision within 50 days of the billing date. The applicant shall be required to pay the entire amount determined in the decision immediately.
  - D. In the event that the Borough of Elizabethtown and applicant cannot agree upon the professional engineer to be appointed within 20 days of the billing date, then, upon application of either party, the President Judge of the Court of Common Pleas of the judicial district in which the Borough of Elizabethtown is located (or if at the time there be no President Judge, then the senior active judge then sitting) shall appoint such engineer, who, in that case, shall be neither the Borough engineer nor any professional engineer who has been retained by, or performed services for, the Borough of Elizabethtown or the applicant within the preceding five years.
  - E. The fee of the appointed professional engineer for determining the reasonable and necessary expenses shall be paid by the applicant if the amount of payment required in the decision is equal to or greater than the original bill. If the amount of payment required in the decision is less than the original bill by 1,000 or more, the Borough of Elizabethtown shall pay the fee of the professional engineer, but otherwise the Borough of Elizabethtown and the applicant shall each pay 1/2 of the fee of the appointed professional engineer.
8. No improvement shall be considered complete until the developer shall submit to the Borough one Mylar and two prints of the as-constructed plan, at the same size and scale of the approved plans, showing the following:

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- A. Actual location of all concrete monuments and/or markers which were found or set at all angle breaks, points of curvature and tangents around the perimeter of the total tract. When the outside perimeter of a tract falls within or along an existing road right-of-way, then the right-of-way of that roadway shall be monumented at the above-referenced points.
- B. Actual location of all iron pins or drill holes in curbs for all individual lot lines.
- C. Actual cul-de-sac radius.
- D. Actual horizontal location of cartway center line versus right-of-way center line should be indicated by dimension.
- E. Actual horizontal location of floodplain by elevation and dimension from property line.
- F. Actual horizontal location and cross-section of swales and accompanying easements.
- G. Actual horizontal location and vertical location of stormwater management facilities, including type and size of drainage pipes.
- H. Detention Basin.
  - (1) Actual contours of the detention basin.
  - (2) Actual outlet structure details, including type, size and inverts of outlet pipes.
  - (3) Actual elevation of the embankment and emergency spillway.
  - (4) Table showing the stage/storage/discharge curve for the constructed conditions.
- 9. If an improvement has been dedicated to the Borough, such improvement shall not be considered complete until the developer has presented a deed of dedication in a form acceptable to the Borough Solicitor, has presented a title insurance policy or certificate of title demonstrating good and marketable title, and has paid any fees required to process the acceptance of the dedication.

(Ord. 663, 6/20/1985, §503; as amended by Ord. 829, 11/15/2001; and by Ord. 897, 7/17/2008)

### **§503. Dedication of Improvements.**

All improvements shall be deemed to be private improvements and only for the benefit of the specific project until such time as the same have been offered for dedication and



formally accepted by the Borough Council by formal document. No responsibility of any kind with respect to improvements shown on the final plan shall be transferred until the improvements have been formally accepted.

(Ord. 663, 6/20/1985, §504)

**§504. Remedies to Effect Completion of Improvements.**

In the event that any improvements which may be required have not been installed as provided in this Chapter or in accord with the approved final plat the Borough Council is hereby granted the power to enforce any corporate bond, or other security by appropriate legal and equitable remedies. If the proceeds of such bond, or other security are insufficient to pay the cost of installing or making repairs or corrections to all the improvements covered by said security, the Borough Council may, at its option, install part of such improvements in all or part of the subdivision or land development and may institute appropriate legal or equitable action to recover the moneys necessary to complete the remainder of the improvements. All of the proceeds, whether resulting from the security or from any legal or equitable action brought against the developer, or both, shall be used solely for the installation of the improvements covered by such security, and not for any other Borough purpose.

(Ord. 663, 6/20/1985; as added by Ord. 829, 11/15/2001)



## PART 6

### DESIGN STANDARDS

#### §601. Application.

1. The standards and requirements contained in this Chapter shall apply as minimum design standards for subdivisions and/or land developments within the Borough. In addition, subdivisions and/or land developments shall be designed to comply with the requirements of the Zoning Ordinance [Chapter 27], the Stormwater Management Ordinance [Chapter 27], and regulations of the Pennsylvania Department of Transportation, as applicable.
2. All proposed subdivisions and/or land developments shall be designed, laid out, arranged, constructed and coordinated with all presently existing facilities and improvements which serve the tract proposed to be developed, including but not limited to the (a) transportation network, (b) sewer collection, conveyance and treatment facilities, (c) water supply and distribution facilities, and (d) stormwater management facilities, as necessary to accommodate prospective traffic, provide adequate sewer and water service, promote proper stormwater management, facilitate fire protection, prevent flooding and conform to the Comprehensive Plan, including any urban growth boundary, the Official Map, and any regulations or plans adopted in furtherance thereof. All proposed subdivisions and/or land developments shall also be designed, laid out, arranged, constructed and coordinated to ensure that abutting properties will continue to have safe and convenient access in accordance with the standards of this Chapter or, if such properties do not presently have such access, to have access at least equal to the level existing prior to the proposed subdivision and/or land development. The applicant shall submit studies and reports with the preliminary plan and the final plan which shall clearly identify any assumed, proposed and required improvements to existing facilities. If an applicant submits a study, report or plan which contains improvements assumed to be installed by others and compliance with the design standards in this Chapter is based upon the completion of such assumed improvements, the design standards of this Chapter shall not be considered as met unless the applicant presents evidence that a governmental entity has budgeted funds and/or has entered into contracts for the assumed improvements or unless a plan for another development which proposes the installation of such improvements has been approved and recorded.
  - A. Whenever the Zoning Ordinance [Chapter 27] provides that the use proposed by the applicant for subdivision and/or land development approval shall constitute a use by special exception or a conditional use, the applicant shall obtain such special exception or conditional use approval from the Zoning Hearing Board or Borough Council, as applicable, prior to the submission of the preliminary plan. The plan shall be designed and developed in accordance with any conditions which the Zoning Hearing Board or Borough Council, as applicable, has imposed upon such approval.

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- B. Whenever the applicant proposes to develop a subdivision and/or land development in a manner that would require a variance from any requirements of the Zoning Ordinance [Chapter 27], the applicant shall obtain such variance from the Zoning Hearing Board prior to the submission of the preliminary plan. The plan shall be designed and developed in accordance with any conditions which the Zoning Hearing Board has imposed upon the grant of such variance or variances.
- C. Whenever all or a portion of the land contained within an application for subdivision or land development approval constitutes all or a portion of land included in a prior subdivision or land development plan approved by the Borough or the County Planning Commission and recorded in the office of the Recorder of Deeds in and for Lancaster County, Pennsylvania, the plan shall comply with all conditions, restrictions and notes imposed on the prior approval and/or included upon the recorded subdivision or land development plan. The applicant shall identify all prior recorded subdivision and/or land development plans of which all or a portion of the land contained in the plan was a part and all conditions, restrictions and notes which affect the current application. Failure to identify all applicable conditions, restrictions and notes of record on prior plans constitutes a violation of this Chapter. The applicant shall submit with the application for preliminary plan approval a statement identifying the prior plans reviewed; the conditions, restrictions and notes which would impact development in accordance with the plan for which approval has been requested; and an explanation of the manner in which the proposed plan has been designed to comply with such conditions, restrictions and notes. This information shall be signed by the applicant or the applicant's engineer or landscape architect.

(Ord. 663, 6/20/1985, §601; as amended by Ord. 897, 7/17/2008)

### **§602. Blocks and Lots.**

- 1. The configuration of blocks and lots shall be based upon the lot area requirements, salient natural features, existing man-made features and the proposed type of structure. Lot configurations should provide for flexibility in building locations, while providing safe vehicular and pedestrian circulation.
- 2. Residential Blocks. All blocks in a residential subdivision shall have maximum length of 1,600 feet.
- 3. Nonresidential Blocks. Blocks in nonresidential areas may vary from the requirement of §602(2) when required by the nature of the use. Adequate provisions shall be made for traffic circulation and satisfactory fire protection.
- 4. Lot and Parcel Configuration.

- A. Whenever practical, side lot lines shall be radial to street lines.
- B. In order to avoid jurisdictional problems, lot lines shall, whenever feasible, follow Borough boundaries rather than cross them.
- C. All lots shall front on a street, except a service street.
- D. Double frontage lots are prohibited except where provided as reverse frontage lots. Reverse frontage lots are only permitted when a reduction of driveway intersections along a street with a high volume of vehicular movements is desired. All reverse frontage shall include an identification of the frontage for use as a road access.

(Ord. 663, 6/20/1985, §602)

### **§603. Building Setback Lines.**

- 1. A building setback line shall be provided along each street. The area in front of the building setback line shall be preserved from structural development.
- 2. In the case of corner lots, the setback from each adjacent street shall apply.

(Ord. 663, 6/20/1985, §603)

### **§604. Easements.**

Easements for sanitary sewer facilities, stormwater drainage facilities, public utilities or pedestrian access shall meet the standards listed below.

- A. To the fullest extent possible, easements shall be adjacent to property lines.
- B. Nothing shall be placed, planted, set or put within the area of an easement that would adversely affect the function of the easement or conflict with the easement agreement.
- C. The applicant shall reserve easements where storm water or surface water drainage facilities are existing or proposed, whether located within or beyond the boundaries of the property.
- D. All easements shall clearly identify who has the right-of-access and responsibility of maintenance.
- E. In existing structures, the excessive use of easements, as determined by Borough Council upon recommendation from the Planning Commission, shall be sufficient grounds for denying the approval of a preliminary or final

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plan. Excessive use of easements may be defined as those easements which may eventually create undesirable conditions for future property owners.

(Ord. 663, 6/20/1985, §604)

### **§605. Survey Monuments and Markers.**

1. Permanent stone or concrete monuments shall be accurately placed along at least one side of each street at the beginning and end of all curves and at all angles.
2. Markers shall be set at all points where lot lines intersect curves and/or other property lines.
3. Monuments shall be of concrete or stone, with a flat top having a minimum width or diameter of four inches and a minimum length of 30 inches. Concrete monuments shall be marked with a 3/4 inch copper or brass dowel; stone or precast monuments shall be marked on the top with a proper inscription and a drill hole. Markers shall consist of iron pipes or steel bars at least 30 inches long and not less than 3/4 of an inch in diameter.
4. All monuments and markers shall be placed by a registered engineer or surveyor so that the scored or marked point shall coincide exactly with the point of intersection of lines being monumented or marked.
5. All existing and proposed monuments and lot lines markers shall be delineated on the final plan.

(Ord. 663, 6/20/1985, §605)

### **§606. Streets.**

1. General Requirements. The following general requirements and minimum standards shall be followed on all subdivision and land development applications:
  - A. Improper Width. Where a subdivision abuts an existing street of improper width or alignment, the Borough may require the dedication of land sufficient to widen the street or correct the alignment.
  - B. Resubdivision. If the lots in the development are large enough for resubdivision, or if a portion of the tract is not subdivided, suitable access and street openings for such an eventuality shall be provided.
  - C. Clear Sight Triangle. There shall be provided and maintained at all intersections a clear sight triangle with a line of sight between points 100 feet from the intersection of the street centerlines. Clear sight triangles shall be

indicated on all plans. No building or other obstruction that would obscure the vision of a motorist shall be permitted within these areas.

- D. Driveways. Driveways shall be so located as to provide reasonable sight distances at intersection with streets. Driveway location shall be determined on all land development plans. Subdivision plans may delineate location or include a notice of conformity to this specification.
- 2. Design Standards. Design standards for all streets are contained in the Borough of Elizabethtown Street Improvement and Maintenance Ordinance, No. 667, as amended [Chapter 21, Part 7]. All streets planned in any subdivision or land development shall conform to these standards.
- 3. Improvement Standards. All street improvements, paving and construction of subdivisions and land developments shall conform to the Borough of Elizabethtown Street Improvement and Maintenance Ordinance, No. 667, as amended [Chapter 21, Part 7].

(Ord. 663, 6/20/1985, §606)

#### **§607. Curbs and Sidewalks.**

Curbs and sidewalks, on both sides of each street, shall be required in any subdivision or land development. Curbs and sidewalks shall be designed and installed in conformance with the standards contained in the Borough of Elizabethtown Curb and Sidewalk Ordinance, No. 693, as amended [Chapter 21, Part 1].

(Ord. 663, 6/20/1985, §607; as amended by Ord. 829, 11/15/2001)

#### **§608. Stormwater Management and Floodplain Controls.**

All subdivision and land development applications shall include stormwater management data. All stormwater management, collection, conveyance and floodplain considerations shall be accomplished and data prepared and supplied in accordance with the provisions of the Elizabethtown Borough Stormwater Management and Earth Disturbance Ordinance of 2006, and as may be amended from time to time, and the Elizabethtown Borough Zoning Ordinance.<sup>4</sup>

(Ord. 663, 6/20/1985, §608; as amended by Ord. 829, 11/15/2001; and by Ord. 872, 5/18/2006, Art. IV)

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<sup>4</sup> Editor's Note: See Ch. 17, Stormwater Management, and Ch. 27, Zoning.

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### **§609. Erosion and Sedimentation.**

1. All development applications which involve grading or excavation shall conform to the requirements of Chapter 102 of the Rules and Regulations of the Pennsylvania Department of Environmental Protection, as amended. It shall be the responsibility of the applicant to secure approval from the Department of Environmental Protection. Approval of plans by the Commission or Borough Council shall not be construed as approval under such regulations.
2. An erosion and sedimentation control plan must be prepared for a single lot or more where subdivision, land development or other earth moving activity is proposed. The plan must be in accordance with the rules and regulations of the Department of Environmental Protection noted above and the Pennsylvania Clean Streams Law, Act 222, as amended.
3. Such erosion and sedimentation control plan shall be submitted to the Borough Engineer and Lancaster County Conservation District for review as part of the preliminary and final plan applications.
4. All provisions of the Elizabethtown Borough Stormwater Management and Earth Disturbance Ordinance of 2006, and as may be amended from time to time, shall be complied with in conjunction with any development application.<sup>5</sup>

(Ord. 663, 6/20/1985; §609; as amended by Ord. 829, 11/15/2001; and by Ord.872, 5/18/2006, Art. V)

### **§610. Floodplain.**

All subdivision and land development plans shall be submitted in accordance with, and reviewed by the Planning Commission and Borough Council to insure conformity with, the Borough of Elizabethtown Floodplain Ordinance, No. 608, as amended [Chapter 8].

(Ord. 663, 6/20/1985, §610)

### **§611. Landscaping.**

1. Existing Wooded Areas. Existing wooded areas shall be protected to prevent unnecessary destruction. Trees with a caliper of six inches or more as measured at a height of 4 1/2 feet above existing grade, shall not be removed unless they are located within the proposed cartway or sidewalk portion of the street right-of-way, or within 15 feet of the foundation area of a proposed building. In areas where trees are retained, the original grade level shall be maintained if possible, so as not to disturb the trees.

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<sup>5</sup> Editor's Note: See Ch. 17, Stormwater Management.



2. Where existing trees are removed along the street right-of-way, supplemental planting, in the form of appropriate street trees, shall be introduced. Such trees shall be planted at intervals of between 50 feet and 100 feet and preferably in random patterns.
3. Replacement trees shall be of a minimum trunk caliper of two inches at a height of six inches above finished grade.
4. Street Trees. Street trees are required to be planted between every 50 and 100 feet in random patterns in all subdivision and land development plans, except minor subdivision and lot add-on plans.
5. Trees shall be planted between the street right-of-way line and the building setback line. The tree growth shall not interfere with the street cartway, sidewalk or any utility line.
6. Ground Cover. Ground cover shall be provided on all areas of the project to prevent soil erosion. All areas which are not covered by paving, stone or other solid material shall be protected with a vegetative growth.

(Ord. 663, 6/20/1985, §611; as amended by Ord. 829, 11/15/2001)

**§612. Specific Traffic Control and Access Requirements.**

The following specific traffic control and access requirements shall be met for developments which produce 100 peak-hour directional trips:

- A. If any traffic signals are to be installed, the distance between any new and/or existing signals shall be at least 1,000 feet, unless it can be demonstrated that adjacent traffic signals can operate sufficiently at lesser distances.
- B. Design of proposed development access points shall take into consideration the horizontal and vertical grades of the existing road network in the traffic study area to permit safe and convenient access to the site as defined in the latest PennDOT standards and regulations. The developer shall demonstrate that each access point is located so as to provide the optimum safe and convenient access given the horizontal and vertical grades of the existing road network. The developer shall present all engineering data necessary to demonstrate that its proposed access point or points meet this standard. If the developer desires to locate an access point at a location which does not provide the optimum safe and convenient access given existing conditions, the developer shall demonstrate that the developer shall take action necessary to provide equally safe and convenient access. All modifications required to meet these regulations will be the responsibility of the developer.

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- C. The developer shall demonstrate, by using the latest PennDOT standards and regulations, that the proposed use will not create traffic patterns and movements which will jeopardize the traveling public.
- (1) Stacking of sufficient length shall be provided in all traffic lanes on the site and on abutting roadways to ensure that there shall be no blockage of through traffic. The design and length of the stacking lanes shall be justified and supported by the queuing analysis required as part of the traffic study.
  - (2) Street and/or access drives to and within the site shall be designed in a manner that blockage of through traffic by vehicles attempting to enter or exit on these streets or access drives will not occur.
  - (3) Acceleration, deceleration and turning lanes within the site and on the abutting roadways shall be of sufficient lengths to accomplish their intended use.
- D. If reduction of the speed limit, installation of traffic control devices, limitation of parking or turning movements or similar measures are required to mitigate traffic impacts upon Borough or State highways, the applicant shall present traffic studies performed in accordance with PennDOT regulations and Publication No. 201, Engineering and Traffic Study Regulations. The erection or the installation of such traffic control devices shall be in accordance with PennDOT regulations. If the enactment of an ordinance is necessary to effectuate the traffic regulations or the installation of the traffic control device, the applicant shall reimburse the Borough for all expenses in the preparation and enactment of the necessary ordinance.
- E. No street or access drive shall be located in a manner which would limit access to or exiting from abutting properties gaining access from the existing street with which a proposed street or access drive will intersect, unless the developer provides such lots with alternate access from the proposed street system or internal circulation system of the proposed development in a manner acceptable to each affected lot owner. It shall be the burden of the applicant to demonstrate that such access is acceptable to all owners of an affected lot. For the purpose of this provision, limitation of access shall include the limitation of turning movements into or exiting the abutting property or properties gaining access from the existing street, whether by traffic regulations, installation of barriers to prevent turning movements, installation of additional traffic lanes in front of a property, or difficulties or delays resulting from increased traffic flows.
- F. Where new intersections are being established to serve as access to the proposed development, these intersections must be designed to at least operate at Level of Service C or better.

- G. For access points to the proposed development and any major intersections on abutting streets where traffic signal control may be required or is being proposed, a traffic signal warrant analysis shall be performed in accordance with the requirements of PennDOT Publication 201 or any future PennDOT regulations governing installation of traffic signals. A left-turn lane and/or a right-turn lane shall be provided by the developer if the traffic signal warrant analysis or any traffic signal permit issued by PennDOT requires such turning lane(s). The developer shall additionally provide an analysis to determine the type of signal phasing required. All costs associated with any traffic signal proposed by the developer shall be borne by the developer, and the Borough shall not execute any traffic signal permit application if the execution of the application will require the Borough to assume any costs whatsoever.
- H. Emergency traffic signal preemption shall be addressed and provided as required by PennDOT regulations and as requested by emergency service providers.
- I. Additional left and right turning lanes shall be provided to address the existing roadway site conditions and access to the proposed development at the cost of the developer where the traffic study indicates that such turning lanes are necessary or desirable for safe and convenient access into the site or exiting the site on to the abutting roadway or for the functioning of the intersection of an existing street and proposed street or access drive.
- J. An agreement between the Borough and the developer shall be provided with regard to operating expenses and maintenance of proposed traffic signals.
- K. Additional through lanes and lane transitions of sufficient length shall be provided along all abutting streets to allow smooth traffic flow from the proposed streets and/or access drives to existing traffic lanes, thus minimizing congestion, delays and or blockage of through traffic within the proposed improvement area. The design and length should be justified and supported by the queuing analysis required as part of the traffic study.
- L. Sidewalks shall be provided along the property frontage and within the development.

(Ord. 663, 6/20/1985, §612; as amended by Ord. 863, 10/20/2005, §2; and by Ord. 897, 7/17/2008)

### **§613. Sanitary Sewage and Water Supply.**

1. Sanitary Sewage Disposal. The applicant shall provide publicly owned sanitary sewage disposal to each lot consistent with the Borough of Elizabethtown Sewer Connection Ordinance, No. 683, as amended.

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2. When the Borough Council, in accordance with the Pennsylvania Sewage Facilities Act, Act 537, as amended, determines the necessity for a sewer facilities plan revision (plan revision module for land development), or supplement, the Council shall require that notice of approval from the Pennsylvania Department of Environmental Protection be submitted as a condition of final plan approval.
3. Water Supply. The applicant shall provide publicly owned water supply to each lot consistent with Chapter 26, Water, and with the regulations, requirements, and design standards of EAWA. The applicant shall provide evidence that EAWA has approved any water system extension and that the applicant has provided EAWA financial security to secure the completion of any water system extension.
4. Wherever a public water supply system is provided, fire hydrants shall be installed within 600 feet of all existing and proposed structures, measured by way of accessible streets, as specified by the Middle Department Association of Fire Underwriters and the local fire company.

(Ord. 663, 6/20/1985, §613; as amended by Ord. 829, 11/15/2001; and by Ord. 897, 7/17/2008)

### **§614. Street Names and Street Signs.**

1. Proposed streets which are in alignment with others already existing and named shall bear the name of the existing street.
2. In no case shall the name of a proposed street duplicate an existing street name in the Borough, or in the postal district, irrespective of the use of the suffix “street,” “road,” “avenue,” “boulevard,” “court” and the like.
3. All street names shall be subject to the approval of Borough Council.
4. Street signs shall be provided at the intersection of all streets by the applicant. The type, height and design shall be approved by the Borough Council.

(Ord. 663, 6/20/1985, §614)

### **§615. Street Lights.**

1. Street lights shall be provided with the construction of all new streets. A plan for street lights, approved by the local utility company, shall be provided by the applicant upon submission of final subdivision or land development plans.
2. Street lights shall be provided at locations designated by the local utility company, consistent with current policy, at all street intersections and all other locations considered necessary for safety reasons as approved by Borough Council.

(Ord. 663, 6/20/1985, §615)

#### **§616. Dedication of Park and Recreation Land.**

All residential subdivisions and land developments shall be provided with park and recreation land which shall be dedicated to the Borough. The developer may request that the Borough not require the dedication of land, and any such request shall be accompanied by an offer to pay a fee in lieu of dedication of the land, computed in accordance with the regulations provided herein, an offer to construct recreational facilities and/or an offer to privately reserve land for park or recreation purposes. All offers or dedication, payment of fees in lieu of dedication, construction of recreational facilities, and offers to privately reserve land shall comply with all of the following criteria:

- A. The land reserved for park, recreation and open-space usage shall be a single lot which shall comply with the requirements of this Chapter relating to the length to depth ratios and which shall be accessible to the public. No more than 15% of the minimum lot size calculated in this Section shall consist of floodplain, wetlands, or other features which shall render the land undevelopable. Areas of floodplain, wetlands, or other features which shall render the land undevelopable may be included within the open space lot if such land is above the minimum area required. No stormwater management facilities designed to retain or detain water from other portions of the development shall be permitted on such land reserved for park, recreation and open space usage.
- B. A minimum of 0.25 acre of land shall be reserved as park or recreational land for each residential lot created in a subdivision or each dwelling unit created in a land development. Notwithstanding the foregoing, in all cases the minimum area of land reserved as park and recreation land shall be equal to the minimum lot size in the district in which the subdivision or land development is located.
- C. The developer may request that Council permit the provision of park and recreation land other than through public dedication of land as set forth above. The developer shall set forth, in writing, the means by which he will fulfill this requirement which may include the payment of a fee in lieu of dedication of all or a portion of the amount of land required to be dedicated, construction of recreational facilities, the private reservation of land, or any combination of dedication, fees, construction of recreational facilities, or private reservation.
- D. When so requested by the developer, the Borough may accept a fee in lieu of dedication because size, shape, location, access, topography or other physical features render it impractical for the developer to dedicate land for recreational areas as required by this Section. Such fee in lieu of payments shall be payable to the Borough prior to the recording of each final phase of the

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plan, based on each phase's percentage of the total number of dwelling units.

- (1) If the developer proposes a fee in lieu of dedication, said fee shall be computed and paid in accordance with policies adopted by Council. The amount of a fee in lieu payment shall be fair market value of the land required to be dedicated under §616(B) above. The developer shall provide the Borough with all information necessary to determine fair market value of the land, including, but not limited to, a copy of the agreement of sale or real estate transfer tax affidavit of value if the developer is equitable owner or has purchased the land within the past two years or an appraisal of the property by an MAI appraiser acceptable to the Borough. Fair market value shall be computed by dividing the total price of the tract by the number of acres within the tract and then multiplying that number by the amount of land required to be dedicated. At the option of the developer, the developer may elect to pay the per lot or dwelling unit fee in lieu of dedication established by resolution of Council.
  - (2) Any developer who feels aggrieved by the price established by the Borough shall have the right to secure a second appraisal of the property by an MAI appraiser acceptable to the Borough. The two prices shall be averaged, with the result being the amount owed being what the developer shall be required to pay.
  - (3) Fee in Lieu Funds Disposition. Monies received from developers shall be placed in a capital reserve fund. Fees received from developers shall be administered and expended as required and authorized by the MPC.
- E. If the developer proposes to construct recreational facilities, the developer shall present a sketch plan of such facilities and an estimate of the cost of construction.
- F. If the developer proposes the private reservation of land, the developer shall provide for the maintenance of such land through either the inclusion of such land as common elements of a condominium or the creation of a homeowners' association. Such documentation shall be recorded, shall provide that the land cannot be further developed and shall give the Borough the rights to maintain the land as set forth in MPC Article VII dealing with the maintenance of common open space in planned residential developments. Notwithstanding the foregoing, the developer may request that the Borough approve transfer of the land to an organization dedicated to the conservation of natural resources with deed restrictions preventing further development acceptable to the Borough Solicitor.
- G. The developer shall enter into an agreement with the Borough setting for the fees to be paid, the facilities to be constructed or the land to be privately

reserved and the method of its maintenance. All such agreements shall be in a form satisfactory to the Borough Solicitor.

(Ord. 863, 10/20/2005, §1)

**§617. Emergency Access Requirements.**

All subdivisions or land developments containing 50 or more dwelling units or nonresidential buildings containing 20,000 or greater square feet of gross floor area shall be provided with at least two separate and distinct means of access for the subdivision or land development.

- A. Access may be provided through the location of two or more public or private streets, each of which intersects with an existing public street. Such public or private streets shall meet all the requirements of this Chapter concerning design and construction.
- B. Access for a land development may be provided through two or more driveways into the land development. Such driveways shall be separated by a distance of at least 150 feet and shall comply with all requirements of this Chapter.
- C. If the applicant is unable to provide access to the subdivision or land development through two or more public or private streets, each of which intersects with an existing public street, or two or more driveways which intersect with one or more existing public streets, an emergency access shall be provided.
  - (1) The emergency access shall be improved so that emergency vehicles may safely transverse it and shall be indicated on the plans.
  - (2) The emergency access shall be accessible to the providers of emergency services within the Borough. Applicants proposing to provide emergency access shall submit evidence of such approval.
  - (3) The emergency access may be located so that access to the subdivision or land development is gained from a public street at a location unsuitable for regular access with an existing public street.
  - (4) The emergency access may be located so that access is gained from an adjacent tract. For example, a subdivision or land development adjoining a parking lot of another use may provide emergency access through a point with a break chain. Applicants with plans indicating emergency access through an adjoining private tract shall provide evidence that the adjoining property owner has consented to such emergency access location.

(Ord. 897, 7/17/2008)





## PART 7

### SOLAR ACCESS PROVISIONS

#### §701. General Statement.

In an effort to promote energy efficient subdivision and land development techniques that facilitate the use of alternative renewable energy sources such as solar energy and to reduce the dependence on nonrenewable energy sources, the Borough Council herein offers an alternative to the standard subdivision and land development provisions contained in this Chapter.

(Ord. 663, 6/20/1985, §701)

#### §702. Definitions.

**BUILDING ORIENTATION** — refers to the relationship of a building's longest axis to true south. Optimal building orientation occurs when the building's longest axis is east to west (90° from true south), with variations of up to 25° from the east/west axis being acceptable.

**SHADOW ANALYSIS** — a graphic representation of shadows cast by mature landscaping, screening, and structures plotted with regard to topography, slope, and direction at 9:00 a.m., noon, and 3:00 p.m. on the date of the winter solstice.

**SOLAR ENERGY** — radiant energy (direct, diffuse or reflected) received from the sun at wavelengths suitable for conversion into thermal, chemical, or electrical energy.

**SOLAR ENERGY COLLECTOR** — any device, structure or part of a device or structure which is used primarily to transform solar energy into thermal, chemical, or electrical energy, including any space or structural component specifically designed to retain heat derived from solar energy.

**SOLAR ENERGY SYSTEM** — a complete design or assembly consisting of a solar energy collector, an energy storage facility (where appropriate) and components for the distribution of transformed energy to the extent that they cannot be used jointly with a conventional energy system. Passive solar energy systems which use the natural properties of materials and architectural components to collect and store solar energy without using any external mechanical power are included in this definition if they do not fulfill structural or other functions.

**SOLAR-ORIENTED PLAN** — a subdivision or land development plan as defined in Part 2 of this Chapter with a minimum of 25% of all lots or structures oriented for solar access purposes as specified in §703(1) of this Chapter.

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**SOLAR SKYSPACE** — the space between a given location and the sun which must remain unobstructed between 9:00 a.m. and 3:00 p.m. mean solar time on the date of the winter solstice in order to permit sufficient solar energy to impinge on that location to allow efficient solar utilization.

**SOLAR SKYSPACE EASEMENT** — a right, expressed as an easement, covenant or condition or other property interest in any deed or other instrument executed by or on behalf of any landlord which protects the solar sky space of an actual, proposed or designated solar energy collector at a described location by forbidding or limiting activities or land uses that interfere with access to solar energy. The solar skyspace may be described as a three-dimensional space in which an obstruction is prohibited or limited, or as the times of day during which direct sunlight to the solar energy collector may not be obstructed, or as a combination of the two methods.

(Ord. 663, 6/20/1985, §702)

### **§703. Plan Processing Procedures.**

1. General Statement. For solar access purposes, all subdivisions and land developments shall be designed so that a minimum of 25% of all lots or structures receive unobstructed sunlight on the south side of the lot or the south wall of the longest axis of the structure of building.
2. Sketch Plan. The same standards shall be required for a solar-oriented plan as specified in §302 of this Chapter.
3. Preliminary Plan. The same standards shall be required for a solar-oriented plan as specified in §303 of this Chapter.
4. Final Plan. The same standards shall be required for a solar-oriented plan as specified in §304 of this Chapter.
5. Final Plan Recordation. The same standards shall be required of a solar-oriented plan as specified in §305 of this Chapter.
6. Waiver of Requirements. The same standards shall be required of a solar-oriented plan as specified in §308 of this Chapter.

(Ord. 663, 6/20/1985, §703)

### **§704. Plan Requirements.**

1. Sketch Plan. The same standards shall be required of a solar-oriented plan as specified in §402 of this Chapter.

2. Preliminary Plan. The same standards shall be required of a solar-oriented plan as specified in §403 of this Chapter with the additional information listed below also being required to be shown on the plan:
  - A. True north arrow.
  - B. Proposed number and location of all lots having the capability of providing proper building orientation for the use of solar energy systems.
  - C. Location of proposed solar skyspace easements and open space areas intended to remain undeveloped in order to protect solar access to proposed building sites.
  - D. The limits of any areas of tree removal necessary to provide effective use of solar energy systems and the identification of predominant tree types in those areas.
  - E. A shadow analysis showing the location of existing trees and new trees and screening, and shadows cast by proposed structures and nature landscaping at 9:00 a.m., noon, and 3:00 p.m. on the date of the winter solstice. Shadows shall be plotted with regard to topography, slope and direction.
  - F. The Borough Council may require the submission of additional data as necessary to assure that adequate provision has been made in the planning and design of the subdivision or land development to enable the maximum effective use of solar energy systems.
3. Final Plan. The same standards shall be required of a solar-oriented plan as specified in §404 of this Chapter with the additional information listed below also being required to be shown on the plan:
  - A. True north arrow.
  - B. Delineation of solar skyspace easements and open space areas required to remain undeveloped to protect solar access to building sites.
  - C. As a condition of final plan approval, the applicant may be required to provide solar skyspace easements or restrictive covenants with deeds of the lots in a subdivision or buildings in a land development to guarantee solar access protection.

(Ord. 663, 6/20/1985, §704)

#### **§705. Improvement Guarantees.**

The same standards shall be required of a solar-oriented plan as specified in Part 5 of this Chapter.

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(Ord. 663, 6/20/1985, §705)

### **§706. Design Standards.**

The same standards shall be required of a solar-oriented plan as specified in Part six of this Chapter with the following provisions being included as additional standards for the solar-oriented portion, or portions, of the plan:

- A. Insofar as possible, streets on which structures are proposed to front shall be oriented along an east-west axis with maximum deviations permitted up to 25°; provided that such orientations are feasible based on soil and slope conditions and are a practical means of providing safe and convenient access and circulation.
- B. Side lot lines shall, so far as practical, run from due north to south where the resulting angle of incidence with the street is not less than 30°. A variation of up to 25° east or west of the north/south axis is permitted.
- C. Buildings shall be oriented such that their longest axis faces within 25° of true south whenever lot size, street orientation, soil, and slope conditions make this practical.
- D. Solar skyspace easements shall be in writing and shall be subject to the same conveyancing and instrument recording requirements as other easements. Any such easements shall be appurtenant; shall run with the land benefited and burdened; and shall be defined and limited by conditions stated in the instrument of conveyance. Instruments creating a solar skyspace easement shall include but not be limited to:
  - (1) A permanently identifiable description of the skyspace above the burdened land into which trees, buildings and/or other obstruction as specified by the easement shall not be permitted to encroach;
  - (2) Any terms or conditions under which the solar skyspace easement is granted or will be terminated; and,
  - (3) Any provision for compensation by the owner of the land benefiting from the solar skyspace easement, or compensation of the owner of the land burdened by the solar skyspace easement for maintaining the easement.
- E. The installation of all improvements shall, within the limits of practicability and feasibility, be oriented to maximize the solar access to buildings constructed thereon.

- F. Where recreation space is being provided, it shall be located in such a manner that allows maximum practical solar access to neighboring structures.
- G. The location and species of trees and other landscaping elements shall be such that when grown to full maturity shall not impede solar access to neighboring structures.
- H. Where open space is being provided, it shall be located, wherever possible, to provide a buffer from the shading effects of taller structures or obstructions on existing or proposed shorter buildings.
- I. Landscaping shall be designed, installed, and maintained with the aim of allowing as great a portion of the site to remain or become wooded without adversely affecting the availability of solar access to the south.

Whenever conflicting provisions prevail, the Borough Council, upon recommendation of the Borough Planning Commission, will determine which standard will be adhered to in each such instance.

(Ord. 663, 6/20/1985, §706)



**PART 8**  
**ADMINISTRATION**

**§801. General.**

This Part outlines the procedures for enforcement and amendment of this Chapter, as well as procedures for challenges and appeals of decisions rendered under this Chapter.

(Ord. 663, 6/20/1985, §801)

**§802. Amendments.**

1. Amendments to this Chapter shall become effective only after a public hearing held pursuant to public notice in the manner prescribed for enactment of a proposed ordinance by the Pennsylvania Municipalities Planning Code, Act 247, as amended.
2. In the case of an amendment other than that prepared by the Planning Commission, the Borough Council shall submit each such amendment to the Planning Commission for recommendations at least 30 days prior to the date of the public hearing on such proposed amendment.

(Ord. 663, 6/20/1985, §802)

**§803. Modifications.**

1. The Borough Council may grant a modification of the requirements of one or more provisions of this Chapter if the literal enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question, provided that such modification will not be contrary to the public interest and that the purpose and intent of this Chapter is observed.
2. All requests 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 this Chapter involved and the minimum modification necessary.
3. The request for modification shall be referred to the Planning Commission for advisory comments.
4. The Borough Council shall keep a written record of all action on all requests for modifications.

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(Ord. 663, 6/20/1985, §803; as amended by Ord. 829, 11/15/2001)

### **§804. Challenges And Appeals.**

The decisions of the Borough Council with respect to the approval or disapproval of a plan or waiver request may be appealed directly to court as provided for in the Pennsylvania Municipalities Planning Code, Act 247, as amended.

(Ord. 663, 6/20/1985, §804)

### **§805. Effect of Change in This Chapter.**

Changes in this Chapter shall affect plats as follows:

- A. From the time an application for approval of a plat, whether preliminary or final, is duly filed as provided in this Chapter, and while such application is pending approval or disapproval, no change or amendment of this Chapter, zoning or other governing ordinance or plan shall affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly approved. The applicant shall be entitled to final approval in accordance with the terms of the approved preliminary application as hereinafter provided. However, if an application is properly and finally denied, any subsequent application shall be subject to the intervening change in governing regulations.
- B. When an application for approval of a plat, whether preliminary or final, has been approved without conditions or approved by the applicant's acceptance of conditions, no subsequent change or amendment in this Chapter, zoning or other governing ordinance or plan shall be applied to affect adversely the right of the applicant to commence and to complete any aspect of the approved development in accordance with the terms of such approval within five years from such approval.
- C. Where final approval is preceded by preliminary approval, the aforesaid five year period shall be counted from the date of the preliminary approval. In the case of any doubt as to the terms of a preliminary approval, the terms shall be construed in the light of the provisions of this Chapter or the governing ordinance or plans as they stood at the time when the application for such approval was duly filed.
- D. Where the landowner has substantially completed the required improvements as depicted upon the final plat within the aforesaid five-year limit, or any extension thereof as may be granted by the Borough Council, no change of any ordinance or plan enacted subsequent to the date of filing of the preliminary plat shall modify or revoke any aspect of the approved final plat



pertaining to zoning classification or density, lot, building, street or utility location.

- E. In the case of a preliminary plat calling for the installation of improvements beyond the five year period, a schedule shall be filed by the landowner with the preliminary plat delineating all proposed sections as well as deadlines within which applications for final plat approval of each section are intended to be filed. Such schedule shall be updated annually by the applicant on or before the anniversary of the preliminary plat approval, until final plat approval of the final section has been granted and any modification in the aforesaid schedule shall be subject to approval of the Borough Council in its discretion.
- F. Each section in any residential subdivision or land development, except for the last section, shall contain a minimum of 25% of the total number of dwelling units as depicted on the preliminary plan, unless a lesser percentage is approved by the Borough Council in its discretion. Provided the landowner has not defaulted with regard to or violated any of the conditions of the preliminary plat approval, including compliance with landowner's aforesaid schedule of submission of final plats for the various sections, then the aforesaid protections afforded by substantially completing the improvements depicted upon the final plat within five years shall apply and for any section or sections, beyond the initial section, in which the required improvements have not been substantially completed within said five years period the aforesaid protections shall apply for an additional term or terms of three years from the date of final plat approval for each section.
- G. Failure of landowner to adhere to the aforesaid schedule of submission of final plats for the various sections shall subject any such section to any and all changes in this Chapter, zoning, and other governing ordinance enacted by the Borough of Elizabethtown subsequent to the date of the initial preliminary plan submission.

(Ord. 663, 6/20/1985; as added by Ord. 829, 11/15/2001)

#### **§806. Preventive Remedies.**

- 1. In addition to other remedies, the Borough of Elizabethtown may institute and maintain appropriate actions by law or in equity to restrain, correct or abate violations, to prevent unlawful construction, to recover damages and to prevent illegal occupancy of a building, structure or premises. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.
- 2. The Borough of Elizabethtown may refuse to issue any permit or grant any approval necessary to further improve or develop any real property which has been

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developed or which has resulted from a subdivision of real property in violation of this Chapter. This authority to deny such a permit or approval shall apply to any of the following applicants:

- A. The owner of record at the time of such violation.
  - B. 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.
  - C. 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.
  - D. 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.
3. 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 of Elizabethtown 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. 663, 6/20/1985; as added by Ord. 829, 11/15/2001)

### **§807. Violations and Penalties.**

- 1. Any person, partnership or corporation, or the members of such partnership or the officers of such corporation, who or which, being the owner or agent of the owner of any lot, tract or parcel of land, shall do any of the following commits a violation of this Chapter:
  - A. Lay out, construct, open and/or dedicate any street, sanitary sewer, storm sewer, water main or other improvement for public use, travel or other purposes or for the common use of occupants of buildings abutting thereon;
  - B. Sell, transfer or agree to enter into an agreement to sell or transfer any land in a subdivision or land development, whether by reference to or by use of a plan of such subdivision or land development or otherwise;
  - C. Erect any building or buildings which constitute a land development thereon;
  - D. Commence site grading or construction of improvements prior to recording of a final plan, unless such grading or construction is for the sole purpose of installing improvements as prescribed in §304 herein, unless and until a fi-

nal plan has been prepared in full compliance with the provisions of this Chapter and has been recorded as provided herein;

- E. Fail to comply with any condition imposed upon approval of a preliminary plan or a final plan or any condition imposed upon the granting of any waiver;
  - F. Fail to comply with any agreement with the Borough relating to development in accordance with a preliminary plan or a final plan; or
  - G. Fail to comply with any note included on an approved preliminary plan or final plan.
- 2. Any person, partnership or corporation, or the members of such partnership or the officers of such corporation, who or which, being the owner or agent of the owner of any lot, tract or parcel of land, shall construct or permit the construction of any improvement or develop or permit the development of any property in a manner which does not fully comply with the approved improvement construction plan or final plan, as applicable, commits a violation of this Chapter.
  - 3. Any person, partnership or corporation, or the members of such partnership or the officers of such corporation, who or which, being the owner or agent of the owner of any lot, tract or parcel of land, shall knowingly provide false information on any plan, report, certification or other document required to be submitted by this Chapter commits a violation of this Chapter.
  - 4. Any person, partnership or corporation, or the members of such partnership or the officers of such corporation, who or which, being the owner or agent of the owner of any lot, tract or parcel of land, in any other way takes action or permits another to take action not authorized by this Chapter or contrary to the provisions of this Chapter commits a violation of this Chapter.
  - 5. As an additional condition for the issuance of a permit or the granting of an approval to any 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. 663, 6/20/1985; §805; as added by Ord. 829, 11/15/2001; and as amended by Ord. 897, 7/17/2008)

#### **§808. Conflicts.**

Whenever there is a difference between the minimum applicable standard specified herein and those included in other applicable Borough ordinances and regulations, the most stringent standard or requirement shall apply.

(Ord. 663, 6/20/1985, §807)